

TESTIMONY OF RANDY IWASE  
CHAIR, PUBLIC UTILITIES COMMISSION  
STATE OF HAWAII  
TO THE  
HOUSE COMMITTEE ON  
CONSUMER PROTECTION AND COMMERCE

APRIL 6, 2015  
2:30 p.m.

**MEASURE:** H.C.R. No. 227, H.D. 1 / H.R. No. 158, H.D. 1

**TITLE:** Requesting the Public Utilities Commission to Protect the Public Interest in Reviewing the Proposed Acquisition of Hawaiian Electric Industries by NextEra Energy, Inc.

Chair McKelvey, Vice Chair Woodson, and Members of the Committee:

**DESCRIPTION:**

These resolutions request that the Public Utilities Commission (“Commission”) protect the public interest in reviewing the proposed acquisition of the Hawaiian Electric Companies (“HECO Companies”) by NextEra Energy, Inc. (“NextEra”). These resolutions also request that the Commission consider, at a minimum, imposing strict conditions on the approval of the proposed acquisition to ensure certain principles. These resolutions also urge the Commission to adopt the recommendation of the Consumer Advocate to establish a procedural schedule that would have the regulatory review process completed by June 2016 to allow for a complete and thorough review of the concerns raised by the merger application docket.

**POSITION:**

The Commission offers the following comments for the Committee’s consideration.

**COMMENTS:**

On April 1, 2015 the Commission established the following initial procedural schedule to govern discovery and the pre-filing of testimony for the proposed HECO-NextEra change of control (See Order No. 32739, Docket No. 2015-0022):

	Date
Direct Testimony Of Applicants In Support Of Their Application	April 13, 2015
Answering And Direct Testimony Of Intervenors	July 20, 2015
Answering And Direct Testimony Of The Consumer Advocate	August 10, 2015
Responsive Testimony By Applicants Limited To Responding To Answering And Direct Testimony By The Intervenors And Consumer Advocate	August 31, 2015

Once the Commission has received and reviewed the prefiled testimony pursuant to the above schedule, the Commission will issue a further order concerning hearing dates and related matters, including setting the timetable for the public listening sessions and scheduling the dates for the contested case hearing (after the public listening sessions).

After inviting the Parties to comment upon the Commission's initial list of issues, the Commission established the following as the list of issues to be addressed in the prefiled testimony:

- 1) Whether the proposed transaction is in the public interest.
  - a. Whether approval of the proposed transaction would be in the best interests of the State's economy and the communities served by the HECO companies.
  - b. Whether the proposed transaction, if approved, provides significant, quantifiable benefits to the HECO Companies' ratepayers in both the short and the long term beyond those proposed by the HECO Companies in recent regulatory filings.
  - c. Whether the proposed transaction will impact the ability of the HECO Companies' employees to provide safe, adequate, and reliable service at reasonable cost.

- d. Whether the proposed financing and corporate restructuring proposed in the application is reasonable.
  - e. Whether adequate safeguards exist to prevent cross subsidization of any affiliates and to ensure the Commission's ability to audit the books and records of the HECO Companies, including affiliate transactions.
  - f. Whether adequate safeguards exist to protect the HECO Companies' ratepayers from any business and financial risks associated with the operations of NextEra and/or any of its affiliates.
  - g. Whether the proposed transaction, if approved, will enhance or detrimentally impact the State's clean energy goals.
  - h. Whether the transfer, if approved, would potentially diminish competition in Hawaii's various energy markets and, if so, what regulatory safeguards are required to mitigate such adverse impacts.
- 2) Whether the applicants are fit, willing, and able to properly provide safe, adequate, and reliable electric service at the lowest reasonable cost in both the short and the long term.
- a. Whether the proposed transaction, if approved, will result in more affordable electric rates for the customers of the HECO Companies.
  - b. Whether the proposed transaction, if approved, will result in an improvement in service and reliability for the customers of the HECO Companies.
  - c. Whether the proposed transaction, if approved, will improve the HECO Companies' management and performance.
  - d. Whether the proposed transaction, if approved, will improve the financial soundness of the HECO Companies.
- 3) Whether the proposed transaction, if approved, would diminish, in any way, the Commission's current regulatory authority over the HECO Companies, particularly

in light of the fact that the ultimate corporate control of the HECO Companies will reside outside of the State.

- 4) Whether the financial size of the HECO Companies relative to NextEra's other affiliates would result in a diminution of regulatory control by the Commission.
- 5) Whether NextEra, Florida Power and Light, or any other affiliate has been subject to compliance or enforcement orders issued by any regulatory agency or court.
- 6) Whether any conditions are necessary to ensure that the proposed transaction is not detrimental to the interests of the HECO Companies' ratepayers or the State and to avoid any adverse consequences and, if so, what conditions are necessary.

Thank you for the opportunity to testify on these resolutions.



**TESTIMONY OF ERIC S. GLEASON, NEXTERA ENERGY  
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE**

APRIL 6, 2015, 2:30 PM

**HOUSE RESOLUTION 158 H.D.1 AND HOUSE CONCURRENT RESOLUTION 227  
H.D.1 - REQUESTING THE PUBLIC UTILITIES COMMISSION TO PROTECT THE  
PUBLIC INTEREST IN REVIEWING THE PROPOSED ACQUISITION OF HAWAIIAN  
ELECTRIC INDUSTRIES BY NEXTERA ENERGY, INC.**

**POSITION:**

NextEra Energy supports the intent of H.R. 158 H.D.1 and H.C.R. 227 H.D.1, i.e. that the Public Utilities Commission (PUC) should protect the public interest in reviewing the proposed acquisition of Hawaiian Electric Industries by NextEra Energy, Inc., and it has every reason to believe that the PUC will do so. NextEra Energy also offers the following comments to correct and clarify the record as it relates to certain points raised in the proposed resolution.

**COMMENTS:**

The proposed resolution contains inaccurate accounts and information. It appears to rely almost exclusively on media reports that mischaracterize and/or omit facts. It also does not appear to consider recent PUC decisions rejecting proposals to extend the time period to complete procedural steps in the review docket for the proposed transaction.

This merger is all about creating a cleaner, more affordable energy future for Hawaii.

NextEra Energy, the nation's leading clean energy company, shares Hawaiian Electric's vision of increasing renewable energy, modernizing its grid, reducing Hawaii's dependence on imported oil, integrating more rooftop solar energy and, importantly, lowering customer bills. NextEra Energy's utility, Florida Power & Light Company, has a widely regarded record of delivering affordable clean energy for its 4.7 million customers.

NextEra Energy also recognizes that every region's energy needs and challenges are different, not unlike the way that local economies vary. Hawaii challenges require Hawaii solutions. NextEra Energy has operations and development activities in many areas, including existing and future solar energy facilities, both large and small, in 11 U.S. states (Alabama, California, Florida, Georgia, Hawaii, Michigan, Minnesota, New Jersey, New Mexico, Nevada, Texas), Canada and Spain. Each location is unique, and the customers we serve are diverse. There are no silver bullets or cookie-cutter recipes for advancing affordable clean energy. What's right for one state isn't necessarily what's right for another. We understand that solutions to a community's energy challenges have to consider the community's needs, attributes, geography and culture.

#### Select Corrections and Clarifications

**Whereas clause #4** claims FPL is “blocking rooftop solar”. A nationally recognized clean energy leader, NextEra Energy is a strong believer in solar power. Advancing clean energy is not about utility-scale solar vs. small-scale distributed solar – it's about looking at all options and balancing many considerations to do what's best for our customers. Utility-scale investment remains the most economical and fairest way to advance solar energy, but distributed solar, particularly rooftop, also has a role, especially in places like Hawaii where the cost of electricity is comparatively higher than other states, such as Florida.

FPL has generally focused on larger solar plants because they deliver the biggest bang for its customers' buck. This doesn't mean that we are “blocking” rooftop solar. In fact, the opposite is true: from the time we receive completed paperwork to the time a new customer meter is installed and the system is fully grid connected requires on average just twelve days. Effectively, there is no wait. The fact remains that, largely because Florida's electric rates are comparatively much lower – especially in FPL's service area – small-scale distributed solar, such as a residential rooftop installation, is not cost-effective. A home or business that installs rooftop solar in Florida simply cannot realize the financial benefits that solar owners in places with higher electric rates, such as Hawaii, can.

As an electric utility, FPL has the responsibility to provide electricity to its customers affordably and reliably, 24 hours a day, 365 days a year. Because of the billions of dollars the company has invested in recent years to improve its power plants in Florida, FPL's system is extremely reliable and far cleaner than most utilities in the United States. At the same time, because the company has made these investments in smart, cost-effective ways, FPL's rates are the lowest in Florida and far lower than the national average.

FPL strongly supports solar energy, and the company, along with its customers, believes solar should play an increasing role in Florida's energy mix in the years ahead. That's why FPL is working on multiple ways to help make that happen. FPL currently operates three large-scale solar power plants (110 megawatts total), including the world's first hybrid solar-natural gas energy center. Before the end of 2016, FPL plans to build three more large-scale solar PV power plants in Florida, which, in addition to several smaller community-based installations, will add more than 225 new megawatts of solar.

**Whereas clause #10** relates to FPL's DSM/energy-efficiency initiatives. Over the past 30 years, FPL has built one of the most successful demand-side management operations in the nation, and the company continues to provide a variety of cost-effective energy-efficiency programs to its customers. FPL's energy-efficiency efforts through 2014 have resulted in cumulative energy savings of approximately 71,000 gigawatt-hours and eliminated the need to construct the equivalent of approximately 14 medium-sized power plants. Based on a detailed analysis, we expect our updated DSM plan to save our customers nearly half a billion dollars in program costs over the next five years while still achieving substantial, cost-effective energy savings.

The proposed resolution states that the "...company successfully lobbied to reduce energy efficiency goals in Florida from two-hundred and twenty-nine gigawatt hours to four gigawatt hours by 2019, as reported by the Tampa Bay Times"). This presumably refers to claims published in a July 19, 2014, Tampa Bay Times article. However, not only did this article contain serious errors, including incorrect figures regarding energy-efficiency goals for FPL, the proposed resolution mischaracterized the article's misinformation. The

reality is FPL's annual energy-saving goal is 51.5 gigawatt-hours for the year 2019 – with increasing annual goals for each year from 2020 through 2024.

**Whereas clauses #3-#10** make claims regarding FPL politics. We can't speak for the accuracy of political characterizations and claims in media reports. However, we can assure you that NextEra Energy maintains a rigorous compliance process to ensure that the company's political activities are lawful, properly disclosed and aligned with our Code of Business Conduct and Ethics. The company participates responsibly in the political process and provides clear disclosure regarding its political activities.

**Whereas clause #11** makes claims regarding FPL vs. ratepayer risk. This is a very misleading claim that we have debunked time and again. FPL's strategy of investing in affordable clean energy and infrastructure improvements continues to benefit customers with an outstanding combination of value – lower electric bills, strong service reliability and industry-leading clean emissions. Regardless of any political claims that appear in the media, the quality of the electric service FPL provides is indisputable, and we believe that's what matters most to our customers.

**The first “Be it resolved” clause** proposes to add a new issue 7 to PUC's Statement of the Issues. This new issue 7 should not be added to the list of issues consistent with the PUC's two separate orders related to this in Docket No. 2015-0022.

On April 1, 2015, the PUC issued Order No. 32739. Section III sets forth the Statement of the Issues. It does not include the new issue 7. The PUC first proposed the Statement of the Issues on March 2, 2015 in Order No. 32695 filed March 2, 2015. Docket No. 2015-0022. The PUC invited the parties to propose additional issues. Many intervenor parties proposed additional issues, as did the Applicants. After reviewing the record, the PUC rejected all of the proposed revisions to the Statement of the Issues. The new issue 7 proposed in these resolutions is not unlike the many proposed new issues the PUC has rejected.



Finally, **the third “Be it resolved”** clause “urges” the PUC to adopt the Consumer Advocate’s recommendation to “establish a procedural schedule that would have the regulatory review process completed by June 2016.”

This third “Be it resolved” clause should be deleted in its entirety because a June deadline for completing the merger review proceeding is not consistent with recent Hawaii merger dockets and standard practice elsewhere. A survey of all merger proceedings involving investor owned electric utilities since 2010, spanning fifteen U.S. and Canadian jurisdictions, as well as the two most recent major merger proceedings in Hawaii, demonstrates that all were completed within nine months, on average. By contrast, the June 2016 date would require completion of the regulatory proceeding in about eighteen months – over double the typical time.

Moreover, a June 2016 deadline is not consistent with the Merger Agreement. June 2016 is the very latest deadline for closing the transaction, which includes receipt of necessary regulatory approvals. Having the regulatory approvals deadline fall on the same day as the deadline for closing the transaction is unworkable and inconsistent with mergers elsewhere.

Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov  
Sent: Wednesday, April 01, 2015 5:18 PM  
To: CPCtestimony  
Cc: mendezj@hawaii.edu  
Subject: \*Submitted testimony for HR158 on Apr 6, 2015 14:30PM\*

**HR158**

Submitted on: 4/1/2015

Testimony for CPC on Apr 6, 2015 14:30PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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