

TESTIMONY OF  
JAMES P. GRIFFIN, Ph.D.  
CHAIR, PUBLIC UTILITIES COMMISSION  
STATE OF HAWAII

TO THE  
HOUSE COMMITTEE ON  
CONSUMER PROTECTION AND COMMERCE

March 19, 2019  
2:00 p.m.

Chair Takumi and Members of the Committee:

**MEASURE:** S.B. No. 991 SD1 HD1

**TITLE:** RELATING TO TELECOMMUNICATIONS.

**DESCRIPTION:** Creates regulatory flexibility for providers of basic landline telephone services. Allows retail rate increases up to a cap amount without PUC approval for providers in rural counties. Exempts providers from PUC approval for issuance of securities, disposition of property, sale of stock, and competitive procurement requirements. (SB991 HD1)

**POSITION:**

The Public Utilities Commission **supports** this measure and offers the following comments for consideration.

**COMMENTS:**

The Public Utilities Commission (“Commission”) does not oppose streamlining regulation of the telecommunications industry in Hawaii. In the past several decades, as the industry has become more competitive, regulation of businesses offering telecommunications services in Hawaii has been significantly reduced, through both legislative action and Commission orders. The Commission is supportive of policies enabling robust competition in the market while ensuring high quality customer service from telecommunications providers.

The Commission has worked with key stakeholders in developing the current draft and believes it addresses major concerns with the initial version of this bill.

Thank you for the opportunity to testify on this measure.



DAVID Y. IGE  
GOVERNOR

JOSH GREEN  
LT. GOVERNOR

**STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

335 MERCHANT STREET, ROOM 310  
P.O. BOX 541  
HONOLULU, HAWAII 96809  
Phone Number: 586-2850  
Fax Number: 586-2856  
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN  
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
House Committee on Consumer Protection and Commerce  
Tuesday, March 19, 2019  
2:00 p.m.  
State Capitol, Conference Room 329**

**On the following measure:  
S.B. 991, S.D. 1, H.D. 1, RELATING TO TELECOMMUNICATIONS**

Chair Takumi and Members of the Committee:

My name is Dean Nishina, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (Department) Division of Consumer Advocacy. The Department supports this bill.

The purposes of H.D. 1 are to: (1) cap annual utility rate increases without Public Utilities Commission (Commission) approval for counties with populations less than 500,000; (2) provide telecommunications service providers with flexibility from certain regulatory oversight requirements, including issuance of securities and other evidences of indebtedness, and sales or disposition of property or equipment, if the utility is providing fully competitive retail services and specific conditions are met; and (3) specify other requirements related to flexibility for telecommunications service providers.

While the original version of this bill raised a number of concerns about the potential impacts on the wholesale telecommunications industry, other segments of the

telecommunications market, and various types of consumers of telecommunications services, H.D. 1 reflects a balanced approach to reducing regulatory oversight of fully competitive retail telecommunications services. H.D. 1 has certain provisions that will retain important regulatory oversight over the wholesale telecommunications market and certain other important aspects, which will allow the Commission to protect certain vulnerable customers and services that are not fully competitive.

Thank you for the opportunity to testify on this bill.

**TESTIMONY OF NAHELANI WEBSTER ON BEHALF OF THE HAWAII  
ASSOCIATION FOR JUSTICE REGARDING S.B. 991 SD1 HD1**

Tuesday, March 19, 2019  
2:00 pm, Room 329

To: Chair Roy M. Takumi and Members of the House Committee on Consumer Protection and Commerce.

My name is Nahelani Webster and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in **opposition** to **S.B. 991 SD1 HD1**, Relating to Telecommunications.

This testimony applies to page 4, section (f) of this measure. The language being added to *HRS §269-16.85* would invalidate *HRS §269-9*, which states:

**§269-9 Report accidents.** Every public utility shall report to the public utilities commission all accidents caused by or occurring in connection with its operations and service, and the commission shall investigate the causes of any accident which results in loss of life, and may investigate any other accidents which in its opinion require investigation.

There is no valid reason to exempt telecommunications service providers from the current process of filing accident reports with the public utilities commission. They should be held to the same standards as all public utilities which is to file accident reports publicly for the best interest of the consumer.

Respectfully requesting the committee to amend this measure by **deleting lines 1 – 4 on page 4**, as it conflicts with *HRS §269-9* and removes an important requirement that public utilities file accident reports with the public utilities commission.

Thank you for the opportunity to submit testimony on this matter.

Written Statement of  
**Ani Menon**  
**Director of Government & Community Affairs**

**HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

March 19, 2019 2:00 PM  
State Capitol, Conference Room 329

**IN SUPPORT OF:**

**S.B. NO. 991 SD1 HD1 RELATING TO TELECOMMUNICATIONS**

To: Chair Takumi, Vice-Chair Ichiyama, and Members of the Committee  
Re: **Testimony in support of SB 991 SD1 HD1**

Aloha Honorable Chair, Vice-Chair, and Committee Members:

Thank you for this opportunity to submit testimony in strong support of Senate Bill 991 SD1 HD1. The intent of this bill is to improve Hawaii's regulatory structure around voice services, eliminate competitive advantages among carriers, and promote fair competition in an open market.

**Key stakeholders agree**

Senate Bill 991 SD1 HD1 is a bill that key stakeholders have agreed on. After multiple working sessions with the Public Utilities Commission, the Consumer Advocate, and other stakeholders, SB991 SD1 HD1 captures the concerns addressed by our regulating entities and others while staying true to the original intent of SB991. SB991 SD1 HD1 retains the Public Utilities Commission's oversight over telecommunications carriers.

**Scope of SB991 SD1 HD1 is limited to retail landline telephone service**

The language of SB 991 SD1 HD1 modernizes regulation over basic local exchange service ("BLES") – our residential and business single line telephone service. The narrow scope of this bill is limited to retail BLES. The proposed language of this bill **does not impact** cable TV, broadband, interconnectivity agreements, Hawaiian Telcom's obligations regarding our wholesale services, access, and pricing governed by Hawaii statutory law and the Telecommunications Act of 1996, or any other state or federal law meant to provide oversight over the telecommunications industry. Furthermore, this bill **does not impact** VoIP ("Voice over Internet Protocol") – a service offered by our largest competitor – because VoIP is not considered a basic local exchange service and thus is free from the rules and regulations governing BLES.

SB 991 SD1 HD1 aims to put Hawaiian Telcom on an equal footing with other providers of voice services, like VoIP, by updating the telecommunications regulatory framework that has not kept pace with the rapidly changing telecommunications marketplace.

### **Consumer safeguards and Carrier of Last Resort remain intact**

Senate Bill 991 SD1 HD1 will continue to provide for a number of consumer safeguards:

- The Public Utilities Commission will retain its authority and oversight over telecommunications providers under H.R.S. §269
- Hawaiian Telcom will continue carrying the “obligation to serve” – often referred to as the Carrier of Last Resort (COLR) – established by H.R.S. §269-16.9, ensuring that communities in Hawaii have access to BLES
- Laws and rules regarding lifeline telephone rates, telecommunications relay service, emergency telephone service, and rural deployment of telephone service remain untouched
- All rules, regulations, decisions, orders, and other regulatory provisions outside the narrow scope of this bill will continue to be applicable to telecommunications providers
- The Public Utilities Commission will continue to retain oversight over BLES pricing in areas where there may be less options for voice/telephone services
- Competitors will continue to have full access to Hawaiian Telcom’s facilities, including co-location in our central offices, use of poles and conduits, and discounts on retail services for resale – this bill does not impact wholesale services
- Consumers will continue to be provided with nondiscriminatory, reasonable, and equitable access to services by law – *see Section 5 on Page 6, Lines 11-17*
- The Universal Service Fee which funds the Connect America Funds that telecommunications providers (like Hawaiian Telcom, Charter Communications, etc.) can bid on to build out in rural communities in Hawaii remains untouched – as with any other fee, tax, or surcharge required by state or federal law

### **We face outdated regulatory requirements in a competitive market, unlike our competitors**

Hawaiian Telcom was established over 135 years ago as an independent landline company providing voice and telegraph service. We have diversified our offerings to meet customer demand in an evolving and competitive market, and now provide an array of offerings including broadband, cable TV, data center solutions, security consulting, IT services, and more. While we add new services and solutions to meet the growing demands of our customer base, we continue to maintain our residential and business single line phone service – our basic local exchange service (BLES) - as the incumbent local exchange provider. This is a requirement we take seriously, and maintain an obligation to serve Hawaii under H.R.S. §269-16.9.

We are a locally-managed company whose ability to invest in our networks, retain our workforce and meet our customers’ needs depends greatly on Hawaii’s regulatory structure. Currently, 100% of Hawaiian Telcom’s market is in Hawaii. Our employees live here, our customers live here, and our networks are physically located statewide. We continue maintaining our traditional

legacy network while simultaneously investing in fiber optic facilities and upgrades to our IP-based network despite a declining residential and business voice consumer base.

Currently, Hawaiian Telcom serves a little over 120,000 residential landlines in Hawaii. By contrast, in 2008, we served 291,512 residential landlines. We have lost over 60% of our residential landline customers in the last decade, and those losses are expected to continue as consumers exercise their choice in a competitive market and migrate to services provided by cable companies, VoIP service providers, and wireless carriers.

Consumers are increasingly placing a higher value on cellular, internet, and video services – areas dominated by our competitors. Yet, unlike our competitors, we are faced with regulatory requirements that impact our operational decisions. Our largest competitor is not faced with similar regulatory requirements around their voice service. This puts us at a distinct competitive disadvantage, especially when we are required by federal law to give our competitors full access to our infrastructure, poles, conduits, facilities, central offices, and more at rates fixed by our regulating entities (*see 47 U.S.C. §251*).

### **Lifting outdated regulations will allow us to continue investing meaningfully in Hawaii**

Hawaiian Telcom is committed to continuing to invest in Hawaii. We plan to expand our fiber footprint statewide by investing over \$20 million over the next four years. We were the only local service provider that submitted and won a competitive bid for the Connect America Funds (CAF) Phase II Auction held in the summer of 2018. This Auction was open to other telecommunications providers. We were awarded \$18.2 million to deploy high-speed internet to an additional 4,000 unserved rural locations statewide over the next six years. Our networks include over 11,000 miles of copper cable, and more than 4,562 miles of fiber optic cable that will serve as the wireline backbone for future 5G networks and Hawaii's smart cities.

Updating the telecommunications regulatory framework will enable Hawaiian Telcom to compete on a level playing field and reduce the cost of regulatory compliance so that additional funds can be reinvested in improving our state's telecommunications infrastructure and creating jobs. Improving and developing infrastructure will foster economic development opportunities and give our state a strategic advantage.

**Senate Bill 991 SD1 HD1 is a positive and necessary step in encouraging fair competition in an open market place, and will reduce existing competitive advantages among providers while keeping key consumer safeguards in place.**

We ask for your support in the passage of Senate Bill 991 SD1 HD1.



Charter Communications  
Testimony of Myoung Oh, Director of Government Affairs

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Hawai'i State Capitol, Conference Room 329  
Tuesday, March 19, 2019  
1:00 PM

**Opposition to S.B. 991, S.D.1, H.D.1, Relating to Telecommunications**

Chair Takumi, Vice-Chair Ichiyama, and Members of the Committee.

Senate Bill 991, Senate Draft 1, House Draft 1 (S.B. 991, S.D.1, H.D.1), continues to present provisions that are unjust, unreasonable, and discriminatory. While the original S.B. 991 was sweeping and unprecedented, S.B. 991, S.D.1, H.D.1 still falls woefully short of ensuring telecommunications services in Hawai'i are designed to foster competition, encourage an earned playing field, and protect the public interest. Over many years, Hawaii's incumbent telephone network received, and continues to receive, millions of dollars in government and payer subsidies and is still receiving substantial universal service funds to build out their network. It's the network consumers and competitors turn to and transparency and oversight are necessary.

S.B. 991, S.D.1, H.D.1 does not meaningfully address protections that maintain a competitive, ***non-discriminatory and reasonable environment*** for non-incumbent telecommunications carriers and customers. In Section 1, the telephone company prefers the ability to increase "rates, fares, charges, and terms and conditions," without the approval of the Public Utility Commission (PUC) for the City and County of Honolulu but will be capped at annual



increase of \$6.50 for Maui, Kauai, and Hawaii Island counties. We disagree that Honolulu residents have the greater ability to afford an increase in rates compared to Neighbor-Islands and any such increase proposed in the measure for all customers should be ***“cost-based and remain just, reasonable and non-discriminatory.”*** Hawai‘i has effective competition that is fair, and it is that reasonable competition that has led to low rates between telecommunications carriers.

Moreover, the proposed exemption for the telephone company to not comply with HRS 269-39 on page 2, line 3 begs the question if they are intending to cross-subsidize noncompetitive services with competitive services, which is explicitly prohibited. Noncompetitive services are services that only the telephone company provides such as point-to-point connection used by the military. The PUC essentially waives their oversight and S.B. 991, S.D.1, H.D.1 goes further to waive price tariff filings. This removes the PUC’s eyes off the ball on all rates, fares, charges, and terms and conditions.

Additionally, S.B. 991, S.D.1, H.D.1 potentially eliminates the ability to ensure “non-discriminatory” and “full access” to infrastructure. Fair and level competition in the telecommunications market has led to unprecedented innovation and consumer benefits, and this measure could result in significantly reversing the benefits of competition and increase costs for all non-incumbent telecommunications carriers. The role the PUC plays in telecommunication matters helps ensure reasonable, non-discriminatory access to infrastructure in order to provide competitive service.

Finally, we further object to S.B. 991, S.D.1, H.D.1 that proposes to strike out and repeal language on Page 6, Sections 5 and 6 that explicitly makes clear that the incumbent telephone company to be “**just, reasonable, and nondiscriminatory.**” It’s puzzling how it is good public policy for a public utility such as water, electricity, sewer, and telephone to advance business interests and competition to be “unjust, unreasonable, and discriminatory.”

In closing, cable operators are highly regulated and required to pay five percent (5%) of revenues as franchise fees in addition to being required to contribute other exactions and are subject to extensive regulatory requirements, tariff reporting, and other burdens in order to have access to rights-of-way. The telephone company is not required to pay such franchise fees in order to gain access to rights-of-way and operate as a telecommunications carrier. The benefits of accepting government and ratepayer subsidies should be neutral and balanced to foster fair competition.

For the forgoing reasons, we respectfully request the Committee to defer S.B. 991, S.D.1., H.D.1 The PUC oversees the intrastate cellular, paging, mobile telephone, and other services of telecommunications providers in addition to the services of Hawaiian Telcom, Inc., the State’s only incumbent local exchange carrier (“ILEC”) and largest provider of intrastate services. Efforts to limit PUC authority should be carefully considered.

Mahalo for the opportunity to testify.

**SB-991-HD-1**

Submitted on: 3/18/2019 9:51:44 PM

Testimony for CPC on 3/19/2019 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Darlene Ewan	Aloha State Association of the Deaf	Oppose	No

Comments:

March 15, 2019

IN OPPOSITION OF:

Senate Bill Number 991 SD1 HD1 RELATING TO TELECOMMUNICATIONS

To: Chair Takumi and Vice CHair Ichiyama, and Members of the Committee

Re: Testimony in opposition of SB991

Aloha Chair, Vice-Chair, and Committee Members:

The Aloha State Association of the Deaf (ASAD), on behalf of deaf and hard of hearing individuals living in the State of Hawai'i, asks that all Hawai'i state legislators vote to oppose SB991 which seeks to deregulate oversight of telecommunication service providers. Deaf and hard of hearing Hawai'i experience inaccessibility at all levels of society including in education, employment, health care, mental health services, legal and judicial systems, law enforcement, and telecommunications. It is imperative that telecommunication service providers are monitored and overseen to ensure that all their services are accessible to everyone, particularly to deaf and hard of hearing Hawai'i. This bill seeks to remove any such oversight, and our community is concerned that we will be left behind without accessible telecommunication services. For this reason, we ask that this bill be opposed.

Sincerely,

Darlene Ewan

ASAD President