



NEIL ABERCROMBIE
GOVERNOR

EXECUTIVE CHAMBERS
HONOLULU

Testimony on HB 2524
Relating to the Regulation of Telecommunications and
Cable Television Services

HOUSE COMMITTEE ON FINANCE
Rep. Marcus R. Oshiro, Chair
Rep. Marilyn B. Lee, Vice Chair
And
HOUSE COMMITTEE ON LEGISLATIVE MANAGEMENT
Rep. Kyle T. Yamashita, Chair
Rep. James Kunane Tokioka, Vice Chair

February 29, 2012
12:30 pm, Room 308

Chair Oshiro, Chair Yamashita, Vice-Chair Lee, Vice-Chair Tokioka, and members of the Finance and Legislative Management Committees:

The Office of the Governor supports the intent of House Bill (HB) 2524, Proposed House Draft (HD) 2, Relating to the Regulation of Telecommunications and Cable Television Services. This measure creates a Telecommunications and Cable Television Services Commission (Commission) within the Department of Business, Economic Development, and Tourism (DBEDT) to regulate the telecommunications and cable television industries.

Broadband is essential for Hawaii to move forward and compete in the 21st century. As technology evolves, the concept of information exchange has grown beyond a single industry, thus necessitating this consolidation of regulation.

The Hawaii Broadband Initiative's goal is to provide affordable ultra-high-speed Internet to everyone in the state by 2018. This measure is a step in that direction.

It is important to note that the Department of Commerce and Consumer Affairs (DCCA) already regulates the cable industry among several other industries, whereas regulation is not necessarily part of DBEDT's mission statement. To that end, the Governor believes the Commission should be placed with DCCA. However, HB2524 HD 2 goes a long way to advance the state's broadband goals and the Governor looks forward to working with the Legislature to achieve legislation that best supports Hawaii's Broadband Initiative.

Thank you for this opportunity to testify.



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

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OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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TO THE HOUSE

COMMITTEE ON FINANCE
&
COMMITTEE ON LEGISLATIVE MANAGEMENT

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Date: February 29, 2012
Time: 12:30 p.m.

**TESTIMONY ON HB 2524 PROPOSED HD2 - RELATING TO THE REGULATION OF
TELECOMMUNICATIONS AND CABLE TELEVISION SERVICES**

TO THE HONORABLE MARCUS R. OSHIRO AND KYLE T. YAMASHITA, CHAIRS,
AND MEMBERS OF THE COMMITTEES:

My name is Keali'i Lopez. I am the Director of the Department of Commerce and Consumer Affairs (DCCA). DCCA appreciates the opportunity to express its continued support of this bill and its desire to work with the Legislature, cable and telecom providers, and other agencies in passage of this bill.

H.B. 2524, in its original form, was introduced to provide DCCA with the authority, structure and means to leverage DCCA's strengths and mission to advance the clear and ambitious broadband goals of the Governor and the State Legislature. Consolidation of telecom and cable television regulation was considered a key first step

in streamlining and harmonizing the regulatory environment to make it easier for providers of broadband services to construct infrastructure and to introduce new services. The original bill recognized the convergence of these industries with respect to the provision of broadband, evidenced by the fact that both Hawaiian Telcom and Oceanic Time Warner Cable hold cable franchises and provide telecom services.

To allow time for reflective streamlining of the regulatory process, the original bill consolidated cable and telecom services under a single entity with amendment generally made only to address procedural inconsistencies between the two administrative processes. To expedite processes and to advance the accessibility of broadband services, the original bill provided for a single Communications Commissioner who would have the flexibility and responsibility, utilizing specialist staff, to carry out broadband development duties outlined in the bill, including working with all stakeholders and developing innovative policies and programs.

The original bill thus set out duties and provided authority consistent with DCCA's assigned activities under the Governor's Hawaii Broadband Initiative and under Act 199 (SLH 2010), which include the development of a modern regulatory and permitting environment to advance development of broadband infrastructure, and creation of a broadband advancement authority within DCCA to provide leadership through short-term and long-term strategies to achieve the broadband vision set out by Act 2 (SLH 2007) and the Hawaii Broadband Task Force established thereunder.

As an island state, we face many challenges in the development of communications and broadband infrastructure. We must find new and cooperative

ways to efficiently use our resources and to foster investment in our State. The first step was intended to be a new, streamlined, flexible, and efficient method of regulation that recognized the convergence of technologies used to provide voice, data and video services through wireline, wireless, cable and satellite infrastructure.

H.B. No. 2524 Proposed HD2 (HD2) proposes to consolidate regulation under a duplicate PUC structure with 3 full-time commissioners and support staff and places them within the Department of Business and Economic Development. DCCA notes that this proposal would be much costlier and more cumbersome than what is proposed under the original bill and what exists today. DCCA believes that this additional expense for the State is unnecessary given the limited number of telecommunications PUC filings and DCCA's current efficient and flexible method of negotiated cable television regulation under one administrator. Further, DCCA notes that HD2 eliminates most of the broadband duties for which consolidation of regulation was originally proposed.

Given the short timeframe for review, DCCA is unable to address every amendment, but wishes to highlight the following concerns raised by HD2:

1. Commission. DCCA believes that the three member commission will slow the process for cable television franchises and actions. Further, the process for the selection of Commissioners and the term length may not provide the stability desired for efficient long term administration.

2. Amendment specifying that telecommunications carriers are not public utilities for purposes of HRS Chapter 269. The DCCA was advised by counsel that this

could have unintended consequences regarding such issues as access to rights-of-way, condemnation, obligations under common law, etc.

3. Section 41(d) provides insufficient cash reserves of \$1,000,000. This amount must be a minimum of \$1,875,000 for operation of the cable television section alone.

4. Consumer Advocate (CA). The definition of the CA should be restored because the proposed statute contains references to the CA.

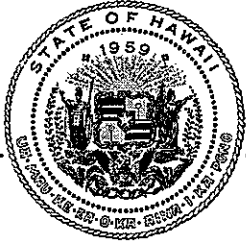
5. Section 3, revision of § 26-9(o) to include an exemption of any fee imposed by the new commission from being placed in the DCCA's compliance resolution fund. The bill is unclear as to how the Division of Consumer Advocacy would be able to access the funds that are attributable to the Division from the fee that is imposed by the new commission. On its face, it appears that the bill does not place the Division's portion of those fees in the compliance resolution funds.

6. Subsections 68(c)(6)-(7) regarding the designation of PEG access organizations. These sections should be restored to make clear that there should be a contract between the commission and the PEGs, to clarify asset ownership, and to authorize the commission to require cable operators to fund PEGs.

7. Section 63. Recommendations of Barbara Krieg, Director of the Department of Human Resources Development (HR), submitted in previous hearings on this bill should be adopted to protect the rights and benefits of employees transferred.

DCCA urges this Committee to pass this bill out of Committee to allow DCCA to continue to work with all parties to create an entity with the needed authority and

resources to accomplish the aligned goals set by the State Legislature and by the Governor's Hawaii Broadband Initiative to provide just access to world-class broadband services for all communities throughout the State. Again, thank you for the opportunity to testify on this critical piece of legislation in our joint mission to secure our State's economic future and to enhance the quality of life for our residents.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

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Statement of
RICHARD C. LIM
Director

Department of Business, Economic Development, and Tourism
before the

COMMITTEES ON FINANCE AND LEGISLATIVE MANAGEMENT

Wednesday, February 29, 2012

12:30 PM

State Capitol, Conference Room 308

In consideration of

**HB 2524 PROPOSED HD2 RELATING TO THE REGULATION OF
TELECOMMUNICATIONS AND CABLE TELEVISION SERVICES.**

Chairs Oshiro and Yamashita, Vice Chairs Lee and Tokioka, and Members of the Committee on Finance and Committee on Legislative Management: Thank you for this opportunity to submit testimony on HB 2524 PROPOSED HD2.

The Department of Business, Economic Development and Tourism (DBEDT) respectfully **supports the intent of HB 2524 PROPOSED HD2**. In leading the Hawaii Broadband Initiative (HBI), DBEDT recognizes the need for a streamlined regulatory framework in place as a prerequisite to the wide area deployment and adoption of broadband networks.

HB 2524 PROPOSED HD2 transfers the authority to regulate telecommunications from the PUC and DCCA to a telecommunications and cable television services commission created within DBEDT. DBEDT prefers the previous draft of this bill, which establishes authority under DCCA to address this issue. DBEDT does not currently have the resources or expertise within its core department to support this type of endeavor. DBEDT is, however, poised to support the streamlining and updating of the regulatory framework for HBI, as well as the opportunity for PUC to focus on its energy initiatives.

Thank you for the opportunity to submit testimony.

NEIL ABERCROMBIE
GOVERNOR



BARBARA A. KRIEG
INTERIM DIRECTOR

DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

February 28, 2012

TESTIMONY TO THE
HOUSE COMMITTEES ON

FINANCE
AND
LEGISLATIVE MANAGEMENT

For Hearing on Wednesday, February 29, 2012
12:30 p.m., Conference Room 308

BY

BARBARA A. KRIEG
INTERIM DIRECTOR

**House Bill No. 2524, Proposed H.D. 2
Relating to the Regulation of Telecommunications and Cable Television Services**

WRITTEN TESTIMONY ONLY

TO CHAIRPERSONS OSHIRO AND YAMASHITA AND MEMBERS OF THE
COMMITTEES:

The purpose of H.B. No. 2524, Proposed H.D. 2 establishes the Telecommunications and Cable Television Services Commission within the Department of Business, Economic Development and Tourism to regulate telecommunications and cable television services.

The Department of Human Resources Development has **comments** on the proposed transfer. To protect the rights and benefits of the employees to be transferred, we recommend the following proposed transfer language be used in place of the transfer language in Section 63, lines 20-22 on page 201 and lines 1-13 on page 202 to read:

“All employees who occupy civil service positions and whose functions are transferred to the telecommunications and cable television services commission within the department of business, economic development and tourism by this Act shall retain their civil service status (permanent or temporary). Employees shall be transferred without loss of salary, seniority, retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws and this Act, provided that the employees possess the minimum qualifications and public employment requirements for the class or position to which transferred or appointed, as applicable, provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

Any employee who, prior to this Act, is exempt from civil service and is transferred as a consequence of this Act, may continue to retain the employee's exempt status, but shall not be appointed to a civil service position because of this Act. An exempt employee who is transferred by this Act shall not suffer any loss of prior service credit, any vacation and sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act, provided that the employees possess legal and public employment requirements for the position to which transferred or appointed, as applicable; provided that subsequent changes in status may be made pursuant to applicable employment and compensation

laws. The director of the department of business, economic development and tourism may prescribe the duties and qualifications of such employees and fix their salaries without regard to chapter 76, Hawaii Revised Statutes.”

Thank you for the opportunity to offer comments on this measure.

TESTIMONY OF HERMINA MORITA
CHAIR, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
HOUSE COMMITTEES ON
FINANCE
AND
LEGISLATIVE MANAGEMENT

FEBRUARY 29, 2012

MEASURE: H.B. No. 2524, Proposed H.D. 2

TITLE: Relating to the Regulation of Telecommunications and Cable Television Services

Chair Oshiro, Chair Yamashita, and Members of the Committees:

DESCRIPTION:

This measure proposes to consolidate the regulation of telecommunications and cable services in the State under a single body called the Telecommunications and Cable Television Services Commission ("Commission") to be administratively attached to the Department of Business, Economic Development, and Tourism. All current regulatory functions regarding telecommunications carriers and cable services would be transferred to the Commission from the Public Utilities Commission ("PUC") and the Cable Television Division of the Department of Commerce and Consumer Affairs ("DCCA"), respectively, and conforming amendments throughout the Hawaii Revised Statutes would be made. In addition, this measure would initially fund the Commission's operations through a new telecommunications and cable television services commission special fund to be filled by 1) claiming 50% of the PUC special fund amounts collected from telecommunications carriers during FY 2012-2013, 2) utilizing the balance on June 30, 2012, in the cable television division subaccount in the compliance resolution fund, and 3) collecting proceeds from regulatory actions (i.e. fees, penalties, etc.).

POSITION:

The Public Utilities Commission understands that it is the prerogative of the Legislature to place the Telecommunication and Cable Television Services Commission within the department it deems most appropriate to fulfill statutory policy objectives, and we would like to submit these comments for consideration by the Committees.

COMMENTS:

The PUC supports the concept of enhancing the State's communications industries and related infrastructure by combining the activities and regulation of broadband, telecommunications, and cable service under a single agency that will serve as a "one stop shop" for the different types of modern communications services.

Section 60 on page 198, line 20, to page 199, line 6, provides an appropriation for the transfer of records and related transitional costs. These funds are critical for placing the Commission on firm ground to meet the objectives of this measure as soon as possible. To determine the sufficient funding level for transition costs, the PUC would be happy to work with the Committees to gauge these costs. Also, the PUC supports the effective date schedule included in Section 67 on page 203, line 15, to page 204 of this proposed House draft 2 ("Proposed Draft 2"), to facilitate the transition process.

In addition, Proposed Draft 2 includes several amendments to earlier versions of the bill that are of concern to the PUC, and we would like to offer the following proposed amendments to Proposed Draft 2:

1. Amend proposed language concerning regulation of electric utility pole access.

The PUC has concerns regarding proposed subsection -42(a)(4) on page 79, lines 3-13, regarding the obligations of telecommunications carriers. In order to avoid confusion or conflict over which agency will retain electric utility pole regulatory authority, the PUC requests that the Committees amend this provision as follows:

§ -42 Obligations of telecommunications carriers.

(a) In accordance with conditions and guidelines established by the commission to facilitate the introduction of competition into the State's telecommunications marketplace, each telecommunications carrier, upon bona fide request, shall provide services or information services, on reasonable terms and conditions, to an entity seeking to provide intrastate telecommunications, including:

...

(4) Nondiscriminatory access among all telecommunications carriers, where technically feasible and economically reasonable, and where safety or the provision of existing electrical service is not at risk, to the poles, ducts, conduits, and rights-of-way owned or controlled by the telecommunications carrier, or the public utilities commission shall authorize access to electric utilities' poles [~~as provided by~~] in consideration of the joint pole agreement, commission tariffs, rules, orders, or Federal Communications Commission rules and regulations;

2. Delete proposed language concerning geothermal energy rates for telecommunications carriers.

Proposed section -35 on page 72, lines 1-11, discusses rates for geothermal steam or electricity payable by telecommunications carriers through an agreement between the telecommunications carrier and the "supplier" of that steam or electricity. This provision would give the Commission the power to oversee and establish rates for steam or electricity, which is currently the duty of the PUC. The PUC asks the Committee to remove this provision in its entirety to avoid creating conflicting administrative duties between agencies.

3. Delete proposed language concerning rate automatic fuel rate adjustment clause provisions for telecommunications carriers.

Proposed subsection -19(g) on page 40, line 15, to page 41, line 14, discusses automatic fuel rate adjustment clauses requested by telecommunications carriers. The PUC asks that the Committee consider removing this provision, since telecommunications carriers do not charge fuel rates as a part of providing their offered services.

4. Clarify transitional language regarding the deletion of the PUC from current law or other regulatory authority.

Proposed section 64 on page 202, line 14, to page 203, line 7, contains transitional language concerning references to regulatory agencies in existing

law or other regulatory authority. A specific portion of the provision is overly broad as currently drafted, and the PUC would like to offer this proposed amendment:

SECTION 64. Beginning July 1, 2013, any telecommunications carrier or telecommunications common carrier as defined in section -1 of section 2 of this Act and subject to the authority of the telecommunications and cable television services commission pursuant to section -5 of section 2 of this Act shall not be a public utility solely for the purpose of chapter 269. Any reference to a public utility, utility company, or public utility facility that is referred to under any other chapter, charter, franchise, statute, ordinance, rule, or regulation, shall continue to apply to the telecommunications carrier or telecommunications common carrier[; ~~provided that~~]. [any] Any reference in [said] a chapter, charter, franchise, statute, ordinance, rule, or regulation that conveys or discusses regulatory authority of the public utilities commission over a telecommunications carrier or a telecommunications common carrier [states or refers to the public utilities commission or chapter 269] shall instead mean and refer to the telecommunications and cable television services commission [~~or chapter~~, respectively].

The PUC also asks that the Committees ensure that the funds provided for under proposed section 57 on page 198, lines 1-7, for the startup operations of the Commission come from excess amounts in the PUC special fund and not from necessary appropriations made for operations of the PUC and the Consumer Advocate.

Finally, some concern has been raised regarding the potential loss of waivers previously granted by the PUC for various guidelines concerning telecommunications carriers.¹ Section 61 on page 199, line 7, to page 201, line 4, specifically states that all effective waivers issued by either the DCCA or the PUC to implement applicable state law “shall remain in full force and effect until amended or repealed, as applicable, by the [Commission].” The PUC believes this provision is sufficient to allow for a comprehensive and orderly transfer of all regulatory functions over the proposed timeframe.

As this measure moves forward, the PUC would like to work with the Committees to ensure that all necessary amendments to Hawaii’s telecommunications law are made, and that all required steps for transferring records, funding, and fees are considered to facilitate and implement the transition.

Thank you for the opportunity to testify on this measure.

¹ Testimony of AT&T Services, Inc. on H.B. No. 2524, H.D. 1, submitted to the House Committee on Consumer Protection & Commerce; February 15, 2012; page 5, note 14.

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To: House Committees on Finance
and Legislative Management

From: Cheryl Kakazu Park, Director

Date: February 29, 2012, 12:30 p.m.
State Capitol, Room 308

Re: Testimony on H.B. No. 2524, proposed H.D. 2
Relating to the Regulation of Telecommunications and Cable
Television Services

Thank you for the opportunity to submit testimony on H.B. No. 2524, proposed H.D. 2. OIP had requested clarification of a confidentiality provision in an earlier version of the bill. OIP believes that the confidentiality language in the proposed H.D. 2 is fine and has addressed our concerns.

Thank you for the opportunity to testify.



LIFE OF THE LAND

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COMMITTEE ON FINANCE

Rep. Marcus R. Oshiro, Chair

Rep. Marilyn B. Lee, Vice Chair

COMMITTEE ON LEGISLATIVE MANAGEMENT

Rep. Kyle T. Yamashita, Chair

Rep. James Kunane Tokioka, Vice Chair

DATE: Monday, February 27, 2012

TIME: 10:00 A.M.

PLACE: Conference Room 308

BILL: HB 2524 HD1

STRONGLY OPPOSE

Aloha Chairs Oshiro and Yamashita, Vice Chairs Lee and Tokioka, and Members of the Committees

My name is Henry Curtis and I am the Executive Director of Life of the Land, Hawai'i's own energy, environmental and community action group advocating for the people and `aina for four decades. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

HB 2524 HD1 proposes to create an all powerful, one person, telecommunications czar without Legislative or public oversight.

The bill allows the Governor enormous control and concentration of power.

There are far more effective ways of encouraging and promoting broadband, and increasing the penetration of wireless coverage in rural areas.

The proposed legislation goes way overboard in top-heavy regulatory control.

§ -3 The Governor shall appoint and can remove the Telecommunications Czar

§ -34 (d) "The commissioner may require a telecommunications provider to apply for a certificate of public convenience and necessity ...provided that the commissioner may waive any application requirement whenever the commissioner deems the waiver to be in furtherance of the purposes of this section."

§ -34(d) "The commissioner may waive other regulatory requirements under this chapter applicable to telecommunications providers when the commissioner determines that competition will serve the same purpose as public interest regulation." [including public hearings]

§ -68(a) "The cable operator shall designate three or more television channels or video streams for public, educational, or governmental use as directed by the commissioner."

§ -68(c) "The commissioner shall have the authority to designate and select access organization."

HB 2524 HD2 (Proposed)

**RELATING TO THE REGULATION OF TELECOMMUNICATIONS AND CABLE
TELEVISION SERVICES**

**KEN HIRAKI
VICE PRESIDENT-GOVERNMENT AND COMMUNITY AFFAIRS**

HAWAIIAN TELCOM

February 29, 2012

Chair Oshiro, Chair Yamashita and members of the Committees:

I am Ken Hiraki, testifying on behalf of Hawaiian Telcom (HT) on HB 2524 HD2 (proposed), Relating to the Regulation of Telecommunications and Cable Television Services. HT has major concerns with this bill.

While we support the stated intent of consolidating and streamlining the State's regulatory processes for the telecommunications sector and the promotion and development of advanced broadband communications services in Hawaii, it is unclear how this measure, as currently drafted, changes the status quo, and will assist businesses like HT to effectively compete with other providers of communications and information services in an evolving industry that is expected to continuously change over time.

It appears that the proposed HB 2524 HD 2 merely transfers the regulatory authority of telecommunications carriers from the Public Utilities Commission (PUC) to the Department of Business, Economic Development & Tourism (DBED&T) by extracting various outdated utility and telecommunications provisions from Hawaii Revised Statutes (HRS) Chapter 269 into this bill. This measure then combines these provisions with the cable regulation statutory provisions under HRS Chapter 440G regulation of telecommunications service with the regulation of cable under a newly created regulator with minimal consideration that many of these provisions are outdated and should not necessarily be applicable in today's competitive and evolving environment.

HT has been and is currently subject to many State telecommunications 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 competitors. These laws and requirements have not been updated over the years to recognize that HT is no longer a monopoly and is now subject to significant competition in the services it currently provides to its customers. Today, consumers have the freedom to choose between a wide array of telecommunications providers (e.g., wireless, cable, VoIP, and competing wireline providers).

In light of the above, the bill fails to "level the regulatory playing field" among the many telecommunications providers of the various communication service technologies (and the technologies themselves) in Hawaii. Our company will still be burdened with a legacy regulatory structure that have existed for a long time and which other less regulated telecommunications providers (e.g., wireless, cable, VoIP and competing wireline providers) do not need to follow to the same degree as HT. Since telecommunications service in Hawaii is competitive, regulations (if any) for telecommunications carriers like HT should more closely mirror the state regulation of wireless, cable or VoIP providers. This type of change to the existing regulatory structure will help to provide HT a degree of regulatory parity with our competitors by enabling us 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 HT currently faces.

Among other things, HT's concerns regarding the proposed HB 2524 HD2 are summarized below:

1. Price Cap: Retail telecommunications services, which have already been declared fully competitive, will continue to be subject to a price cap and should be repealed.
2. Rate Base/Rate of Return Methodology: Rate Base/Rate of return is an obsolete ratemaking methodology of setting rates in a competitive market (similar to the motor carrier industry). Rate Base/Rate of return regulation is contrary to the goal of competition in the telecommunications marketplace and should be repealed.
3. Consumer Advocate (CA) Resources Stretched: The CA's role is expanded to include the cable industry and would need to appear and/or participate before two separate commissions with potentially different rules, policies and procedures. This arrangement may result in delays in resolving issues due to workload constraints, conflicts in priorities and inadequate resources.
4. Increased Cost of Government: Transferring telecommunications and consolidation with cable will increase the cost of government regulation/oversight because additional staff (e.g., hearing officers, analysts and attorneys) will need to be hired and trained for the newly created regulatory agency, with no apparent benefit to the communications industry or its customers.
5. Approval to Refinance Debt or Encumber Property: These provisions were extracted from outdated provisions under HRS Chapter 269 and were intended for utilities that are subject to rate base/rate of return regulation. Since retail telecommunications services are fully competitive and should not be subject to rate base/rate of return regulation anymore, these provisions should not be applied to the telecommunications industry.
6. Electric Utility: Since many of the utility poles are jointly owned by both HT and Hawaiian Electric, it will be difficult to regulate the use of these jointly owned poles in the future because HT and Hawaiian Electric will be regulated by two different entities making enforcement and coordination difficult.

There is also a question on the impact the proposed transfer will have on past decisions made by the PUC going forward, as well as the impact of future PUC decisions made for other public utilities that also have a bearing on telecommunication matters. We would like to offer suggested amendments to resolve some of the issues raised in our testimony.

Based on the aforementioned, Hawaiian Telcom respectfully requests that the committees carefully consider our concerns regarding the proposed HB 2524 HD2. Thank you for the opportunity to testify.



Dan Youmans
President - Washington/Hawaii
External Affairs

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February 29, 2012

The Honorable Rep. Marcus Oshiro
Chair, Committee on Finance

*Re: Testimony on House Bill 2524 HD2
Hearing before the House Committee on Finance
February 29, 2012, 12:30 p.m., Room 308*

Rep. Oshiro and Members of the Committee:

Thank you for giving AT&T this opportunity to comment on proposed House Bill 2524 HD2. This bill would create a new three-member Telecommunications and Cable Services Commission within the Department of Business, Economic Development and Tourism ("DBEDT"). The bill would also consolidate the regulation of telecommunications carriers and cable operators in the State, and would create a "one-stop shop" for facilitating the development and growth of telecommunications and cable television infrastructure and services.

Generally, AT&T is satisfied with the current regulatory structure for telecommunications in the State of Hawaii, although we would urge statutory deregulation of wireless services. However, if the Legislature believes regulation of all services should be consolidated in one agency, we support the approach taken by House Bill 2524 HD2. By establishing a new commission within DBEDT – where the focus of the agency is on economic growth and job creation – this legislation provides an opportunity for the state to encourage and advocate for infrastructure investment and technology innovation. This approach is vastly superior to previous versions of House Bill 2524.

We also believe a three-member commission has many advantages over a single commissioner. Three commissioners can bring different perspectives and backgrounds to bear on the many issues surrounding telecommunications. This would not be possible with a single commissioner model.

House Bill 2524 HD2 also moves the current telecommunications regulatory statutes directly over to the new commission without adding new and heavy-handed regulation. In this era of exploding technological growth in telecommunications and cable, this is the way to advance these services to Hawaii consumers.

Finally, if the Legislature wants to truly encourage the expansion of modern telecommunications services in Hawaii, this bill should be used as a vehicle to deregulate wireless services in statute. Recognizing that the wireless industry is highly competitive and has thrived in a free-market environment, many other states have taken this step. Hawaii's laws should also free up the wireless industry so that carriers hands are not tied to unnecessary regulation.

AT&T greatly appreciates all of the discussion and work that has gone into this critical issue for the citizens of State of Hawaii. We look forward to continued investment and expansion of modern telecommunications services in Hawaii, especially new and exciting wireless data services.

Respectfully Submitted,

Dan Youmans, AT&T

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 26, 2012 7:27 AM
To: FINTestimony
Cc: terrilanichong@gmail.com
Subject: Testimony for HB2524 on 2/27/2012 10:00:00 AM

Testimony for FIN/LMG 2/27/2012 10:00:00 AM HB2524

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: Terrilani Chong
Organization: Individual
E-mail: terrilanichong@gmail.com
Submitted on: 2/26/2012

Comments:

I support this bill because I believe that we in Hawaii must make having ultra-high speed broadband connectivity a basic need of our people, industries, and research community. We need to take the provision of such infrastructure out of the hands of the providers and place it in the hands of those who need and will make use of it.