



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

April 24, 2018

GOV. MSG. NO. 1105

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Ninth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Twenty-Ninth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on April 24, 2018, the following bill was signed into law:

SB2939 SD2

RELATING TO ENERGY
ACT 005 (18)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO ENERGY.

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

1 SECTION 1. In 2014, the public utilities commission issued
2 a landmark white paper titled "Commission's Inclinations on the
3 Future of Hawaii's Electric Utilities: Aligning the Utility
4 Business Model with Customer Interests and Public Policy Goals".
5 The white paper offered "perspectives on the vision, business
6 strategies and regulatory policy changes required to align the
7 HECO Companies' business model with customers' interests and the
8 state's public policy goals."

9 The legislature finds that improving the alignment of
10 utility customer and company interests is critical to ensuring
11 that Hawaii's residents and businesses do not suffer economic
12 and environmental harm from the State's energy systems. At the
13 same time, this realignment is critical to ensure the ongoing
14 viability of the State's regulated electric utilities, as they
15 face increasing need to rapidly adapt business models and
16 strategies that enable new innovations and customer choices.



1 Furthermore, the legislature finds that this realignment
2 has entered a period of extraordinary urgency. The commission's
3 white paper noted that the State's utilities must rapidly create
4 a twenty-first century generation system, modernize transmission
5 and distribution grids, and implement new rate structures in
6 concert with changes to the outdated regulatory compact. The
7 legislature agrees with the public utilities commission that
8 "electric utilities need to move with urgency to modernize the
9 generation system on each island grid as delays are lost savings
10 opportunities".

11 To that end, some of the State's utilities have recently
12 proposed modernization plans. Those plans would ultimately
13 result in a dramatic reduction in fossil fuel consumption, as
14 fossil fuels are replaced by renewable energy resources.
15 However, this change would be accompanied by an equally dramatic
16 change in how utility revenues are expended. As fewer funds are
17 spent to purchase fossil fuels, those funds will be redirected
18 to capital projects. This is a benefit to residents and
19 businesses, insofar as fixed-cost renewable energy projects can
20 reduce the risk of consumers facing volatile fossil fuel costs.
21 Renewable energy resources have also entered a new paradigm



1 where in many cases they can lower energy costs in comparison to
2 fossil fuel use.

3 However, the existing regulatory compact rewards utilities
4 for increasing capital expenditures by basing allowed revenues
5 on the value of the rate base, irrespective of utility
6 performance. This same business and revenue model has been in
7 place for over a century. The Wall Street Journal explained
8 that "the more [utilities] spend, the more profits they earn",
9 and called this "a regulatory system that turns corporate
10 accounting on its head".

11 The legislature is concerned that the existing regulatory
12 compact misaligns the interests of customers and utilities
13 because it may result in a bias toward expending utility capital
14 on utility-owned projects that may displace more efficient or
15 cost-effective options, such as distributed energy resources
16 owned by customers or projects implemented by independent third
17 parties.

18 The legislature concludes that it must ensure a change to
19 the regulatory compact to promote decisions and strategies that
20 will maximize public benefit, reduce ratepayer risk, and meet
21 Hawaii's energy goals.



1 The legislature also finds that, although some utility
2 performance incentives are being considered in existing dockets
3 at the public utilities commission, any resulting performance
4 incentives have not been transformative in urgently moving
5 electric utilities toward the State's ambitious energy policy
6 goals. The legislature further finds that the responsibility
7 for aligning investor-owned utility regulatory policies with
8 customers' interests and the State's public policy goals is not
9 limited to the public utilities commission, but more broadly
10 rests with the state and county governments that represent the
11 public interest. The regulatory framework under which utilities
12 operate and the scope of regulation by the public utilities
13 commission are established by the legislature, which holds the
14 exclusive authority to issue, amend, or revoke franchise rights
15 that permit utilities to operate in the State.

16 The purpose of this Act is to protect consumers by
17 proactively ensuring that the existing utility business and
18 regulatory model will be updated for the twenty-first century by
19 requiring that electric utility rates be considered just and
20 reasonable only if the rates are derived from a performance-
21 based model for determining utility revenues.



1 SECTION 2. This Act shall be known as the Hawaii Ratepayer
2 Protection Act.

3 SECTION 3. Chapter 269, Hawaii Revised Statutes, is
4 amended by adding a new section to part I to be appropriately
5 designated and to read as follows:

6 "§269- Performance incentive and penalty mechanisms.

7 (a) On or before January 1, 2020, the public utilities
8 commission shall establish performance incentives and penalty
9 mechanisms that directly tie an electric utility revenues to
10 that utility's achievement on performance metrics and break the
11 direct link between allowed revenues and investment levels. The
12 performance incentives and penalty mechanisms, as may be amended
13 by the public utilities commission from time to time, shall
14 apply to the regulation of electric utility rates under section
15 269-16.

16 (b) In developing performance incentive and penalty
17 mechanisms, the public utilities commission's review of electric
18 utility performance shall consider, but not be limited to, the
19 following:

20 (1) The economic incentives and cost-recovery mechanisms
21 described in section 269-6(d);



- 1 (2) Volatility and affordability of electric rates and
- 2 customer electric bills;
- 3 (3) Electric service reliability;
- 4 (4) Customer engagement and satisfaction, including
- 5 customer options for managing electricity costs;
- 6 (5) Access to utility system information, including but
- 7 not limited to public access to electric system
- 8 planning data and aggregated customer energy use data
- 9 and individual access to granular information about an
- 10 individual customer's own energy use data;
- 11 (6) Rapid integration of renewable energy sources,
- 12 including quality interconnection of customer-sited
- 13 resources; and
- 14 (7) Timely execution of competitive procurement, third-
- 15 party interconnection, and other business processes.
- 16 (c) This section shall not apply to a member-owned
- 17 cooperative electric utility."

18 SECTION 4. New statutory material is underscored.

19 SECTION 5. This Act shall take effect on July 1, 2018.

APPROVED this 24 day of APR, 2018





GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAI'I

Date: March 6, 2018
Honolulu, Hawai'i 96813

We hereby certify that the foregoing Bill this day passed Third Reading in the Senate of the Twenty-ninth Legislature of the State of Hawai'i, Regular Session of 2018.


President of the Senate



Clerk of the Senate

**THE HOUSE OF REPRESENTATIVES
OF THE STATE OF HAWAI'I**

Date: April 10, 2018
Honolulu, Hawai'i 96813

We hereby certify that the foregoing Bill this day passed Third Reading in the House of Representatives of the Twenty-ninth Legislature of the State of Hawai'i, Regular Session of 2018.


Speaker, House of Representatives


Clerk, House of Representatives