

Honolulu, Hawaii

MAR 1 - 2019

RE: S.B. No. 991
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 991 entitled:

"A BILL FOR AN ACT RELATING TO TELECOMMUNICATIONS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Exempt public telecommunications utilities that provide basic exchange service to every county from certain utility rate regulation and ratemaking procedures and provisions; and
- (2) Clarify other requirements relating to basic exchange service for telecommunications carriers and public utilities.

Your Committee received testimony in support of this measure from Hawaiian Telcom and Verizon. Your Committee received testimony in opposition to this measure from the Department of Commerce and Consumer Affairs, Aloha State Association of the Deaf, and Charter Communications. Your Committee received comments on this measure from the Public Utilities Commission.

Your Committee finds that, in the past several decades, as the telecommunications industry has become more competitive, regulation of businesses offering telecommunications services in



Hawaii has been significantly reduced through legislative action and Public Utilities Commission (Commission) orders. Enabling robust competition in the market and supporting a level playing field for all competitors, while also ensuring high quality customer service from telecommunication service providers, is in the public interest. This measure would, in part, amend the existing regulatory framework and alleviate burdens from rules and regulations that limit certain providers' ability to compete in a competitive, growing market.

Your Committee, however, has considered the testimony expressing concerns that this measure creates a number of uncertainties that could result in unintended and undesirable consequences and removes a number of important consumer protections. This measure would essentially eliminate all of the Commission's oversight in retail and wholesale telecommunications markets, as well as potentially eliminate its ability to ensure non-discriminatory and full access to infrastructure, especially in less-competitive rural markets like neighbor islands.

Your Committee notes that the Division of Consumer Advocacy and a number of stakeholders have discussed mutually agreeable amendments to this measure to address these concerns.

Accordingly, your Committee has amended this measure by:

- (1) Deleting language that would have exempted a public utility providing basic exchange service to every county from oversight by the Commission and Consumer Advocate and certain requirements governing the public utilities;
- (2) Deleting language that would have exempted a publicly traded public utility providing basic exchange service to every county from filing any financial reports with the Commission;
- (3) Clarifying that a telecommunications carrier shall not be required to obtain approval to establish or modify its terms and conditions;
- (4) Providing telecommunications carriers with certain exemptions related to rate making approval and cross subsidies; provided that, on an annual basis, the



monthly rate increase for basic exchange service in any county with a population of less than 500,000 shall not exceed \$6.50 without the Commission's approval;

- (5) Reverting to the existing statutory language regarding all rates, fares, charges and bundled service offerings, and clarifying that this information and the service terms and conditions shall be posted on the local exchange carrier's website;
- (6) Specifying that telecommunications service providers may issue securities and other evidences of indebtedness without approval from the Commission, as long as notification of the transaction is provided to the Commission and Consumer Advocate;
- (7) Specifying that a telecommunications service provider providing fully competitive retail services may sell or dispose of property or equipment without approval from the Commission, but requiring authorization from the Commission in the event of any merger or consolidation, with another public utility;
- (8) Specifying that a telecommunications service provider providing fully competitive retail services is exempt from filing accident reports connected with its operations and service with the Commission;
- (9) Deleting language that would have allowed a public utility to issue securities and other evidences of indebtedness payable at periods of more than twelve months after the date of the issuance, for any purpose, without first obtaining approval from the Commission;
- (10) Clarifying that Commission approval is only necessary for a transaction involving a public utility that consists of fifty percent or more of the voting stock of a corporation organized under the laws of the State and twenty-five percent or more of the voting stock of the corporation is to be held by a single foreign corporation or nonresident alien;



- (11) Deleting language that would have allowed a public utility providing basic exchange service to every county in the State to sell, lease, assign, dispose of, or encumber its property by any means without approval of the Commission as long as notice was provided to the Commission within thirty days;
- (12) Clarifying that the Commission may allow telecommunications carriers to have pricing flexibility for services that the Commission finds are effectively competitive; provided that universal service is preserved and advanced;
- (13) Clarifying the Commission's responsibility to ensure customers have access to advanced services; and
- (14) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 991, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 991, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,



ROSALYN H. BAKER, Chair



