

ACT 246

S.B. NO. 2362

A Bill for an Act Relating to Alternate Energy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds and declares that section 269-27.2, Hawaii Revised Statutes, is intended to encourage the development and use of nonfossil fuel sources of electric energy and to provide for the public utilities commission to determine the just and reasonable rate for the nonfossil fuel generated electricity. The recovery of payments made to nonfossil fuel producers by an electric public utility will encourage the public utility to utilize the nonfossil fuel sources.

SECTION 2. Section 269-27.2, Hawaii Revised Statutes, is amended to read as follows:

“§269-27.2 Utilization of electricity generated from nonfossil fuels. (a) The public utilities commission shall investigate and determine the extent to which electricity generated from nonfossil fuel sources is available to public utilities [which] that supply electricity to the public, which electricity is in excess of that utilized or otherwise needed by the producers for their internal uses and which [such] the producers are willing to make available to [such] the electric public utilities.

(b) The public utilities commission may direct public utilities [which] that supply electricity to the public to arrange for the acquisition of and to acquire [such] electricity generated from nonfossil fuel sources as is available from and which the producers of same are willing and able to make available to [such] the public utilities, and to employ and dispatch [such] the nonfossil fuel generated electricity in a manner consistent with the availability thereof to maximize the reduction in consumption of fossil fuels in the generation of electricity to be provided to the public.

(c) The rate payable by the public utility to the producer for [such] the nonfossil fuel generated electricity supplied to the public utility shall be as agreed between the public utility and the supplier and as approved by the public utilities commission; provided that in the event the public utility and the supplier fail to reach an agreement for [such] a rate, [such] the rate shall be as prescribed by the public utilities commission according to the powers and procedures provided in this chapter.

In the exercise of its authority to determine the just and reasonable rate for the nonfossil fuel generated electricity supplied to the public utility by the producer,

the commission shall establish that the rate for purchase of electricity by a public utility shall not be less than one hundred per cent of the cost avoided by the utility when the utility purchases the electrical energy rather than producing the electrical energy. In determining the amount of the payment in relation to avoided cost, as that cost is or shall later be defined in the rules of the commission, the commission shall consider, on a generic basis, the minimum floor a utility should pay, giving consideration not only to the near-term adverse consequences to the ultimate consumers of utility provided electricity, but also to the long term desirable goal of encouraging, to the greatest extent practicable, the development of alternative sources of energy.

Nothing in this subsection shall affect existing contracts between public utilities and suppliers of nonfossil fuel generated electricity.

(d) Upon application of a public utility that supplies electricity to the public, and notification of its customers, the commission, after an evidentiary hearing, may allow payments made by the public utility to nonfossil fuel producers for firm capacity and related revenue taxes to be recovered by the public utility through an interim increase in rates until the effective date of the rate change approved by the commission's final decision in the public utility's next general rate proceeding under section 269-16, notwithstanding any requirements to the contrary of any other provision in this chapter or in the commission's rules or practices; provided the amount recovered by the utility and the amount of increase in rates due to the payments for firm capacity and related revenue taxes to be charged to the consumers of the electricity are found by the commission to be:

- (1) Just and reasonable;
- (2) Not unduly prejudicial to the customers of the public utility;
- (3) Promotional of Hawaii's long-term objective of energy self-sufficiency;
- (4) Encouraging to the maintenance or development of nonfossil fueled sources of electrical energy; and
- (5) In the overall best interest of the general public.

The evidentiary hearing provided for in this subsection shall be conducted expeditiously and shall be limited to evidence related to the above findings. Notwithstanding section 269-16, no public hearing shall be required, except as the commission in its discretion may require."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 9, 1988.)