A BILL FOR AN ACT

RELATING TO RETAIL WHEELING.

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

SECTION 1. The legislature finds that the price of electricity is a financial concern to Hawaii residents. According to the U.S. Energy Information Administration, the average retail price of electricity to the end users in Hawaii is the highest in the nation at two hundred fifty-two percent more than the national average. Hawaii residents pay the highest rates for being among one of the lowest energy consumption per capita states in the nation. The legislature concludes that these electricity prices are placing an unreasonable burden on Hawaii residents and must be alleviated.

Retail wheeling refers to the process of selling and transmitting electric power through a third-party public utility to the end user. This mechanism introduces competition into the market by unbundling the independent power producers from the public utilities for more consumer options that will compete in the larger market, thus inducing competitive prices. While some states engage in retail wheeling, Hawaii restricts retail
wheeling through requiring independent power producers to sell
their power to public utilities, and therefore prevents direct
sales to end users. Currently, this restriction creates a
public utility monopoly with limited consumer choice to contract
electricity at a prudent price.

In public interest, the State must diversify its renewable
portfolio to meet the Hawaii Clean Energy Initiative and
increase its energy security. To this end, the legislature
finds that retail wheeling can provide an affordable mechanism
to implement and distribute renewable energy.

Despite previous efforts in the past fifteen years, the
legislature can no longer wait for the public utilities
commission to address the legislature's former intra-
governmental wheeling resolution and proposes statewide retail
wheeling because of the foreseen supply interruptions and oil
price volatility from Hawaii's reliance on imported oil that
undergirds about two-thirds of the State's energy needs.

In 2004, the legislature adopted Senate Concurrent
Resolution No. 180 requesting the public utility commission to
explore how to implement the concept of intra-governmental
wheeling to facilitate government wheeling of electricity, and
other regulatory measures, to support the development of
renewable energy systems by federal, state, and county agencies.

In 2007, the public utilities commission opened proceedings
in response to this resolution to: (1) investigate the impacts,
if any, of wheeling on the state's electric industry; (2) address
interconnection matters; (3) identify the costs to utilities of
implementing intra-governmental wheeling; (4) consider the
financial cost and impact of intra-governmental wheeling on non-
wheeling customers of a utility; (5) identify any power back-up
issues; and (6) address how rates for intra-governmental
wheeling would be set (Docket No. 2007-0176). But in 2008, the
public commission granted the Department of Business, Economic
Development, and Tourism its request to suspend the docket for
one year to review the docket's necessity with the plans to
acquire renewable energy under the October 20, 2008, Energy
Agreement from the Hawaii Clean Energy Initiative (HCEI). In
2011, the public commission reinstated the docket and decided to
re-discuss it depending on the outcome of reviewing reliability
standards for electric utilities (Docket No. 2011-0206). Much
of the docket was completed, but there were several contingent
issues that needed to be addressed by specific electric
utilities leaving the docket open to date.

The legislature finds that compliance with the Energy
Agreement hindered the Docket No. 2007-0176 from advancing, and
further concludes that implementing retail wheeling is the
method needed to reduce electrical bills for Hawaii residents,
meanwhile contributing to the feasibility and affordability of
renewable energy.

The purpose of this Act is to allow retail wheeling in
Hawaii to increase competition within Hawaii's electrical market
and expand end user choice, therefore encouraging competitive
electrical pricing and incentivizing the production of renewable
energy and diversify Hawaii's energy base.

SECTION 2. Chapter 269, Hawaii Revised Statutes, is
amended by adding a new section to be appropriately designated
and to read as follows:

"§269- Retail wheeling; rules and procedures. No later
than July 1, 2019, the public utilities commission shall
establish necessary policies, and rules pursuant to chapter 91,
to implement retail wheeling."
For purposes of this section, "retail wheeling" means the distribution, over a public utility's transmission and distribution system, of power that is generated by an independent power producer and sold by the independent power producer directly to the end user."

SECTION 3. Section 269-1, Hawaii Revised Statutes, is amended by amending the definition of "public utility" to read as follows:

"[PART I. PUBLIC UTILITIES, GENERALLY]

§269-1 Definitions. As used in this chapter:

"Public utility":

(1) Includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use for the transportation of passengers or freight; for the conveyance or transmission of telecommunications messages; for the furnishing of facilities for the transmission of intelligence by electricity within the State or
between points within the State by land, water, or air; for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil; for the storage or warehousing of goods; or for the disposal of sewage; provided that the term shall include:

(A) An owner or operator of a private sewer company or sewer facility; and

(B) A telecommunications carrier or telecommunications common carrier; and

(2) Shall not include:

(A) An owner or operator of an aerial transportation enterprise;

(B) An owner or operator of a taxicab as defined in this section;

(C) Common carriers that transport only freight on the public highways, unless operating within localities, along routes, or between points that the public utilities commission finds to be inadequately serviced without regulation under this chapter;
(D) Persons engaged in the business of warehousing or storage unless the commission finds that regulation is necessary in the public interest;

(E) A carrier by water to the extent that the carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the State; provided that the towing, salvage, hauling, or carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally;

(F) A carrier by water, substantially engaged in interstate or foreign commerce, that transports passengers on luxury cruises between points within the State or on luxury round-trip cruises returning to the point of departure;

(G) Any user, owner, or operator of the Hawaii electric system as defined under section 269-141;

(H) A telecommunications provider only to the extent determined by the public utilities commission pursuant to section 269-16.9;
(I) Any person who controls, operates, or manages
plants or facilities developed pursuant to
chapter 167 for conveying, distributing, and
transmitting water for irrigation and other
purposes for public use and purpose;

(J) Any person who owns, controls, operates, or
manages plants or facilities for the reclamation
of wastewater; provided that:

(i) The services of the facility are provided
pursuant to a service contract between the
person and a state or county agency and at
least ten percent of the wastewater
processed is used directly by the state or
county agency that entered into the service
contract;

(ii) The primary function of the facility is the
processing of secondary treated wastewater
that has been produced by a municipal
wastewater treatment facility owned by a
state or county agency;
(iii) The facility does not make sales of water to residential customers;

(iv) The facility may distribute and sell recycled or reclaimed water to entities not covered by a state or county service contract; provided that, in the absence of regulatory oversight and direct competition, the distribution and sale of recycled or reclaimed water shall be voluntary and its pricing fair and reasonable. For purposes of this subparagraph, "recycled water" and "reclaimed water" means treated wastewater that by design is intended or used for a beneficial purpose; and

(v) The facility is not engaged, either directly or indirectly, in the processing of food wastes;

(K) Any person who owns, controls, operates, or manages any seawater air conditioning district cooling project; provided that at least fifty per cent of the energy required for the seawater air
conditioning district cooling system is provided by a renewable energy resource, such as cold, deep seawater;

(L) Any person who owns, controls, operates, or manages plants or facilities primarily used to charge or discharge a vehicle battery that provides power for vehicle propulsion;

(M) Any person who:

(i) Owns, controls, operates, or manages a renewable energy system that is located on a customer's property; and

(ii) Provides, sells, or transmits the power generated from that renewable energy system to an electric utility or to the customer on whose property the renewable energy system is located; provided that, for purposes of this subparagraph, a customer's property shall include all contiguous property owned or leased by the customer without regard to interruptions in contiguity caused by easements, public thoroughfares,
transportation rights-of-way, and utility

rights-of-way; and

(N) Any person who owns, controls, operates, or
manages a renewable energy system that is located
on such person's property and provides, sells, or
transmits the power generated from that renewable
energy system to an electric utility or to
lessees or tenants on the person's property where
the renewable energy system is located; provided
that:

(i) An interconnection, as defined in section
269-141, is maintained with an electric
public utility to preserve the lessees' or
tenants' ability to be served by an electric
utility;

(ii) Such person does not use an electric public
utility's transmission or distribution lines
to provide, sell, or transmit electricity to
lessees or tenants;

(iii) At the time that the lease agreement is
signed, the rate charged to the lessee or
1 tenant for the power generated by the
2 renewable energy system shall be no greater
3 than the effective rate charged per kilowatt
4 hour from the applicable electric utility
5 schedule filed with the public utilities
6 commission;
7 (iv) The rate schedule or formula shall be
8 established for the duration of the lease,
9 and the lease agreement entered into by the
10 lessee or tenant shall reflect such rate
11 schedule or formula;
12 (v) The lease agreement shall not abrogate any
13 terms or conditions of applicable tariffs
14 for termination of services for nonpayment
15 of electric utility services or rules
16 regarding health, safety, and welfare;
17 (vi) The lease agreement shall disclose: (1) the
18 rate schedule or formula for the duration of
19 the lease agreement; (2) that, at the time
20 that the lease agreement is signed, the rate
21 charged to the lessee or tenant for the
power generated by the renewable energy system shall be no greater than the effective rate charged per kilowatt hour from the applicable electric utility schedule filed with the public utilities commission; (3) that the lease agreement shall not abrogate any terms or conditions of applicable tariffs for termination of services for nonpayment of electric utility services or rules regarding health, safety, and welfare; and (4) whether the lease is contingent upon the purchase of electricity from the renewable energy system; provided further that any disputes concerning the requirements of this provision shall be resolved pursuant to the provisions of the lease agreement or chapter 521, if

[(vii) Nothing in this section shall be construed to permit wheeling.]
SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on upon approval.

INTRODUCED BY: ________________________

JAN 23 2019
Report Title: Retail Wheeling; Public Utilities

Description: Requires the public utilities commission to establish policies and procedures related to retail wheeling to enable independent power producers to sell electricity directly to end users.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.