

JAN 29 2015

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 impacts 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 utility is fit,
9 willing, and able to perform the service currently offered by
10 the existing utility.

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

16 The purpose of this Act is to:



1 (1) Establish standards to evaluate a proposed merger,
2 acquisition, or consolidation of an electric utility;
3 and

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



1 **(b) Whenever a transaction concerning an electric utility**
2 **is proposed under subsection (a), the electric utility, or the**
3 **person or persons, seeking an order under subsection (a), shall**
4 **present an application to the commission in a form as the**
5 **commission may require. The commission shall open a docket to**
6 **determine whether the transaction is reasonable and in the**
7 **public interest and whether the successor utility is fit,**
8 **willing, and able to perform the service currently provided by**
9 **the electric utility. In its evaluation of the application, the**
10 **commission shall:**

- 11 **(1) Consider the impact of the proposed transaction upon**
12 **the following elements of the public interest:**
- 13 **(A) Affordability of electric service;**
 - 14 **(B) Safety and reliability of electric service;**
 - 15 **(C) Access to onsite generation and other options for**
16 **customers to manage their energy usage;**
 - 17 **(D) Achievement of clean energy goals and related**
18 **public policy objectives articulated by the State**
19 **and the commission; and**
 - 20 **(E) Economic benefits to Hawaii, including employment**
21 **and industries in the State;**



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- 1 (2) In determining whether the successor utility is fit,
2 willing, and able to perform the service currently
3 offered, consider whether the utility has the
4 commitment and demonstrated ability to:
- 5 (A) Provide safe and reliable electric service at
6 just and reasonable rates;
- 7 (B) Implement the clean energy goals and related
8 public policy objectives articulated by the State
9 and the commission;
- 10 (C) Develop and maintain the transmission and
11 distribution infrastructure to optimize the
12 system and maximize customer benefits; and
- 13 (D) Expand customer energy options, including energy
14 efficiency and distributed energy resources;
- 15 (3) Review the electric utility's franchise in light of
16 the elements of the public interest set forth in
17 paragraph (1) and recommend to the legislature whether
18 the language of the franchise should be revised; and
- 19 (4) Afford a reasonable opportunity for interested parties
20 to be heard; provided that in conducting a hearing,
21 the commission shall:



- 1 (A) Require the applicants to attend at least three
2 public hearings in each service territory
3 affected by the proposed transaction;
- 4 (B) Liberally construe any applicable standard of
5 intervention for interested persons to become
6 parties to the proceeding in order to enable the
7 participation of a diverse group of stakeholders;
8 and
- 9 (C) Grant the intervention of any party requested by
10 the senate president and the speaker of the
11 house; and
- 12 (5) Be relieved from any compliance with any statutory
13 deadline prescribed in section 269-16(d).

14 If the commission approves of the transaction, the commission
15 may impose terms and conditions as the commission determines are
16 necessary for the transaction to satisfy the standards set forth
17 in paragraphs (1) through (5).

18 ~~[(b)]~~ (c) A public utility, under circumstances that it
19 deems exigent and in its judgment require a response that
20 rapidly restores one of its customers to normal, or near normal,
21 operating status in order to prevent serious disruption of

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1 essential public services, or avoid serious risk to public
 2 safety, or to mitigate severe economic losses to that customer,
 3 may transfer, assign, or otherwise dispose of its property
 4 without prior approval from the public utilities commission as
 5 required in subsection (a); provided that in so doing:

6 (1) The public utility does not unduly hinder or degrade
 7 the public utility's operation with respect to its
 8 services or other customers;

9 (2) The public utility is duly compensated for its
 10 property; and

11 (3) The public utility reports in detail to the public
 12 utilities commission within thirty days of any such
 13 action unless otherwise approved by the public
 14 utilities commission for good cause shown.

15 For purposes of this subsection, "property" does not
 16 include real property. "

17 SECTION 2. Statutory material to be repealed is bracketed
 18 and stricken. New statutory material is underscored.

19 SECTION 3. This Act shall take effect upon its approval.

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Report Title:

PUC; Electric Utilities; Mergers and Consolidations; Standards; Hearings

Description:

Requires the PUC to apply certain standards and criteria and hold a public hearing to determine whether to approve a merger, acquisition, or consolidation of an electric utility.

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