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Honorable Carol Fukunaga, Chair
Senate Committee on Economic Development and Technology

RE: **SB 2108 - Relating to Telecommunications**
Hawaii State Capitol Room 016 – 2:15 pm

Aloha Chair Fukunaga and Members of the Committee:

I am Lyndall Nipps, Vice President of Regulatory Affairs for **tw telecom of hawaii lp** (“TWTC”), which has operated in Hawaii since 1994, providing voice, Internet and data networking, and managing nearly 25,000 access lines to state and local governments, military, and businesses in the State. Thank you for the opportunity to present testimony on SB 2108.

TWTC is concerned that the amendments proposed in SB 2108 are much more significant than they appear at first glance. As a starting point, Section 269-16.85 requires the Commission to treat retail telecommunications services, under the Commission’s telecommunications rules, as fully competitive, and apply all Commission rules in accordance with that designation. Those rules require that all fully competitive services be “offered on prices, terms and conditions reflected in a tariff filed with the Commission”. For fully competitive services, prior Commission approval is not required to change rates, but rates must be as stated in the tariff.

TWTC believes the requirement that pricing be in accordance with a tariff is very important. It allows the Commission, Consumer Advocate and interested parties to know what a carrier is charging for its services. This is important in order to prevent discriminatory pricing and cross-subsidization.

The requirement that a carrier file and tariff and comply with the tariff is separate from the issue of whether or not a carrier is required to obtain PUC approval to change its tariff (and therefore its rates). The existing language at the end of Section 269-16.85 is somewhat confusing, since it refers to obtaining PUC approval to charge “a higher rate than the rate in the tariff”. Generally, a carrier should never charge a higher rate than what is in its tariff. TWTC understood that the original intent of this language was to require PUC approval to increase rates for retail services.

To allow a carrier to charge a rate higher than what is in its tariff is inconsistent with the first sentence of Section 269-16.85, which requires the Commission to apply Commission rules in accordance with the “fully competitive” designation. It is also poor policy.

TWTC suggest that the following amendments would allow carriers to increase rates for retail services other than “basic exchange” services without PUC approval, but would still require that carriers price in accordance with their tariff, which would become effective on filing:

In addition, a telecommunications carrier shall not be required to obtain approval or provide any cost support or other information to establish or otherwise modify in any manner its rates, fares

and charges, or to bundle any service offerings into a single or combined price package; provided that a telecommunications carrier shall not increase a rate for any retail telecommunications basic exchange service without obtaining prior approval of the commission. All rates, fares, charges and bundled offerings shall be reflected in a tariff filed with the commission.

For these reasons, we respectfully request that you consider deferring action on this bill to allow stakeholders to work out these differences.

As always, we appreciate your consideration of our request.

Sincerely,

/s/

Lyndall Nipps

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