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URGING THE PUBLIC UTILITIES COMMISSION TO PASS ON HIGHER ELECTRICITY COSTS TO ALL CONSUMERS FROM BURDENSOME ENVIRONMENTAL REGULATION

Senate Committee on
Science, Technology and Economic Development
Public Hearing - February 26, 1993
1:00 P.M., Room 405 SOT

By

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M. Casey Jarman, Richardson School of Law

Our statement on this resolution does not constitute an institutional position of the University of Hawaii.

The premises upon which this resolution are founded are fatally flawed, as indicated in the following analysis:

Premise 1a: federal regulations are to blame for price hikes in crude oil shipment.

The industry has adopted the policy that they will not continue to ship bunker fuel, not crude oil, by barge to the neighbor islands due to the risk of accidental spill and the unlimited liability characteristics of OPA 90. However, OPA 90 sets a liability cap of \$750 million, except in cases of gross negligence, wanton misconduct, and/or violation of federal law. Pricing of oil shipment and policy decisions not to ship oil are different issues.

Premise 1b: crude oil shipments prices to the Neighbor islands are disproportionate to on island costs on Oahu.

Bunker fuel shipped to the neighbor islands comes from Oahu. Shipping costs to the outer island always have added to outer island fuel costs relative to Oahu. Federal regulations have not altered basic facts of geography.

Premise 2a: federal regulations have the effect of stifling crude oil shipments.

As noted above, the refusal by the industry to continue bunker fuel shipment to the outer islands was a policy decision made by the component members of the industry on risk/benefit conclusions based on questionable premises.

Premise 2b: federal regulations diminish the financial ability of power companies to refurbish their equipment for diesel as opposed to bunker fuels.

Why do federal regulations affect capitalization economics of regional power companies? Again, it's the policy decision, not the regulation that limits the supply of bunker fuel.

Premise 3: the Big island is especially vulnerable to creased availability of crude.

The Big Island may suffer from a less robust generating capacity than other islands, but that seems more of a regional planning issue than an issue of fuel restriction.

Premise 4: the costs of federal regulations are a matter of compelling public interest.

The costs and the benefits of all regulation are a matter of compelling public interest. To single out one and ignore the other is highly subjective.

Since the outset of the fuel shipment issue, finger pointing has been rampant. What has been conspicuously absent is an objective analysis of the logical connection between regulation and industry policy. Also ignored in the debate is the real issue of prevention of oil spills. The proposed resolution repeats premises which don't add up, and consequently, we cannot support its intent.