

**Testimony before the House Committee on
Economic Development & Business**



**By Paul A. Nakagawa
Superintendent, T&D Infrastructure
Construction and Maintenance Department
Hawaiian Electric Company, Inc.**

**Tuesday, February 5, 2013
9:00 am, Conference Room 312**

**House Bill 635
Relating to Broadband**

Chair Tsuji, Vice Chair Ward, and Members of the Committee:

My name is Paul Nakagawa and I am testifying on behalf of the Hawaiian Electric Company and its subsidiaries, Hawaii Electric Light Company and Maui Electric Company.

We continue to support the deployment of high-speed broadband infrastructure in Hawaii, and the efforts of the Legislature and the Broadband Assistance Advisory Council (BAAC) to streamline the permitting process applicable to the State's broadband initiative. However we have the following concerns with HB 635 as written:

1. This bill would exempt the State and the County from any liability on account of actions from or results from reviewing, approving, modifying, or disapproving a broadband-related permit application. Such actions may be in direct conflict with the joint and several liability responsibilities between Hawaiian Electric Company and current telecommunication entities, in addition to inequitably shifting liability to the utility and other entities.
2. This bill references SECTION 3 of Act 151, Session Laws of Hawaii 2011, which describes conditions when a pole does not need to be replaced provided certain pre-existing minimum conditions are not exceeded, but it does not specifically address the issue of compliance to engineering and safety standards to maintain public safety.

We therefore recommend the following amendments for your consideration:

1. Regarding the issue of liability, we recommend that HB 635, pg. 1, line 15, SECTION 1(c) be revised to read "*No action shall be prosecuted or maintained against the State,*

*its officials, or employees on account of actions taken in reviewing, approving, modifying, or disapproving a permit application, **or against public utilities resulting from such actions.***

2. Similarly, we recommend that HB 635, pg. 4, line 1, SECTION 2(c) be revised to read “*No action shall be prosecuted or maintained against any county, its officials, or employees on account of actions taken in reviewing, approving, modifying, or disapproving a permit application, **or against public utilities resulting from such actions.***”
3. Regarding the issue of compliance, we recommend the following paragraph be added before HB 635, pg. 1, line 15, SECTION 1(c): “*A public utility shall use reasonable best efforts to comply with all applicable safety and engineering requirements relating to the installation, improvement, construction, or development of infrastructure relating to broadband service or broadband technology.*”
4. Similarly, we recommend the following paragraph be added before HB 635, pg. 4, line 1, SECTION 2(c): “*A public utility shall use reasonable best efforts to comply with all applicable safety and engineering requirements relating to the installation, improvement, construction, or development of infrastructure relating to broadband service or broadband technology.*”

We appreciate the support of the Legislature and BAAC in hearing and understanding our concerns as we work together to address these issues.

Thank you for the opportunity to testify on this matter.

200 Akamainui Street
Mililani, Hawaii 96789-3999
Tel: 808-625-2100
Fax: 808-625-5888

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Honorable Clift Tsuji, Chair
Honorable Gene Ward, Vice Chair
House Committee on Economic Development & Business

RE: HB 635 – Relating to Broadband – In Support
February 5, 2013 – 9:00 AM, Hawaii State Capitol, Room 312

Aloha Chair Tsuji, Vice Chair Ward and members of the committee,

Oceanic Time Warner Cable supports HB 635 which requires the State and the counties to take action on broadband-related permits within sixty business days after submission, or permits will be automatically approved on the sixty-first business day after submission.

As an active member of the Broadband Assistance and Advisory Council, we continue to support the state's expansion of broadband infrastructure that is in line with consumer and market demands.

Oceanic Time Warner Cable currently provides access to broadband service for the vast majority of the state. We are actively working to increase broadband speeds throughout the state.

We ask for your favorable consideration of HB 635 as it streamlines the deployment of broadband infrastructure.

Sincerely,

Bob Barlow
President