
A BILL FOR AN ACT

RELATING TO THE MERGER, ACQUISITION, AND CONSOLIDATION OF
ELECTRIC UTILITIES.

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

1 SECTION 1. The legislature finds that the merger,
2 acquisition, or consolidation of an electric utility could have
3 far-reaching effects on the health of the State's citizens,
4 local industries, and environment. Therefore, it is necessary
5 that the proposed merger, acquisition, or consolidation of an
6 electric utility be subject to a thorough examination to
7 determine whether the transaction is reasonable and in the
8 public interest, and whether the successor electric utility is
9 fit, willing, and able to perform the service currently offered
10 by the existing electric utility.

11 The legislature further finds that public participation in
12 the examination of any electric utility merger, acquisition, or
13 consolidation is essential to safeguard the public interest when
14 a proposed merger, acquisition, or consolidation is considered.

15 The purpose of this Act is to:



- 1 (1) Clarify standards to evaluate a proposed sale, lease,
2 assignment, mortgage, disposition, encumbrance,
3 merger, or consolidation of an electric utility; and
4 (2) Afford a reasonable opportunity for public
5 participation in the evaluation process.

6 SECTION 2. Section 269-19, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§269-19 Merger and consolidation of public utilities.**

9 (a) Except as provided in subsection [~~(b)~~,] (c), no public
10 utility shall sell, lease, assign, mortgage, or otherwise
11 dispose of or encumber the whole or any part of its road, line,
12 plant, system, or other property necessary or useful in the
13 performance of its duties to the public, or any franchise or
14 permit, or any right thereunder, nor by any means, directly or
15 indirectly, merge or consolidate with any other public utility
16 without first having secured from the public utilities
17 commission an order authorizing it so to do. Every such sale,
18 lease, assignment, mortgage, disposition, encumbrance, merger,
19 or consolidation, made other than in accordance with the order
20 of the commission shall be void.



1 (b) Whenever an electric utility proposes a transaction
2 covered by subsection (a), the electric utility shall file an
3 application with the public utilities commission in a form as
4 the commission may require. Upon filing of the application, the
5 commission shall open a docket to determine whether the
6 transaction is reasonable and in the public interest and whether
7 the successor electric utility is fit, willing, and able to
8 perform the service currently provided by the electric utility.
9 In the evaluation of the application:

10 (1) The commission and division of consumer advocacy shall
11 consider relevant factors, including but not limited
12 to:

13 (A) The impact of the proposed transaction upon the
14 following elements of the public interest:

15 (i) Affordability of electric service;

16 (ii) Safety and reliability of electric service;

17 (iii) Access to onsite generation and other

18 options for customers to manage their energy

19 usage;



- 1 (iv) Achievement of clean energy goals and
- 2 related public policy objectives articulated
- 3 by the State and the commission; and
- 4 (v) Economic benefits to Hawaii, including
- 5 employment and industries in the State; and
- 6 (B) In determining whether the successor electric
- 7 utility is fit, willing, and able to perform the
- 8 service currently offered, whether the utility
- 9 has the commitment and demonstrated ability to:
- 10 (i) Provide safe and reliable electric service
- 11 at just and reasonable rates;
- 12 (ii) Implement the clean energy goals and related
- 13 public policy objectives articulated by the
- 14 State and the commission;
- 15 (iii) Develop and maintain the transmission and
- 16 distribution infrastructure to optimize the
- 17 system and maximize customer benefits; and
- 18 (iv) Expand customer energy options, including
- 19 energy efficiency and distributed energy
- 20 resources; and
- 21 (2) The commission shall:



- 1 (A) Review the electric utility's franchise in light
2 of the elements of the public interest set forth
3 in paragraph (1) (A) and recommend to the
4 legislature whether the language of the franchise
5 should be revised; and
- 6 (B) Afford a reasonable opportunity for interested
7 persons to be heard by:
- 8 (i) Insofar as practicable, holding a public
9 hearing in each service territory affected
10 by the proposed transaction; and
- 11 (ii) Liberally construing any applicable standard
12 of intervention for interested persons to
13 become parties to the proceeding in order to
14 enable the participation of a diverse group
15 of stakeholders.
- 16 If the commission approves the application, the commission may
17 impose terms and conditions as the commission determines are
18 necessary for the transaction to satisfy the standards set forth
19 in paragraphs (1) and (2).
- 20 ~~[-(b)-]~~ (c) A public utility, under circumstances that it
21 deems exigent and in its judgment require a response that



1 rapidly restores one of its customers to normal, or near normal,
2 operating status in order to prevent serious disruption of
3 essential public services, or avoid serious risk to public
4 safety, or to mitigate severe economic losses to that customer,
5 may transfer, assign, or otherwise dispose of its property
6 without prior approval from the public utilities commission as
7 required in subsection (a); provided that in so doing:

- 8 (1) The public utility does not unduly hinder or degrade
9 the public utility's operation with respect to its
10 services or other customers;
- 11 (2) The public utility is duly compensated for its
12 property; and
- 13 (3) The public utility reports in detail to the public
14 utilities commission within thirty days of any such
15 action unless otherwise approved by the public
16 utilities commission for good cause shown.

17 For purposes of this subsection, "property" does not
18 include real property."

19 SECTION 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect on July 1, 2112.



Report Title:

Public Utilities Commission; Division of Consumer Advocacy;
Electric Utility Companies; Mergers and Consolidations;
Standards; Hearings

Description:

Clarifies standards and criteria for the Public Utilities
Commission and Division of Consumer Advocacy to apply when
determining whether to approve a sale, lease, assignment,
mortgage, disposition, encumbrance, merger, or consolidation, of
an electric utility. (HB619 HD3)

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