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

SECTION 1. Hawaii's electric ratepayers face continuing rate increases due in large part to high costs for crude oil and revenue decoupling, which allows electric utilities to seek rate increases to compensate for declining revenues resulting from energy efficiency and distributed generation, and potential future costs related to grid modernization and power supply improvement. To provide relief to electric and other utility ratepayers, the State must aggressively explore new policies, such as cost recovery and revenue generating mechanisms, to ensure that ratepayers receive the maximum benefit from utility-owned and ratepayer-funded assets.

In other jurisdictions, public utilities have successfully benefitted their utility ratepayers through the leasing of unused ratepayer-funded infrastructure. For example, the California Public Utilities Commission (CPUC) has approved numerous agreements between utilities and government and commercial entities to lease temporarily available, utility-
owned underground cable and conduit space, above-ground cable space on poles, facilities and rights-of-way, and optical fibers. In authorizing a lease of certain unused (or dark) optical fibers by Southern California Edison (SCE), the primary electric company for much of Southern California, the CPUC noted that the proposed lease is an example of SCE's ongoing effort to pursue opportunities to generate additional revenues from the commercial use of SCE's temporarily available capacity, while also ensuring that ratepayers receive substantial benefits without risk. Review of approved SCE leases clearly shows that a utility's unused infrastructure can be leveraged for the substantial benefit of ratepayers. For example, a lease of two fibers to the County of Los Angeles approved in 2010 generated revenues of $674,280 over its initial five-year term; a 5-year lease of fibers approved in 2016 had a net present value of $1,157,817; and a lease of fibers after an amendment approved in 2017 had a total lease value of $2,387,197.

In approving a lease for conduit space, the CPUC reasoned that the agreement benefited the telecommunication utilities who are seeking to build their fiber optic network, had economic and environmental benefits, and that the public interest was served.
when utility property is used for other productive purposes without interfering with the utility's operation or affecting service to utility customers.

Similarly, the leasing of unused utilities infrastructure to extend Hawaii's fiber optic network can provide significant economic benefits for ratepayers, reduce environmental impacts of broadband infrastructure deployment, and promote a broadband deployment best practice of shared infrastructure to reduce impacts and cost. The use of existing unused fiber could significantly speed the expansion of broadband networks by allowing broadband providers to avoid much of the time consuming and costly pole attachment, pole make-ready, and excavation costs and processes required for new fiber installations. Such a policy would thus promote the State's goals to increase broadband penetration, improve available service speeds, and foster competition to increase broadband access in the State at affordable prices.

Under Act 37, Session Laws of Hawaii 2013, the legislature directed the public utilities commission to consider whether implementation of certain named policies would be in the public
interest by, among other things, inducing and accelerating utility cost recovery efforts.

The purpose of this Act is to require the public utilities commission to determine whether the implementation of an additional cost recovery and revenue generating mechanism of leasing unused fiber, conduit, and other infrastructure is in the public interest and to include information on incentives and cost recovery mechanisms in the commission's annual report.

SECTION 2. Section 269-5, Hawaii Revised Statutes, is amended to read as follows:

"§269-5 Annual report and register of orders. The public utilities commission shall prepare and present to the governor in the month of January in each year a report respecting its actions during the preceding fiscal year. This report shall include summary information and analytical, comparative, and trend data concerning major regulatory issues acted upon and pending before the commission; cases processed by the commission, including their dispositions; utility company operations, capital improvements, and rates; utility company performance in terms of efficiency and quality of services rendered; financing orders issued, adjustments made to the
public benefits fee, and repayments or credits provided to
electric utility customers pursuant to part X or chapter 196,
part IV; a summary of power purchase agreements, including
pricing, in effect during the fiscal year; environmental matters
having a significant impact upon public utilities; actions of
the federal government affecting the regulation of public
utilities in Hawaii; long and short-range plans and objectives
of the commission; a summary of economic incentives, cost
recovery and income generating mechanisms considered, and the
fiscal impacts where implemented; together with the commission's
recommendations respecting legislation and other matters
requiring executive and legislative consideration. Copies of
the annual reports shall be furnished by the governor to the
legislature. In addition, the commission shall establish and
maintain a register of all its orders and decisions, which shall
be open and readily available for public inspection, and no
order or decision of the commission shall take effect until it
is filed and recorded in this register."

SECTION 3. Section 269-6, Hawaii Revised Statutes, is
amended by amending subsection (d) to read as follows:
"(d) The public utilities commission, in carrying out its responsibilities under this chapter, shall consider whether the implementation of one or more of the following economic incentives or cost recovery mechanisms would be in the public interest:

(1) The establishment of a shared cost savings incentive mechanism designed to induce a public utility to reduce energy costs and operating costs and accelerate the implementation of energy cost reduction practices;

(2) The establishment of a renewable energy curtailment mitigation incentive mechanism to encourage public utilities to implement curtailment mitigation practices when lower cost renewable energy is available but not utilized through the sharing of energy cost savings between the public utility, ratepayer, and affected renewable energy projects;

(3) The establishment of a stranded cost recovery mechanism to encourage the accelerated retirement of an electric utility fossil fuel electric generation plant by allowing an electric utility to recover the
stranded costs created by early retirement of a fossil
generation plant; [and]

(4) The establishment of differentiated authorized rates
of return on common equity to encourage increased
utility investments in transmission and distribution
infrastructure, discourage an electric utility
investment in fossil fuel electric generation plants
to incentivize grid modernization, and disincentivize
fossil generation, respectively[—]; and

(5) The establishment of an infrastructure maximization
cost recovery and revenue generating mechanism to
encourage public utilities to lease unused or
temporarily available infrastructure in a manner that
is compatible with utility operations and
substantially benefits the ratepayer."

SECTION 4. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.
Report Title:
Public Utilities Commission; Utility Infrastructure; Dark Fiber; Conduit; Broadband

Description:
Requires the public utilities commission to determine whether the implementation of a cost recovery and income generating mechanism of leasing unused fiber, conduit, and other infrastructure is in the public interest. Requires the public utilities commission to report on economic incentives, cost recovery mechanisms considered, and the financial impacts where implemented.

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