

TESTIMONY OF HERMINA MORITA  
CHAIR, PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE  
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
JANUARY 25, 2012

**MEASURE:** H.B. No. 1868

**TITLE:** Relating to Telecommunications

Chair Herkes and Members of the Committee:

**DESCRIPTION:**

This measure proposes to make "basic exchange services" the only type of retail telecommunications services for which a telecommunications carrier would need to get the Commission's approval before that company could charge a higher rate than the rate filed in the carrier's tariff for that service.

**POSITION:**

The Commission has no objection to this measure, but would like to suggest the following amendment for clarity.

**COMMENTS:**

There is no definition for "basic exchange services" in this measure. The following definition is taken from the Hawaii Administrative Rules and the Commission would like to offer it as an amendment to be appropriately included in the definitions found under HRS § 269-1:

'Basic exchange service' means those services consisting of single-line dial tone, touch tone dialing, access to operator service, access to enhanced 911, telecommunications relay service, telephone directory, and access to directory assistance service via 411 dialing; provided that for this definition:

'Dial tone' means the ability to make or receive telephone calls with or without operator intervention;

'Single-line' means single-party line or a one-party line; and

'Touch tone dialing' means dual tone multi-frequency, as opposed to dial pulse signaling.

These definitions will help clarify the intention of the bill, and will assist both the Commission and Hawaii's telecommunications carriers to better understand their statutory requirements.

Thank you for the opportunity to testify on this measure.

**HB 1868**

**RELATING TO TELECOMMUNICATIONS**

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

**HAWAIIAN TELCOM**

**January 25, 2012**

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

I am John Komeiji, testifying on behalf of Hawaiian Telcom on HB 1868, Relating to Telecommunications. Hawaiian Telcom strongly supports this measure.

The purpose of this bill is to continue the State's effort to level the regulatory playing field in retail telecommunications services and ensure that Hawaii's telecommunications marketplace remains vibrant and strong. This bill recognizes the competitive telecommunications marketplace in Hawaii and makes clear that as part of engaging in the marketplace every telecommunications carrier needs the flexibility to revise its rates as the marketplace demands.

Specifically, under the bill any telecommunications carrier may adjust a rate for any retail telecommunications service, other than basic exchange service, that is higher than the current filed tariff rate for that service without needing approval from the Public Utilities Commission (PUC); conversely, the bill retains the current laws requirement for PUC approval for any increase in rates to basic exchange service (e.g. single line residence and business service, which consists of plain old telephone service, and access to such services as 911 and operator services).

Passage of this measure will help to create a marketplace in which all carriers can compete equally. It allows Hawaiian Telcom a similar degree of pricing flexibility for non-basic exchange services (e.g. three-way calling, answering service, speed dialing, vacation service, and business services such as Centrex, private line and data services) afforded other telecommunication services including wireless, cable and Voice over Internet Protocol ("VoIP"), which are either unregulated or are not subject to the same degree of regulations as landlines.

Dramatic technological changes within the telecommunications industry have resulted in game-changing competition for Hawaiian Telcom. Today, local consumers can choose telecommunication services from wireless, cable and VoIP alternatives to the

traditional landline. As a result of this intense competition, the number of our landline customers has declined dramatically. The reality is that this trend is certain to continue.

Hawaiian Telcom is currently subject to many antiquated state laws and requirements. Some of our laws date back to the early 1900s to an era when the incumbent local exchange carrier was a monopoly and the landline was the only means for a consumer to communicate. Until recently, existing state laws and requirements have not changed to reflect the fact that Hawaiian Telcom is no longer a monopoly and is now subject to significant competition. This competitive reality necessitates the need to continually assess the regulatory requirements that have historically attached solely to Hawaiian Telcom to allow Hawaiian Telcom the opportunity to compete on an equal footing with our competitors.

Promoting fair competition with consistent regulatory treatment of all competitors is the best way to ensure consumers receive quality service at fair prices. Hawaii's outdated rate-of-return regulations are no longer relevant in today's competitive landscape and should be changed. Telecommunication rates are extremely price sensitive and we understand this fact. As an example, Hawaiian Telcom's last rate case was filed with the PUC over fourteen years ago and our rates have not increased since that time. Present circumstances, however, dictate that some non-basic services may need to be better aligned to reflect fixed costs being spread over a shrinking customer base.

In summary, the regulatory requirements that are the subject of this bill unjustly apply to Hawaiian Telcom and do not apply to our wireless, cable, or VoIP competitors and out of fairness must be changed. Our company supports this effort to provide the incumbent local exchange carrier with a more level regulatory playing field which will in turn help our company to provide consumers with what they demand: more innovation, quality service, and greater selection of new products and offerings.

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



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TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012

WEDNESDAY, JANUARY 25, 2012  
2:00 P.M.

TESTIMONY OF JEFFREY T. ONO, EXECUTIVE DIRECTOR,  
DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND  
CONSUMER AFFAIRS, TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND  
MEMBERS OF THE COMMITTEE

HOUSE BILL NO. 1868 - RELATING TO TELECOMMUNICATIONS

DESCRIPTION:

This measure proposes to exclude all services except for basic exchange services from the requirement to obtain Public Utility Commission ("PUC" or "Commission") approval prior to charging a rate higher than the filed tariff rate.

POSITION:

The Division of Consumer Advocacy ("Consumer Advocate") opposes this proposed measure.

COMMENTS:

This measure proposes to amend Section 269-16.85, Hawaii Revised Statutes, by removing the requirement to obtain Commission approval prior to charging a higher

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than the filed tariff rate for any retail telecommunications service except for the basic exchange service.

The Consumer Advocate acknowledges that the intent of the measure may have been to seek consistency with the treatment of intrastate telecommunications services, relating to costs, rates and pricing, as fully competitive. The Consumer Advocate notes, however, that allowing a telecommunications carrier the opportunity to charge higher rates than what is provided for in the carrier's filed tariff goes against public and regulatory policy for transparency and notice. In addition, there would be no opportunity for the Consumer Advocate to review whether the carriers' intent to raise rates for ancillary services may be for the sole purpose of subsidizing lower rates for basic exchange services, basically a potential end run around the Commission's review process. Thus, the requisite review and Commission approval necessary for raising rates for basic exchange services could be rendered moot.

Thank you for this opportunity to testify.