

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

TO THE
HOUSE COMMITTEE ON
FINANCE

March 29, 2019
3:30 p.m.

Chair Luke 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:

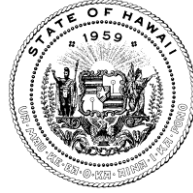
The Public Utilities Commission **supports** this measure and offers the following comments for consideration.

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**

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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Finance
Friday, March 29, 2019
3:30 p.m.
State Capitol, Conference Room 308**

On the following measure:

S.B. 991, S.D. 1, H.D. 1, RELATING TO TELECOMMUNICATIONS

Chair Luke 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.

Written Statement of
Ani Menon
Director of Government & Community Affairs

HOUSE COMMITTEE ON FINANCE

March 29, 2019 3:30 PM
State Capitol, Conference Room 308

IN SUPPORT OF:

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

To: Chair Luke, Vice-Chair Cullen, and Members of the Committee
Re: **Testimony in support of SB 991 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 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, SB 991 HD1 captures the concerns addressed by our regulating entities and others while staying true to the original intent of SB 991. SB 991 HD1 retains the Public Utilities Commission's oversight over telecommunications carriers.

Scope of SB 991 HD1 is limited to retail landline telephone service

The language of SB 991 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. This bill **does not impact** our obligations under both state and federal laws to provide access to the deaf, persons with hearing disabilities, and those with disabilities. Access to telecommunications services for this population are governed by H.R.S. §269-16.6 and the FCC's Communications and Video Accessibility Act, both not within the scope of this bill.

SB 991 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 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, access for the deaf, hearing impaired, and disabled, 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 because 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.

SB 991 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 this bill. We have attached non-substantive, technical amendments that add clarity and consistency to SB 991 HD1 for your consideration. Thank you.

A BILL FOR AN ACT

RELATING TO TELECOMMUNICATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 269-16.85, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§269-16.85 Retail intrastate services; fully competitive.**

4 (a) Notwithstanding section 269-16.9 or any other law to the
5 contrary, the public utilities commission shall treat retail
6 intrastate telecommunications services, under the commission's
7 classification of services relating to costs, rates, and
8 pricing, as fully competitive and apply all commission rules in
9 accordance with that designation except as provided herein. In
10 addition, a
11 telecommunications carrier shall not be required to obtain
12 approval or provide any cost support or other information to
13 establish or otherwise modify in any manner its rates, fares,
14 [~~and~~] charges, and terms and conditions, or to bundle any
15 service offerings into a single or combined price package [~~+~~
16 ~~provided that a telecommunications carrier, except upon~~
17 ~~receiving the approval of the commission, shall not charge a~~
~~higher rate for any retail telecommunications basic exchange~~

1 ~~service than the rate for the same service included in the~~
2 ~~telecommunications carrier's filed tariff.]~~ and shall not be
3 subject to sections 269-16 and 269-39; provided that on an
4 annual basis, the monthly rate increase for basic exchange
5 service in any county with a population of less than five
6 hundred thousand shall not exceed \$6.50 without the public
7 utilities commission's approval. All rates, fares, charges,
8 ~~[and]~~ bundled service offerings, and service terms and
9 conditions shall be ~~[filed with the public utilities commission~~
10 ~~for information purposes only.]~~ posted made available on the
11 local exchange telecommunications carrier's website.

12 (b) This section shall apply to retail rates charged for
13 service to end-user consumers only and shall not apply to
14 wholesale rates charged for services provided by a
15 telecommunications carrier to another telecommunications
16 provider, a wireless communications provider, a voice over
17 internet protocol communications provider, or other similar
18 communications provider.

19 (c) Nothing herein shall modify any requirements of a
20 telecommunications carrier to provide lifeline telephone

1 service, comply with carrier of last resort obligations, or
2 comply with applicable service quality standards.

3 (d) Notwithstanding section 269-17, any telecommunications
4 ~~service provider carrier~~ providing fully competitive retail
5 services
6 shall not be required to seek commission approval for the
7 issuance of stocks, stock certificates, bonds, notes, and other
8 evidences of indebtedness; provided that the telecommunications
9 ~~service provider carrier~~ notifies the public utilities
10 commission, with
11 a copy to the consumer advocate, of all issuances upon execution
12 of the transaction.

13 (e) Notwithstanding section 269-19, any telecommunications
14 ~~service provider carrier~~ providing fully competitive retail
15 services
16 shall not be required to seek commission approval for the sale,
17 lease, mortgage, assignment, or other disposition or encumbrance
18 of the whole or any part of its road, line, plant, system, or
19 other property; provided that any telecommunications ~~service~~
~~provider carrier~~ shall not, directly or indirectly, merge or
consolidate
with any other public utility without first having secured from
the public utilities commission an order authorizing the
~~provider carrier~~ to do so.



1 (f) Notwithstanding section 269-9, any telecommunications
 2 ~~service provider carrier~~ providing fully competitive retail
 3 services
 4 shall not be required to file accident reports with the
 5 commission."

6 SECTION 2. Section 269-17.5, Hawaii Revised Statutes, is
 7 amended by amending subsection (c) to read as follows:

8 "(c) No more than twenty-five per cent of the issued and
 9 outstanding voting stock of a corporation organized under the
 10 laws of the State and who owns, controls, operates, or manages
 11 any plant or equipment, or any part thereof, as a public utility
 12 within the definition set forth in section 269-1 shall be held,
 13 whether directly or indirectly, by any single foreign
 14 corporation or any single nonresident alien, or held by any
 15 person, unless prior written approval is obtained from the
 16 public utilities commission, or unless a transaction is exempt.

17 An exempt transaction is:

- 18 (1) Any purchase or sale by an underwriter; [~~or~~]
- 19 (2) Any transaction involving a public utility providing
 20 basic exchange service to every county in the State or
any affiliate or parent of such public utility,
that consists of less than fifty per cent of the

1 issued and outstanding voting stock of a corporation

2 organized under the laws of the State; or

3 [~~2~~] (3) A transaction to acquire shares of a corporation
4 with less than one hundred shareholders and less than
5 \$1,000,000 in assets.

6 Every assignment, transfer, contract, or agreement for
7 assignment or transfer of any shares in violation of this
8 section shall be void and of no effect; and no such transfer
9 shall be made on the books of the corporation. Nothing herein
10 shall be construed to make illegal the holding of stock lawfully
11 held, directly or indirectly, prior to June 4, 1977."

12 SECTION 3. Section 269-19.5, Hawaii Revised Statutes, is
13 amended by amending subsection (h) to read as follows:

14 "(h) Transactions between affiliated Hawaii based
15 utilities, and any transactions by public utilities providing
16 basic exchange service to every county in the State or any
affiliate or parent of such public utility, shall be
17 exempt from the provisions of this section."

18 SECTION 4. Section 269-38, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[+]§269-38[+] **Regulatory flexibility for effectively**
21 **competitive services.** The commission may allow



1 telecommunications carriers to have pricing flexibility for
2 services that the commission finds are effectively competitive;
3 provided that ~~{the rates for:~~

- 4 (1) ~~Basic telephone service and for services that are not~~
- 5 ~~effectively competitive are cost based and remain~~
- 6 ~~just, reasonable, and nondiscriminatory, and~~
- 7 ~~(2) Universal]~~ universal service is preserved and
- 8 advanced."

9 SECTION 5. Section 269-40, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[+] §269-40[+] **Access to advanced services.** The
12 commission shall ensure that all consumers are provided with
13 nondiscriminatory, reasonable, and equitable access to high
14 quality telecommunications network facilities and capabilities
15 that provide subscribers with sufficient network capacity to
16 access information services that provide a combination of voice,
17 data, image, and video~~[, and that are available at just,~~
18 ~~reasonable, and nondiscriminatory rates that are based on~~
19 ~~reasonably identifiable costs of providing the services]."~~

20 SECTION 6. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 7. This Act shall take effect on July 1,3000.





Charter Communications
Testimony of Myoung Oh, Director of Government Affairs

COMMITTEE ON FINANCE

Hawai'i State Capitol, Conference Room 308
Friday, March 29, 2019
3:30 PM

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

Chair Luke, Vice-Chair Cullen, and Members of the Committee.

The telecommunications industry involves a complex set of interactions between and through different networks facilitated by fiber optic cables, landlines, coaxial, and a global network of switching centers. Further and appropriate assessments are needed. However, if telecommunications carriers are to be relieved of a broad array of regulatory obligations, cable operators should be relieved of all similar obligations.

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.

The current draft attempts to do this by: 1) capping annual basic telephone service rate increases at \$6.50 without Public Utilities Commission (PUC) approval in counties with a population of less than 500,000 (rate increases are not capped in the county with a population of more than 500,000); 2) removing the PUC's regulatory oversight from telephone utility with respect to various matters, including the sales or disposition of property or equipment other matters currently supervised by the public utilities; and 3) broadening the existing exemptions from rate regulation.

Hawaiian Telcom continues to reap the benefits of access to rights-of-way as a regulated telecommunications carrier without paying any right of way access fees, but wants to be relieved of its obligations as a public utility despite the massive infusion of taxpayer dollars and customer-funded subsidies, to supplement its business. If Hawaiian Telcom is relieved of the obligations of its regulated status, it should not be allowed to retain the financial benefits that come with it.

Additionally, in contrast, cable operators are highly regulated and required to pay five percent (5%) of revenues for the privilege for rights-of-way access and doing business in Hawai'i. Charter is required to contribute other exactions and are subject to extensive regulatory requirements, tariff reporting, and other burdens for that earned. Whereas the Hawaiian Telcom is not required to pay such franchise fees in order to gain access to rights-of-way and operate as a telecommunications carrier.

Through the State's generous contribution, Hawaiian Telcom now enjoys the privilege of controlling bottleneck facilities such as conduits, poles, communication switches, and other equipment that Charter and other competitive telecommunications providers rely on for

interconnection. Without proper oversight, Hawaiian Telcom could leverage these facilities to gain an unfair competitive advantage over its wholesale customers. The PUC's regulatory oversight provides protection that is needed to maintain competition for the benefit of all consumers.

As currently drafted, this measure would allow Hawaiian Telcom to engage in improper cross-subsidization by increasing rates for non-competitive services (including wholesale services) in order to reduce rates for competitive services. This would allow Hawaiian Telcom to gain an unfair competitive advantage at the expense of customers of non-competitive services. Similarly, by allowing Hawaiian Telcom to dispose of property without PUC oversight, Hawaiian Telcom could potentially sell-off essential voice assets without any review and evaluation of the impacts on consumers, communication services, competitors, and the State's economy. If those assets are later determined to be necessary, the costs of new equipment could be reflected in the rates charged to wholesale customers.

The current version of S.B. 991, S.D.1, H.D.1 has concerns that still need to be addressed and therefore we respectfully ask for your consideration of our enclosed amendments for inclusion into any future version of S.B. 991.

Mahalo for the opportunity to testify.

STATE OF HAWAII

A BILL FOR AN ACT

RELATING TO TELECOMMUNICATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 269-16.85, Hawaii Revised Statutes, is amended to read as follows:

"§269-16.85 Retail intrastate services; fully competitive. (a) Notwithstanding section 269-16.9 or any other law to the contrary, the public utilities commission shall treat retail intrastate telecommunications services, under the commission's classification of services relating to costs, rates, and pricing, as fully competitive and apply all commission rules in accordance with that designation. 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 retail intrastate telecommunications service rates, fares, ~~[and]~~ charges, and terms and conditions, or to bundle any service offerings into a single or combined price package ~~[, provided that a telecommunications carrier, except upon receiving the~~

~~approval of the commission, shall not charge a higher rate for any retail telecommunications basic exchange service than the rate for the same service included in the telecommunications carrier's filed tariff.] and shall not be subject to sections 269-16 and 269-39; provided that on an annual basis, the monthly rate increase for basic exchange service in any county with a population of less than five hundred thousand shall not exceed \$6.50 without the public utilities commission's approval.~~ All rates, fares, charges, [and] bundled service offerings, and service terms and conditions, for retail intrastate telecommunications service shall be [~~filed with the public utilities commission for information purposes only.~~] posted on the local exchange carrier's website.

(b) This section shall apply to retail rates charged for service to end-user consumers only and shall not apply to wholesale rates charged for services provided by a telecommunications carrier to another telecommunications provider, a wireless communications provider, a voice over internet protocol communications provider, or other similar communications provider.

(c) Nothing herein shall modify any requirements of a telecommunications carrier applicable to provide lifeline telephone service, compliancey with carrier of last resort obligations, or compliancey with applicable service quality standards. ~~Notwithstanding this section or any law to the contrary a telecommunications carrier shall not modify in any manner the rates, fares, charges, terms and conditions~~

~~applicable to lifeline services, except upon receiving the approval of the commission.~~

(d) Notwithstanding section 269-17, any telecommunications service provider providing ~~fully competitive~~ retail intrastate telecommunications services shall not be required to seek commission approval for the issuance of stocks, stock certificates, bonds, notes, and other evidences of indebtedness; provided that the telecommunications service provider notifies the public utilities commission, with a copy to the consumer advocate, of all issuances upon execution of the transaction.

(e) Notwithstanding section 269-19, any telecommunications service provider providing ~~fully competitive~~ retail intrastate telecommunications services shall not be required to seek commission approval for the sale, lease, mortgage, assignment, or other disposition or encumbrance of the whole or any part of its road, line, plant, system, or other property ~~that is not necessary or used and useful for the provision of wholesale telecommunications services~~; provided that any telecommunications service provider shall not, directly or indirectly, merge or consolidate with any other public utility without first having secured from the public utilities commission an order authorizing the provider to do so.

(f) Notwithstanding section 269-9, any telecommunications service provider providing ~~fully competitive~~ retail intrastate telecommunications services shall not be required to file accident reports with the commission.

(g) Notwithstanding sections 269-16.91, 269-41, 269-42, HRS § 269-43, no telecommunications service provider providing fully competitive retail intrastate telecommunications services in any county in the State shall receive any universal service funds in such county for any purpose, including but not limited to assistance for low income subscribers, and for high cost and unserved areas, under any fund or program authorized under this chapter.

(h) Notwithstanding anything in this Section to the contrary, the monthly rate increase for basic exchange service after January 1, 2019 shall not exceed \$6.50 without the public utilities commission's approval."

SECTION 2. Section 440G-8, Hawaii Revised Statutes, is amended by adding a new subsection (e) to read as follows:

"(e) No cable operator shall be required to seek approval by the director for the issuance of stocks, stock certificates, bonds, notes, and other evidences of indebtedness."

SECTION 3. Section 440G-10.1, Hawaii Revised Statutes, is amended to read as follows:

"§440G-10.1. Transfer or encumbrance of cable system or franchise. [~~(a)~~] No cable operator shall be required to seek approval by the director for the sale, lease, mortgage, assignment, or other disposition or encumbrance of the whole or any part of its road, line, plant, system, franchise, or other property, including the rights, privileges, and obligations thereof[, may be assigned, sold, leased, encumbered, or otherwise transferred, voluntarily or involuntarily, directly or

~~indirectly, including by transfer of control of any cable system, whether by change in ownership or otherwise, except upon written application to and approval by the director. The form of the application shall be prescribed by the director.~~

~~(b) Sections 440G-7 and 440G-8 shall apply to the transfer of cable franchises]."~~

SECTION 4. Section 440G-11, Hawaii Revised Statutes, is amended to read as follows:

"§ 440G-11. Rates not regulated[~~, filed with director, approval~~]. [(a) The director shall require each cable operator to file a schedule of its rates of service on a form and with the notice that the director may prescribe.

(b) To the extent permitted by federal law, the director shall regulate rates to ensure that they are fair both to the public and to the cable operator.]

A cable operator 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, charges, and terms and conditions, or to bundle any service offerings into a single or combined price package. All rates, fares, charges, bundled service offerings, and service terms and conditions shall be posted on the cable operator's website."

SECTION 25. Section 269-17.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) No more than twenty-five per cent of the issued and outstanding voting stock of a corporation organized under the laws of the State and who owns, controls, operates, or manages

any plant or equipment, or any part thereof, as a public utility within the definition set forth in section 269-1 shall be held, whether directly or indirectly, by any single foreign corporation or any single nonresident alien, or held by any person, unless prior written approval is obtained from the public utilities commission, or unless a transaction is exempt. An exempt transaction is:

(1) Any purchase or sale by an underwriter; [øf]

(2) Any transaction involving a public utility providing basic exchange service to every county in the State telecommunications carrier that consists of less than fifty per cent of the issued and outstanding voting stock of a corporation organized under the laws of the State; or

~~[(2)]~~ (3) A transaction to acquire shares of a corporation with less than one hundred shareholders and less than \$1,000,000 in assets.

Every assignment, transfer, contract, or agreement for assignment or transfer of any shares in violation of this section shall be void and of no effect; and no such transfer shall be made on the books of the corporation. Nothing herein shall be construed to make illegal the holding of stock lawfully held, directly or indirectly, prior to June 4, 1977."

SECTION ~~35~~ 36. Section 269-19.5, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

"(h) Transactions between affiliated Hawaii based utilities, and any transactions by ~~public utilities providing basic exchange service to every county in the State telecommunications carriers,~~ shall be exempt from the provisions of this section."

~~SECTION 4. Section 269-38, Hawaii Revised Statutes, is amended to read as follows:~~

~~"**[§269-38]** **Regulatory flexibility for effectively competitive services.** The commission may allow telecommunications carriers to have pricing flexibility for services that the commission finds are effectively competitive, provided that [the rates for:~~

~~(1) Basic telephone service and for services that are not effectively competitive are cost-based and remain just, reasonable, and nondiscriminatory; and~~

~~(2) Universal] universal service is preserved and advanced."~~

~~SECTION 57. Section 269-40, Hawaii Revised Statutes, is amended to read as follows:~~

~~"**[§269-40]** **Access to advanced services.** The commission shall ensure that all consumers are provided with nondiscriminatory, reasonable, and equitable access to high quality telecommunications network facilities and capabilities that provide subscribers with sufficient network capacity to access information services that provide a combination of voice, data, image, and video, and services that are not effectively competitive are available at just, reasonable, and nondiscriminatory rates that are based on reasonably identifiable costs of providing the services."~~

~~SECTION 8. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:~~

~~"§269- Regulation of Voice Over Internet Protocol~~

Prohibited.

(a) As used in this section:

(i) "Internet protocol enabled service" or "IP enabled service" means any service, capability, functionality or application, other than "voice over internet protocol service," using existing internet protocol, or any successor internet protocol, that enables an end user to send or receive a communication in existing internet protocol format, or any successor internet protocol format, utilizing a broadband connection at the end user's location, regardless of whether the communication is voice, data or video;

(ii) "Voice over internet protocol service" means any service that:

(A) Enables real time, two-way voice communication originating from or terminating at the user's location in internet protocol or a successor protocol;

(B) Utilizes a broadband connection at the user's location; and

(C) Permits a user to receive a call that originates on the public switched telephone network and to terminate a call to the public switched telephone network.

(b) The commission shall not regulate IP enabled service or voice over internet protocol service.

(c) Nothing in this section affects or modifies:

(i) Any applicable wholesale tariff or any jurisdiction of the commission to implement or enforce any rights, duties or obligations of any party related to interconnection, unbundled

network elements or wholesale services;

(ii) Any entity's obligations or rights or jurisdiction of the commission under sections 251 and 252 of the Federal Communications Act of 1934, 47 U.S.C. §§ 251 and 252; or

(iii) Any jurisdiction of the commission over intrastate switched access rates, terms and conditions, including the implementation of federal law with respect to intercarrier compensation.

(iv) Any entity's obligations or rights or commission authority with respect to the use of public streets, roads, highways, and rights-of-way."

SECTION 9. Section 269-34, Hawaii Revised Statutes, is amended by to read as follows:

"Obligations of telecommunications carriers. 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:

(1) Interconnection to the telecommunications carrier's telecommunications facilities at any technically feasible and economically reasonable point within the telecommunications carrier's network, so that the networks are fully interoperable;

(2) The current interstate tariff used as the access

rate until the commission can adopt a new intrastate local service interconnection tariff pursuant to section 269-37;

(3) Nondiscriminatory and equal access to any telecommunications carrier's telecommunications facilities, functions, and the information necessary to the transmission and routing of any telecommunications service and the interoperability of both carriers' networks;

(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 commission shall authorize access to electric utilities' poles as provided by the joint pole agreement, commission tariffs, rules, orders, or Federal Communications Commission rules and regulations;

(5) Nondiscriminatory access to the network functions of the telecommunications carrier's telecommunications network, that shall be offered on an unbundled, competitively neutral, and cost-based basis;

(6) Telecommunications services and network functions without unreasonable restrictions on the resale or sharing of those services and functions; and

(7) Nondiscriminatory access of customers to the telecommunications carrier of their choice without the need to dial additional digits or access codes, where technically feasible. The commission shall determine the equitable

distribution of costs among the authorized telecommunications carriers that will use such access and shall establish rules to ensure such access.

(8) A telecommunications carrier shall not:

(a) Block traffic from another telecommunications carrier based on the absence of an interconnection agreement;
or

(b) Require another telecommunications carrier to enter into an interconnection agreement before:

(i) porting telephone numbers;

(ii) accepting for termination, and terminating, local and mandatory extended area service traffic originated by such other telecommunications carrier; or

(iii) originating local and mandatory extended area service traffic directed to the customers of such other telecommunications carrier.

Where possible, telecommunications carriers shall enter into negotiations to agree on the provision of services or information services without requiring intervention by the commission; provided that any such agreement shall be subject to review by the commission to ensure compliance with the requirements of this section. Approved interconnection agreements for which the original term has expired, but which remain in effect pursuant to term renewal or extension provisions, will be available for adoption for as long as the interconnection agreement remains in effect between the original parties to the agreement."

SECTION ~~610~~. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 711. This Act shall take effect upon its approval.

Report Title:

Telecommunications; Basic Exchange Service; Pricing Flexibility; Sale, Lease, Encumbrance of Assets; Financing; Affiliate Transactions; Issuance of Stock

Description:

Caps annual utility rate increases without PUC approval for counties with a population of less than 500,000. Provides 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. Specifies other requirements related to flexibility for telecommunications service providers. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



**Testimony of Michael Bagley
Director of Public Policy, Verizon
Before the House Committee on Finance
State Capitol, Conference Room 308
March 29, 2019**

To: Chair Luke, Vice-Chair Cullen, & Members of the Committee
Re: Testimony **in support** of SB 991 SD1 HD1- Relating to Telecommunications
Hearing Date: March 29, 2019 3:30PM

Chair Luke, Vice-Chair Cullen, & Members of the Committee:

I am providing testimony on behalf of Verizon in support of SB 991 HD1, legislation that seeks to modernize the state's statutory and regulatory framework. This legislation reflects the reality of current circumstances and allows basic local exchange service providers the opportunity to better serve their customers and provide more benefits to Hawaii.

The scope of SB 991 HD1 is limited to retail landline telephone service. It does not relate to wholesale services. SB991 HD1 was developed in consultation with the Public Utilities Commission and the Consumer Advocate. All key stakeholders agree that telecommunications is a competitive market, and Hawaii benefits by creating an equal level playing field for all telecommunications providers.

Streamlining and reducing regulations in an increasingly competitive environment in which telecommunications businesses operate is a demonstration of good public policy – it is in the public's best interest.

SB 991 HD1 has the potential to reduce costs for both the consumer and the basic local exchange service provider. Basic local exchange providers today must maintain their legacy networks while attempting to invest in fiber optics in order to effectively compete. They do this while also being federally obligated to give their competition complete access to their infrastructure at cost, and while still being bound by outdated rules and regulations that their competition is free from.

Passing this bill will allow for resources to be directed towards investing in Hawaii's future. It will allow for the development of consumer-friendly upgrades and enhanced services rather than burdensome and unnecessary regulation that add costs and slow down delivery and quality of service in an environment where businesses must move quickly on behalf of their customers to stay competitive.

We strongly urge this Committee to vote in favor of SB 991 HD1.

LATE

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

Friday, March 29, 2019
3:30 pm, Room 308

To: Chair Luke and Members of the House Committee on Finance.

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.