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# A BILL FOR AN ACT

RELATING TO PUBLIC UTILITIES.

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

1           SECTION 1. The legislature finds that competition in the  
2 telecommunications market is robust. Consumers have many  
3 choices when deciding how to communicate: traditional land-line  
4 telephony, voice over internet protocol, and wireless phone  
5 service.

6           The legislature further finds that advances in voice over  
7 internet protocol and wireless phone services make these  
8 technologies viable substitutes for traditional land line, or  
9 switched access, telephony. These services currently provide  
10 9-1-1 capability, number portability, reliable service, and  
11 extensive network coverage. Even though some federal and state  
12 regulators feel that these new technologies, especially wireless  
13 phone service, can never replace the traditional land line phone  
14 for casual and emergency communication needs, many consumers do  
15 not share this view. According to the Federal Communications  
16 Commission, the number of switched access lines of Hawaii's  
17 incumbent local exchange carrier decreased from 735,459 in 2001  
18 to only 541,030 in 2007. The number of wireless subscribers in

1 Hawaii, however, increased from 595,721 to 1,096,181 over the  
2 same period. While some consumers subscribing to wireless phone  
3 service maintain their land line or wired phone service, other  
4 consumers are subscribing to wireless service as a true  
5 alternative and thus are disconnecting their land line service.  
6 Hawaii is not unique in this respect: the telecommunication  
7 market trend is similar across the United States.

8 The legislature further finds that competitive local  
9 exchange carriers, currently enjoying a non-competitive switched  
10 access market, should adapt to the changing telecommunications  
11 market. When the Telecommunications Act of 1996 opened up  
12 competition in the telecommunications market, it forced  
13 incumbent local exchange carriers to wholesale their services to  
14 competitive local exchange carriers so that they (the  
15 competitive local exchange carriers) in turn, could re-sell  
16 these services to consumers. The Act was designed to open up  
17 competition by allowing other carriers into the market, in hopes  
18 that these other carriers would eventually develop their own  
19 networks. After twelve years of competition, competitive local  
20 exchange carriers are still heavily reliant upon the incumbent  
21 local exchange carriers for wholesale services. This regulatory  
22 scheme has impeded growth of the incumbent carriers, as

1 competition from other telecommunication and information  
2 services have eroded market share and revenue. Thus, highly  
3 regulated switched access services will continue to saddle  
4 incumbent local exchange carriers from competing with other  
5 services, while competitive local exchange carriers continue to  
6 rely on the re-sale of the incumbent's network services.

7 The legislature further finds that competition in Hawaii's  
8 telecommunications market is not a level playing field; the  
9 incumbent local exchange carrier is highly regulated, while  
10 other telecommunications service providers do not share the same  
11 level of regulation. Although the incumbent local exchange  
12 carrier continues to maintain the majority of switched access  
13 lines, this dominance of market share does not take into account  
14 the meteoric rise of wireless subscribers and voice over  
15 internet protocol service. In order to determine competition in  
16 a modern telecommunications market, all types of services need  
17 to be evaluated for their effects in the marketplace. It will  
18 also force competitive local exchange carriers to adapt their  
19 strategies in a competitive environment.

20 The purpose of this Act is to require the public utilities  
21 commission to:

- 1 (1) Classify the State's local exchange intrastate  
2 telecommunications services as fully competitive with  
3 respect to certain classifications of services;
- 4 (2) Require telecommunications carriers to file their  
5 rates, fares, charges, and bundled service offerings  
6 for information purposes only; and
- 7 (3) Cap retail telecommunication service rates at June 30,  
8 2009 levels,  
9 respect to switched access service when determining the  
10 competition in the switched access market.

11 SECTION 2. Chapter 269, Hawaii Revised Statutes, is  
12 amended by adding a new section to be appropriately designated  
13 and to read as follows:

14 **"§269- Local exchange intrastate services; fully**  
15 **competitive.** (a) Notwithstanding section 269-16.9 or any other  
16 law to the contrary, the public utilities commission shall  
17 classify the State's local exchange intrastate  
18 telecommunications services as fully competitive under the  
19 commission's classifications of services related to costs,  
20 rates, and pricing. In addition, a telecommunications carrier  
21 shall not be required to obtain approval or provide any cost  
22 support or other information to establish or otherwise modify in

1 any manner its rates, fares, and charges, or to bundle any  
2 service offerings into a single or combined price package. All  
3 rates, fares, charges, and bundled service offerings shall be  
4 filed with the public utilities commission for information  
5 purposes only.

6 (b) Notwithstanding any law to the contrary, no provider  
7 of telecommunications services shall charge a rate for any  
8 retail telecommunications service that exceeds the rate charged  
9 for the same service as of June 30, 2009.

10 (c) This section shall apply to retail rates charged for  
11 service to end-user consumers only and shall not apply to  
12 wholesale rates charged for services provided by a  
13 telecommunications carrier to another telecommunications  
14 provider, a wireless communications provider, a voice over  
15 internet protocol communications provider, or other similar  
16 communications provider.

17 (d) Nothing herein shall modify any requirements of a  
18 telecommunications carrier to provide lifeline telephone  
19 service, comply with carrier of last resort obligations, or  
20 comply with applicable service quality standards."

21 SECTION 3. New statutory material is underscored.

22 SECTION 4. This Act shall take effect upon its approval.

**Report Title:**

Public Utilities; Switched Access Telephone Service; Competition

**Description:**

Requires the public utilities commission to classify the State's local exchange intrastate telecommunications services as fully competitive. Sets maximum retail rate cap. (SD1)