April 23, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on April 23, 2012, the following bill was signed into law:

SB2752 SD1
RELATING TO ELECTRIC UTILITIES.
Act 055 (12)

Sincerely,

NEIL ABERCROMBIE
Governor, State of Hawaii
A BILL FOR AN ACT

RELATING TO ELECTRIC UTILITIES.

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

SECTION 1. The legislature finds that electricity
generation projects in Hawaii requiring external financing must
typically enter into one or more long-term power purchase
agreements with an electric utility before investors will
provide such financing. For financial rating agencies that
observe and evaluate the effect of these power purchase
agreements, including Standard & Poor's, such contracts create
fixed debt-like financial obligations for the electric utility
that represent substitutes for debt-financed capital investments
in generation capacity. To properly take into account the fixed
obligations in a way that reflects the credit exposure that is
added by the power purchase agreements, the financial rating
agencies represent, or impute, the impact of a power purchase
agreement to the contracting electric utility's balance sheet in
the form of a new debt obligation. This new obligation is
typically referred to as imputed debt or debt equivalence.

Rating agencies may impute to a utility's debt level an
amount up to fifty per cent or more of the existing payments on
a power purchase agreement, resulting in significant amounts of
imputed debt hampering a contracting utility's debt rating and
impeding that utility's debt financing. Compensating factors,
including legislative provisions for the mitigation of imputed
debt on utility companies' balance sheets, are noted as being
important variables in either raising or lowering debt
equivalence levels. Without an available offsetting mechanism,
imputed debt obligations on electric utilities for electricity
generation projects can ultimately have a major chilling effect
on energy development, especially in states pursuing ambitious
renewable energy goals.

Reducing the imputed debt obligations of electric utilities
can benefit electric utility customers by maximizing the
utilities' ability to negotiate low cost, fixed price renewable
energy contracts. In addition, the elimination of power
purchase agreement-created imputed debt obligations of a utility
can lower capital costs for that utility, which helps to
mitigate energy costs for consumers through lower rates.

The purpose of this Act is to authorize the public
utilities commission to allow electric utilities operating
within the State to recover all power purchase costs.
SECTION 2. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§269- Power purchase agreements; cost recovery for electric utilities. All power purchase costs, including costs related to capacity, operations and maintenance, and other costs that are incurred by an electric utility company, arising out of power purchase agreements that have been approved by the public utilities commission and are binding obligations on the electric utility company, shall be allowed to be recovered by the utility from the customer base of the electric utility company through one or more adjustable surcharges, which shall be established by the public utilities commission. The costs shall be allowed to be recovered if incurred as a result of such agreements unless, after review by the public utilities commission, any such costs are determined by the commission to have been incurred in bad faith, out of waste, out of an abuse of discretion, or in violation of law. For purposes of this section, an "electric utility company" means a public utility as defined under section 269-1, for the production, conveyance, transmission, delivery, or furnishing of electric power."

SECTION 3. New statutory material is underscored.

2012-0901 SB2752 SD1 SMA.doc
SECTION 4. This Act shall take effect on July 1, 2012.

APPROVED this 23 day of APR, 2012

[Signature]

GOVERNOR OF THE STATE OF HAWAII