



LINDA LINGLE  
GOVERNOR  
JAMES R. AIONA, JR.  
LT. GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
335 MERCHANT STREET, ROOM 310  
P.O. Box 541  
HONOLULU, HAWAII 96809  
Phone Number: 586-2850  
Fax Number: 586-2856  
www.hawaii.gov/dcca

LAWRENCE M. REIFURTH  
DIRECTOR  
RONALD BOYER  
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2009

THURSDAY, JANUARY 29, 2009  
2:00 P.M.

TESTIMONY OF CATHERINE P. AWAKUNI, EXECUTIVE DIRECTOR, DIVISION OF  
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER  
AFFAIRS TO THE HONORABLE REPRESENTATIVE HERKES, CHAIR, AND  
MEMBERS OF THE COMMITTEE

**HOUSE BILL NO. 0254 RELATING TO PUBLIC UTILITIES.**

**DESCRIPTION:**

This measure directs the Public Utilities Commission ("Commission") to treat switched access telephony services as "fully competitive" to allow "switched access providers to compete with new technology and advanced service."

**POSITION:**

The Division of Consumer Advocacy ("Consumer Advocate") offers comments for this Committee's consideration.

**COMMENTS:**

The Consumer Advocate defers to the Legislature on this matter, since the classification of services relating to costs, rates, and pricing are within the purview of the Legislature. We request that this Committee consider HB1077 as a means of providing the incumbent local exchange carrier with regulatory flexibility under a new communications commission once it emerges from bankruptcy protection.

Thank you for this opportunity to testify.

**TESTIMONY OF CARLITO P. CALIBOSO  
CHAIRMAN, PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE  
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
JANUARY 29, 2009**

**MEASURE:** H.B. No. 254  
**TITLE:** Relating to Public Utilities.

Chair Herkes and Members of the Committee:

**DESCRIPTION:**

This bill proposes to add a new section to chapter 269, Hawaii Revised Statutes ("HRS"), that would require the Public Utilities Commission ("Commission") to treat the State's switched access telephone (incumbent) service as fully competitive, and to apply all Commission rules in accordance with that treatment.

**POSITION:**

The Commission takes no position on this bill, but offers the following concerns and comments.

**COMMENTS:**

- Requiring the Commission to treat switched access or landline telephone service as fully competitive as provided by this bill, would result in removing rate or price regulation for such telecommunications services enacted to protect consumers.
- Under subchapter 3, chapter 6-80, Hawaii Administrative Rules ("HAR"), all telecommunications services are classified as either 1) fully competitive, 2) partially competitive, or 3) noncompetitive, based on an analysis of numerous factors including, but not limited to: whether there are multiple providers of the service who can enter or exit the particular market with ease and without being dominant in that market; whether there is access available to all customers relating to information about prices and service quality; the extent to which service of comparable quality is readily available from more than one carrier in the relevant market; the ability of alternative carriers to make equivalent or substitute services available at competitive rates, terms, and conditions, and other factors relevant in determining whether and to what extent competition exists. It does not appear that a similar analysis has been completed in this case.
- While it is within the Legislature's authority to determine that switched access telephone services are fully competitive in Hawaii, due to the importance of telecommunications services, the better approach might be for the Legislature to require the Commission to conduct a more deliberate investigation as to whether switched access telephone services is fully competitive in Hawaii.

Thank you for the opportunity to testify and provide comments and recommendations on this bill.

**HB 254**

**RELATING TO PUBLIC UTILITIES**

**JOHN KOMIJI  
SR. VICE PRESIDENT & GENERAL COUNSEL**

**HAWAIIAN TELCOM**

**January 29, 2009**

Chair Herkes and members of the House Consumer Protection and Commerce Committee:

I am John Komeiji, testifying on behalf of Hawaiian Telcom on HB 254, Relating to Public Utilities. Hawaiian Telcom strongly supports the intent of the bill and would like to offer technical amendments for your consideration.

The stated purpose of this bill is to help level the regulatory playing field in voice services by requiring the Public Utilities Commission (PUC) to treat switched access service as fully competitive as a result of Hawaii's robust telecommunications market. Passage of this measure will help to provide Hawaiian Telcom some regulatory parity by enabling it to offer consumers a more timely and greater selection of products, services, and bundled offerings at competitive prices in the same manner as other service providers such as wireless and VoIP, which are either unregulated or do not face the same level of regulatory oversight that Hawaiian Telcom currently faces.

Dramatic changes in technology and the telecommunications industry have resulted in significant competition to Hawaiian Telcom. For example, competition from wireless, internet phone (VoIP), and other wireline providers all provide competitive alternatives to the traditional landline. The Federal Communications Commission (FCC) has confirmed this competitive transformation in Hawaii's telecommunications marketplace. According to the FCC, the number of access lines for Hawaii's incumbent local exchange carrier (Hawaiian Telcom) decreased from 735,000 in 1999 to only 524,000 in 2008. The number of local wireless subscribers, however, soared to 1,100,000 over the same period. In addition, the number of VoIP customers jumped from zero to 65,000 over the same period.

In Hawaii, Hawaiian Telcom is currently subject to many laws and requirements that were enacted long ago, some as early as 1913 when the incumbent local exchange carrier was a monopoly with no other service providers. These laws and requirements have not been adapted to recognize that Hawaiian Telcom is no longer a monopoly and is now subject to significant competition in the services it provides. Today consumers have the freedom to choose between a wide array of wireless, internet phone, and competing wireline providers.

Hawaiian Telcom supports this effort to provide the incumbent local exchange carrier with a more level regulatory playing field which will help our company to provide consumers with what they demand: more innovation, competitive pricing, timely introduction, and greater selection of new products and services.

We would like to offer amendments regarding the reference to the term “switched access” within HB 254. Specifically, in the last sentence of Section 1, the term “switched access service” should be replaced with the term “local exchange intrastate service” and the term “switched access providers” should be replaced with the term “local exchange carrier.” Also, the term “switched access service” referenced in the title and body of Section 2 should be replaced with the term “local exchange intrastate services.” We believe these changes better reflect the intent of the bill and will avoid confusion with the term “switch access” that is often used to describe services provided to long distance companies.

Based on the aforementioned, Hawaiian Telcom supports this measure and respectfully requests your favorable consideration. Thank you for the opportunity to testify.



Testimony to the House Committee on Consumer Protection & Commerce  
Thursday, January 29, 2009  
Conference Room 325, 2:00 p.m.

RE: HB 254-Relating To Public Utilities

Dear Chair Herkes and the members of the Consumer Protection and Commerce Committee:

The Chamber of Commerce of Hawaii ("Chamber") supports HB 254- Relating to Public Utilities which requires the Public Utilities Commission to treat switched access phone service as fully competitive. The Chamber believes that this measure will promote competition in the telecommunications marketplace which will benefit Hawaii's economy and our consumers.

Over the past several years, we have all been able to observe first hand the explosion of new products and services in the communications marketplace. Consumers now have the freedom to choose between numerous wireline, wireless, or VoIP providers for their phone service needs. Competition has driven down the price of phone service, increased innovation, and improved customer service.

The Chamber believes that the time has come to update Hawaii's regulatory framework by removing unnecessary regulatory barriers in telecommunications and allowing true competition to take hold. In a true open and competitive environment, the marketplace will determine the winners and losers with the major winner being Hawaii's consumers.

For these reasons, The Chamber of Commerce of Hawaii respectfully requests that the Committee approves HB 254. Thank you for the opportunity to provide testimony.



Anne M. Perkins

Manager  
State Government Affairs  
925 L Street, Suite 345  
Sacramento, CA 94710  
(916) 893-7853

January 29, 2009

Honorable Robert N. Herkes  
Chair, House Committee on Consumer Protection and Commerce  
Hawaii State Capitol, Room 320  
415 South Beretania Street  
Honolulu, HI 96813

RE: Sprint Nextel Comments on HB 254 and HB 266

Dear Chairman Herkes and Members of the Committee on Consumer Protection & Commerce:

On behalf of Sprint Nextel, I am writing in opposition to Hawaii House Bill 254 and House Bill 266, which would deregulate switched access phone service. HB 254 and HB 266 will harm competition and the consumers of Hawaii. Sprint Nextel appreciates your interest in facilitating a competitive environment for telecommunications services in Hawaii; however, the bills do not take into account the means by which competing services are delivered to consumers.

Switched access is a monopoly. Competing carriers must use switched access to terminate non-local calls to landline customers. For example, when a Sprint customer in Hawaii calls a friend on their landline phone in Hawaii the call must be routed onto the landline to reach the Hawaii subscriber. Switched access is the fee charged by the landline provider to complete the call. Switched access is controlled by the incumbent local exchange carrier (ILEC). Currently, the Hawaii Public Utilities Commission sets the rates charged by ILEC to ensure that all carriers operate on equal footing. HB 254 and HB 266 would change this by enabling the ILEC to charge whatever fee it chooses to the carrier accessing the line. The only carrier that can provide call termination is the carrier in which the end user has subscribed.

The anti-competitive advantage created by HB 254 and HB 266 directly harms the consumer. Consumers benefit from competition for phone service from cable, wireless, and long distance service providers. Excessive access fees imposed solely when Hawaii consumers call within the state, prevent real competition. Artificially high switched access rates inflate the costs of competitive phone providers and in turn affect the rates of these competitive phone services offered to Hawaii consumers. High access rates also harm consumers and innovation by diverting capital that could be used to invest in network expansion, new products and services and new technology. It already costs more for a consumer to place a place within Hawaii than it does to another state. If switched access rates are deregulated in Hawaii, that rate disparity will get worse.

Sprint Nextel shares your interest in creating a competitive marketplace. The goal is to provide consumers with the full benefits of competition, including lower prices. HB 254 and HB 266, as currently written, do not achieve this end as unfettered access rates only inflate costs for the consumer. On behalf of Sprint Nextel, I implore you to maintain a competitive marketplace for telecommunications services before enacting regulatory provisions that will certainly have unintended consequences. For these reasons, I respectfully urge you to reconsider HB 254 and HB 266.

Sincerely,

Anne M. Perkins  
State Government Affairs