A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. The legislature finds that Hawai'i's energy sector is undergoing a transition to renewable energy that is strengthening the State's economy, environment, and security. To complete this transition successfully, and to ensure maximum benefits for Hawai'i's people and businesses, it is important that all relevant entities are aligned in the goal of achieving one hundred per cent renewable energy. The legislature is also concerned that requiring electric utilities, but not gas utilities, to increase their reliance on renewable energy creates an unfair playing field that may unintentionally harm consumers by promoting suboptimal long-lived investments in fossil fuels through gas-fired distributed electrical generation. These effects may also have near- and long-term impacts on the viability of the State's electric utilities, and near- and long-term impacts on the viability of the State's gas utilities.
The legislature finds that the simplest, fairest, and most effective solution to this concern is to implement renewable portfolio standard targets for gas utilities that mirror those being achieved by electric utilities. This Act requires all gas sales related to gas utility operations to become more renewable over time. This includes sales by the heretofore regulated gas utilities (e.g. sales via gas pipelines), and all affiliates or subsidiaries of such gas utilities (e.g. sales via large gas tanks). This aggregated approach has a two-fold benefit: it will enable flexibility in achieving renewable standards, as the renewable content of regulated and unregulated gas deliveries can be aggregated; and it will ensure that the objectives of this Act cannot be circumvented through the use of unregulated affiliates or subsidiary entities.

The purpose of this Act is to promote fairness and alignment in Hawai‘i's transition to one hundred per cent renewable energy and ensure that the State's market for gas embraces and supports the State's transition toward increasing renewable energy.
SECTION 2. Chapter 269, part V, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

"§269-A Gas renewable portfolio standards. (a) Each gas utility company that sells gas for consumption in the State shall establish a renewable energy portfolio standard of:

(1) Twenty-five per cent of its total sales by December 31, 2025;

(2) Forty per cent of its total sales by December 31, 2030;

(3) Seventy per cent of its total sales by December 31, 2040; and

(4) One hundred per cent of its total sales by December 31, 2045.

For the purpose of this section, "total sales" shall mean the sale of all gas in the State by a gas utility, by its corporate parent, and by its corporate parent's subsidiary entities, partners, joint venturers, and affiliate entities.

(b) The public utilities commission may establish standards for each gas utility that prescribe what portion of the renewable portfolio standards shall be met by specific types
of renewable energy resources; provided that where gas is composed of co-mingled fossil and renewable fuels, the renewable energy component of such gas shall be considered to be in direct proportion to the percentage of the total heat output value represented by the heat output value of the fuels derived from renewable energy.

(c) If the public utilities commission determines that a gas utility company failed to meet the renewable portfolio standard, after a hearing in accordance with chapter 91, the utility shall be subject to penalties to be established by the public utilities commission; provided that if the commission determines that the gas utility company is unable to meet the renewable portfolio standards due to reasons beyond the reasonable control of a gas utility, as set forth in subsection (d), the commission, in its discretion, may waive in whole or in part any otherwise applicable penalties.

(d) Events or circumstances that are beyond a gas utility company's reasonable control may include, to the extent the event or circumstance could not be reasonably foreseen and ameliorated:

(1) Weather-related damage;
(2) Natural disasters;
(3) Mechanical or resource failure;
(4) Failure of renewable gas producers or suppliers to meet contractual obligations to the gas utility company;
(5) Labor strikes or lockouts;
(6) Actions of governmental authorities that adversely affect the procurement of renewable gas energy under contract to a gas utility company;
(7) Inability to obtain permits or land use approvals for renewable gas projects;
(8) Inability to acquire sufficient renewable gas to meet the renewable portfolio standard goals for 2040 and for years beyond in a manner that is cost-effective or beneficial to Hawaii's economy in relation to comparable fossil fuel resources;
(9) Substantial limitations, restrictions, or prohibitions on utility renewable gas projects; and
(10) Other events and circumstances of a similar nature that could not be reasonably foreseen and ameliorated.
§269-B Achieving gas portfolio standard. (a) A gas utility company and its affiliates may aggregate their renewable portfolios to achieve the renewable portfolio standard.

(b) If a gas utility company and its affiliates aggregate their renewable portfolios to achieve the renewable portfolio standard, the public utilities commission may distribute, apportion, or allocate the costs and expenses of all or any portion of the respective renewable portfolios among the gas utility company, its gas utility affiliates, and their respective ratepayers, as is reasonable under the circumstances.

(c) A gas company may recover, through an automatic rate adjustment clause, the gas company's revenue requirement resulting from the distribution, apportionment, or allocation of the costs and expenses of the renewable portfolios of the gas utility company and its gas utility affiliates.

(d) To provide for timely recovery of the revenue requirement under subsection (c), the commission may establish a separate automatic rate adjustment clause, or approve the use of a previously approved automatic rate adjustment clause, without a rate case filing. The use of the automatic rate adjustment clause to recover the revenue requirement shall be allowed to

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continue until the revenue requirement is incorporated in rates
in the respective gas utility company's rate case.

§269-C Waivers, extensions, and incentives. Any gas
utility company not meeting the renewable portfolio standard
shall report to the public utilities commission within ninety
days following the goal dates established in section 269-A, and
provide an explanation for not meeting the renewable portfolio
standard. The public utilities commission, after allowing an
appropriate period of public comment, shall have the option to
either grant, or not, a waiver from the renewable portfolio
standard or an extension for meeting the prescribed standard.
The public utilities commission may provide incentives to
encourage gas utility companies to exceed their renewable
portfolio standards or to meet their renewable portfolio
standards ahead of time, or both."

SECTION 3. Section 269-91, Hawaii Revised Statutes, is
amended by adding a new definition to be appropriately inserted
and to read as follows:

"Gas utility company" means a public utility as defined
under section 269-1, for the production, conveyance,
transmission, delivery, or furnishing of gas or oil, or of light, power, heat, or cold produced from gas or oil."

SECTION 4. Section 269-91, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "cost-effective" to read: "Cost-effective" means the ability to produce or purchase electric energy or firm capacity, or both, from renewable energy resources at or below avoided costs or as the commission otherwise determines to be just and reasonable consistent with the methodology set by the public utilities commission in accordance with section 269-27.2."

2. By amending the definition of "renewable portfolio standard" to read: "Renewable portfolio standard in the context of an electric utility company means the percentage of electrical energy sales that is represented by renewable electrical energy. "Renewable portfolio standard in the context of a gas utility company means the percentage of gas sales that is represented by fuels derived from renewable energy."

SECTION 5. Section 269-95, Hawaii Revised Statutes, is amended to read as follows:
§269-95 Renewable portfolio standards study. The public utilities commission shall:

(1) By December 31, 2019, develop and implement a utility ratemaking structure, which may include performance-based ratemaking, to provide incentives that encourage Hawaii's electric utility companies to use cost-effective renewable energy resources found in Hawaii to meet the renewable portfolio standards established in [section-269-92] this chapter, while allowing for deviation from the standards in the event that the standards cannot be met in a cost-effective manner or as a result of events or circumstances, such as described in section 269-92(d) or section 269-A(d), beyond the control of the electric utility company that could not have been reasonably anticipated or ameliorated;

(2) Gather, review, and analyze empirical data to:

(A) Determine the extent to which any proposed utility ratemaking structure would impact [electric] utility companies' profit margins; and
(B) Ensure that the utility companies' opportunity to earn a fair rate of return is not diminished;

(3) Use funds from the public utilities special fund to contract with the Hawaii natural energy institute of the University of Hawaii to conduct independent studies to be reviewed by a panel of experts from entities such as the United States Department of Energy, National Renewable Energy Laboratory, Electric Power Research Institute, Hawaii electric utility companies, environmental groups, and other similar institutions with the required expertise. These studies shall include findings and recommendations regarding:

(A) The capability of Hawaii's electric utility companies to achieve renewable portfolio standards in a cost-effective manner and shall assess factors such as:

(i) The impact on consumer rates;

(ii) Utility system reliability and stability;
(iii) Costs and availability of appropriate renewable energy resources and technologies, including the impact of renewable portfolio standards, if any, on the energy prices offered by renewable energy suppliers or developers;

(iv) Permitting approvals;

(v) Effects on the economy;

(vi) Balance of trade, culture, community, environment, land, and water;

(vii) Climate change policies;

(viii) Demographics;

(ix) Cost of fossil fuel volatility; and

(x) Other factors deemed appropriate by the commission; and

(B) Projected renewable portfolio standards to be set five and ten years beyond the then current standards;

(4) Evaluate the renewable portfolio standards every five years, beginning in 2025, and may revise the standards based on the best information available at the time to
determine if the standards established by section 269-92 remain effective and achievable; and

(5) Report its findings and revisions to the renewable portfolio standards, based on its own studies and other information, to the legislature no later than twenty days before the convening of the regular session of 2021, and every five years thereafter."

SECTION 6. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 2019.

INTRODUCED BY: __________________________

JAN 23 2019
Report Title:
Renewable Energy; Gas; Renewable Portfolio Standard

Description:
Require gas utility companies to establish renewable energy portfolio standards for gas. Provides means for gas utility companies to achieve the renewable energy portfolio standards for gas. Requires the public utilities commission to conduct a study of the renewable portfolio standards.

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