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# A BILL FOR AN ACT

RELATING TO ENERGY.

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

1           SECTION 1. This Act shall be known as the Hawaii Ratepayer  
2 Protection Act.

3           SECTION 2. In 2014, the public utilities commission issued  
4 a landmark set of "Inclinations on the Future of Hawaii's  
5 Electric Utilities: Aligning the Utility Business Model with  
6 Customer Interests and Public Policy Goals" (Inclinations  
7 document). The document provided "perspectives on the vision,  
8 business strategies and regulatory policy changes required to  
9 align the Hawaiian electric company and its subsidiaries'  
10 business model with customers' interests and the State's public  
11 policy goals."

12           The legislature finds that improving the alignment of  
13 utility customer and company interests is critical to ensuring  
14 that Hawaii's residents and businesses do not suffer economic  
15 and environmental harm from the State's energy systems. At the  
16 same time, this realignment is critical to ensure the ongoing  
17 viability of the State's regulated electric utilities, as they



1 face an increasing need to rapidly adapt business models and  
2 strategies to enable new innovations and customer choices.  
3 The legislature finds that this realignment has entered a period  
4 of extraordinary urgency. The commission's Inclinations  
5 document noted that the State's utilities must rapidly create a  
6 twenty-first century generation system, modernize transmission  
7 and distribution grids, and implement new rate structures in  
8 concert with changes to the outdated regulatory compact. The  
9 legislature agrees with the public utilities commission that  
10 "electric utilities need to move with urgency to modernize the  
11 generation system on each island grid as delays are lost savings  
12 opportunities."

13 To that end, some of the State's utilities have recently  
14 proposed modernization plans. Those plans would ultimately  
15 result in a dramatic reduction in fossil fuel consumption, as  
16 those fuels are replaced by renewable energy resources.  
17 However, this shift would be accompanied by an equally dramatic  
18 shift in how utility revenues are expended. As fewer funds are  
19 spent to purchase fossil fuels, those funds will be redirected  
20 to capital projects. This is a benefit to residents and  
21 businesses, insofar as fixed-cost renewable energy projects can



1 reduce the risk of consumers facing volatile fossil fuel costs.  
2 Renewable energy resources have also entered a new paradigm  
3 where they can lower energy costs in comparison to fossil fuels.  
4 However, the existing regulatory compact rewards utilities for  
5 increasing capital expenditures, irrespective of utility  
6 performance. This same business and revenue model has been in  
7 place for over a century. The Wall Street Journal explained  
8 that "the more [utilities] spend, the more profits they earn,"  
9 and called this "a regulatory system that turns corporate  
10 accounting on its head."

11 The legislature finds that it is justified to be concerned  
12 that the existing regulatory compact misaligns the interests of  
13 customers and utilities because it may result in a bias toward  
14 expending utility capital on utility-owned or funded projects.  
15 These projects may displace more efficient or cost-effective  
16 options, such as distributed energy resources owned by  
17 customers, or projects implemented by independent third parties.  
18 With extraordinary urgency, the legislature must ensure that the  
19 regulatory compact will change to promote decisions and  
20 strategies that will maximize public benefit, reduce ratepayer  
21 risk, and meet Hawaii's energy goals.



1           The legislature finds that the responsibility for aligning  
2 investor-owned utility regulatory policies with customers'  
3 interests and the State's public policy goals is not limited to  
4 the public utilities commission, but more broadly rests with the  
5 state and county governments that represent the public interest.  
6 The regulatory framework under which utilities operate and the  
7 scope of regulation by the public utilities commission are  
8 established by the legislature, which holds the exclusive  
9 authority to issue, amend, or revoke franchise rights that  
10 permit utilities to operate in the State.

11           The purpose of this Act is to protect consumers by urgently  
12 and proactively ensuring that the existing utility business and  
13 regulatory model is updated for the twenty-first century by  
14 requiring that electric utility rates be considered just and  
15 reasonable only if the rates are derived from a performance-  
16 based model for determining utility revenues.

17           SECTION 3. Chapter 269, Hawaii Revised Statutes, is  
18 amended by adding a new section to be appropriately designated  
19 and to read as follows:

20           "§269-       Performance incentive mechanisms. (a) On or  
21 before January 1, 2020, the public utilities commission shall



1 establish performance incentive and penalty mechanisms that  
2 directly tie electric utility revenues to a utility's  
3 achievement on performance metrics. Once established, such  
4 performance incentives and penalties, as may be amended by the  
5 public utilities commission from time to time, shall apply to  
6 all regulation of electric utility rates under section 269-16.

7 (b) In developing performance incentive and penalty  
8 mechanisms, the public utilities commission's review of electric  
9 utility performance shall consider, but shall not be limited to,  
10 the following:

- 11 (1) The economic incentives and cost-recovery mechanisms  
12 described in section 269-6(d);
- 13 (2) Exceeding the State's renewable portfolio standards;
- 14 (3) Electric rate affordability and ratepayer volatility  
15 risk;
- 16 (4) Electric service reliability;
- 17 (5) Customer satisfaction, including customer options for  
18 managing electricity costs;
- 19 (6) Access to utility system information, including but  
20 not limited to public access to electric system  
21 planning data and aggregated customer energy usage



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1            data, and individual access to granular information  
 2            about one's own energy usage data;  
 3            (7) Rapid integration of renewable energy sources,  
 4            including customer-sited resources; and  
 5            (8) Timely execution of competitive procurement and other  
 6            business processes."

7            SECTION 4. New statutory material is underscored.

8            SECTION 5. This Act shall take effect on July 1, 2017;  
 9 provided that the public utilities commission may delay the  
 10 implementation of the requirements of this Act until no later  
 11 than January 1, 2020.

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# H.B. NO. 1283

**Report Title:**

Public Utilities Commission; Electric Utilities; Rates

**Description:**

Requires the PUC to establish performance incentive mechanisms that directly tie electric utility revenues to the utility's achievement on performance metrics. Allows the PUC to delay implementation until no later than January 1, 2020.

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