
A BILL FOR AN ACT

RELATING TO THE PUBLIC UTILITIES COMMISSION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. This Act shall be known and may be cited as the
2 "Hawaii Ratepayer Protection Act of 2026".

3 SECTION 2. The legislature finds that, in 2018, the
4 legislature enacted the Hawaii Ratepayer Protection Act to
5 provide proactive protections to the State's electric utility
6 customers. Act 5, Session Laws of Hawaii 2018 (Act 5), provided
7 that electric utility rates would be considered just and
8 reasonable only if they are derived from a performance-based
9 model for determining utility revenues. Act 5 emphasized that
10 the State should adjust electric utilities' interests to better
11 align with customers' interests. The legislature found that
12 there was "extraordinary urgency" for this realignment.

13 Act 5 directed the public utilities commission to establish
14 a performance-based model for utility regulation and ratemaking
15 based on performance incentives that "directly tie an electric
16 [utility's] revenues to that utility's achievement on
17 performance metrics and break the direct link between allowed



1 revenues and investment levels." The intent of this
2 performance-based model was to depart from the traditional
3 cost-of-service model that rewards utilities for increasing the
4 utility's capital expenditures and bases allowed revenues on the
5 value of the rate base, irrespective of the utility's
6 performance. The legislature recognized that the traditional
7 model misaligned the interests of customers and utilities
8 because it created a possible bias toward utilities that
9 expended capital on utility-owned projects, rather than
10 utilities that supported more efficient or cost-effective
11 options like customer-owned distributed energy resources or
12 independent, third-party projects. The legislature concluded
13 that the State needed a shift away from the traditional focus on
14 utility costs to a more modern focus on performance.

15 The legislature further finds that, in response to the
16 Hawaii Ratepayer Protection Act, the public utilities commission
17 opened its performance-based regulation proceeding as a
18 historic, multi-phase process that included participation from
19 local and national experts. In December 2020, the commission
20 established a comprehensive framework for performance-based
21 regulation that has since been nationally recognized as a



1 leading model. The guiding principles for this framework
2 include a customer-centric approach, including day-one savings
3 for customers, administrative efficiency through a simplified
4 regulatory framework, and utility financial integrity with the
5 opportunity to earn profits and rewards through performance.
6 The main features of the framework include a multi-year rate
7 period of five years, during which the utility's allowed
8 revenues are determined not by traditional rate cases but by an
9 objective index tied to general inflation. The utility's
10 profits are driven largely by its ability to capture cost
11 savings and efficiencies. The framework also includes
12 performance incentive mechanisms to reward or penalize a utility
13 based on its performance on public interest priorities like
14 reliability, accelerated progress toward renewable energy, and
15 improved customer service. The commission emphasized that, with
16 the transition away from traditional cost-of-service regulation,
17 customers would benefit from lower utility costs.

18 In establishing the performance-based framework, the public
19 utilities commission recognized the need for a transformative
20 and lasting shift away from cost-of-service regulation. The
21 commission made clear that, after the five-year rate control

1 period, the commission anticipated continuing to refine the
2 performance-based framework and did not envision returning to
3 cost-of-service regulation. However, now that the end of the
4 rate control period is approaching, the legislature is concerned
5 about the integrity of the performance-based framework and the
6 commission's compliance with the Hawaii Ratepayer Protection
7 Act. For example, last year, the commission adopted the
8 utility's proposal to initiate a traditional, cost-of-service
9 rate to "re-base" the utility's allowed revenues using its
10 projected increased costs. This cost-based rebasing of revenues
11 backtracks on the progress and reforms the State has made and
12 violates the commission's previous commitment not to return to
13 cost-of-service regulation.

14 The legislature is also aware that the public utilities
15 commission has insisted on requiring a "forward test year"
16 approach to the rate case, in which a utility requests a rate
17 increase based on future cost projections. This return to
18 forecast cost-of-service ratemaking encourages utilities to make
19 "wish lists" of capital projects to boost utility profits,
20 thereby inflating customer rates. Jurisdictions using forecast

1 costs instead of historical costs end up paying substantially
2 higher rates.

3 The legislature recognizes that the public utilities
4 commission has expressed the belief that it is constrained by
5 existing legal provisions to follow certain traditional
6 cost-bound methods, notwithstanding the mandates of the Hawaii
7 Ratepayer Protection Act. As a result, the commission is
8 inviting a return to "cost-plus" ratemaking that threatens to
9 undermine the benefits and progress achieved under the
10 performance-based framework. This poses the risk of significant
11 rate increases for customers.

12 Based on this stance by the public utilities commission and
13 the risk of rate increases for customers, the legislature
14 believes that further clarification and guidance are needed to
15 ensure that the commission upholds the legislature's original
16 intent under the Hawaii Ratepayer Protection Act and continues
17 the progress made under the commission's performance-based
18 regulatory framework. These clarifications will help ensure
19 that both electric utilities and ratepayers will continue to
20 benefit from the utilities' improved performance, lower costs,
21 and lower rates.



1 Accordingly, the purpose of this Act is to provide
2 clarification and guidance by:

3 (1) Requiring the public utilities commission to establish
4 performance-based incentives, including revenue
5 adjustment mechanisms, cost control mechanisms, and
6 reward and penalty mechanisms on or before January 1,
7 2027; and

8 (2) Clarifying that the public utilities commission is
9 authorized to adopt alternative ratemaking procedures
10 to establish electric utility rates and performance-
11 based incentives.

12 SECTION 3. Section 269-16.1, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "~~§269-16.1 [Performance incentive and penalty mechanisms.]~~

15 Performance-based incentives; regulation of electric utility

16 rates. (a) On or before January 1, ~~[2020,]~~ 2027, the public

17 utilities commission shall establish ~~[performance]~~

18 performance-based incentives, including revenue adjustment

19 mechanisms, cost control mechanisms, and reward and penalty

20 mechanisms, that directly tie an electric ~~[+]utility's[+]~~

21 revenues to that utility's ~~[achievement on]~~ performance



1 [~~metrics~~] and break the direct link between allowed revenues and
2 investment levels. The [~~performance~~] performance-based
3 incentives [~~and penalty mechanisms~~], as may be amended by the
4 public utilities commission from time to time, shall apply to
5 the regulation of electric utility rates under [~~section 269-16.~~]
6 this chapter.

7 (b) Notwithstanding any law to the contrary, including the
8 ratemaking procedures described in section 269-16, the public
9 utilities commission may adopt, by commission order, alternative
10 ratemaking procedures to establish electric utility rates and
11 performance-based incentives for purposes of subsection (a);
12 provided that the rates shall be derived from a
13 performance-based model for determining utility revenues.

14 [~~(b)~~] (c) In developing [~~performance incentive and penalty~~
15 ~~mechanisms,~~] performance-based incentives, the public utilities
16 commission's review of electric utility performance shall
17 consider[~~, but not be limited to,~~] the [~~following~~]:

- 18 (1) [~~The economic~~] Economic incentives and cost-recovery
19 mechanisms described in section 269-6(e);
20 (2) Volatility and affordability of electric rates and
21 customer electric bills;

- 1 (3) ~~[Electric service reliability;]~~ Reliability of
2 electric service;
- 3 (4) ~~[Customer]~~ Level of customer engagement and
4 satisfaction, including customer options for managing
5 electricity costs;
- 6 (5) ~~[Access to]~~ Accessibility of utility system
7 information, including ~~[but not limited to public~~
8 ~~access to]~~ electric system planning data ~~[and]~~,
9 aggregated customer energy use data ~~[and individual~~
10 ~~access to]~~, and granular information about an
11 individual customer's own energy use data;
- 12 (6) Rapid integration of renewable energy sources,
13 including quality interconnection of customer-sited
14 resources; and
- 15 (7) Timely execution of competitive procurement,
16 third-party interconnection, and other business
17 processes.

18 ~~[(e)]~~ (d) This section shall not apply to a member-owned
19 cooperative electric utility."

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

1 SECTION 5. This Act shall take effect upon its approval.



Report Title:

PUC; Ratemaking; Performance-Based Incentives; Hawaii Ratepayer Protection Act of 2026

Description:

Requires the Public Utilities Commission to establish performance-based incentives, including revenue adjustment mechanisms, cost control mechanisms, and reward and penalty mechanisms on or before 1/1/2027. Clarifies that the Public Utilities Commission is authorized to adopt alternative ratemaking procedures to establish electric utility rates and performance-based incentives. (CD1)

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