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

TO THE
HOUSE COMMITTEE ON
INTRASTATE COMMERCE

March 12, 2019
10:00 a.m.

Chair Ohno and Members of the Committee:

MEASURE: S.B. No. 991 SD1
TITLE: RELATING TO TELECOMMUNICATIONS.

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)

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.

Written Statement of
Ani Menon
Director of Government & Community Affairs

HOUSE COMMITTEE ON INTRASTATE COMMERCE

March 12, 2019 10:00 AM
State Capitol, Conference Room 430

IN SUPPORT OF:

S.B. NO. 991 SD1 RELATING TO TELECOMMUNICATIONS

To: Chair Ohno, Vice-Chair Kobayashi, and Members of the Committee
Re: Testimony <u>in support</u> of SB 991 SD1

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

Thank you for this opportunity to submit testimony in strong support of Senate Bill 991 SD1. 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 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 captures the concerns addressed by our regulating entities and others while staying true to the original intent of SB991.

Scope of SB991 SD1 is limited to landline telephone service

The language of SB 991 SD1 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 BLES. The proposed language of this bill **<u>does not impact</u>** broadband, cable TV, interconnectivity agreements, Hawaiian Telcom's obligations regarding our wholesale services 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 **<u>does not impact</u>** VoIP ("Voice over Internet Protocol") – a service offered by our largest competitor – because VoIP is not considered a basic local exchange service and so is free from the many rules and regulations over BLES.

SB 991 SD1 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.

Hawaiian Telcom
HAWAII'S TECHNOLOGY LEADER℠

Consumer safeguards and Carrier of Last Resort remain intact

Senate Bill 991 SD1 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
- Telecommunications providers 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
- 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 its authority over BLES pricing in areas where there may be less options for voice/telephone services
- Competitors will continue to have 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 our wholesale services

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.

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. 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 money 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 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.

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

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Testimony of the Department of Commerce and Consumer Affairs

Before the
House Committee on Intrastate Commerce
Tuesday, March 12, 2019
10:00 a.m.
State Capitol, Conference Room 430

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

Chair Ohno 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 S.D. 1.

The purposes of this bill 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, S.D. 1 reflects a balanced approach to reducing regulatory oversight of fully competitive retail telecommunications services. S.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.

Charter COMMUNICATIONS

LATE

Charter Communications
Testimony of Myoung Oh, Director of Government Affairs

COMMITTEE ON INTRASTATE COMMERCE

Hawaiʻi State Capitol, Conference Room 430
Tuesday, March 12, 2019
10:00 AM

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

Chair Ohno, Vice-Chair Kobayashi, and Members of the Committee.

Senate Bill 991, Senate Draft 1 (S.B. 991, S.D.1), continues to present provisions that are unjust, unreasonable, and discriminatory. While the original S.B. 991 was sweeping and unprecedented, this bill still falls woefully short of ensuring telecommunications services in Hawaii are designed to foster competition and protect the public interest. It's important to understand that Hawaii's telephone network received millions of dollars in government and payer subsidies and is still receiving substantial universal service funds to build out their network. In exchange for these subsidies, it requires that Hawaii's stand-alone and incumbent telephone company complies with Carrier of Last Resort (COLR) and other service obligations for all customers such as lifeline telephone rates, telecommunications relay service, emergency telephone service, and rural deployment of telephone service. It's the network we turn to when all else fails and in some hard to reach rural areas in Hawaii, landlines remain the only useful tools for accessing services.

This bill 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), as they see fit for Honolulu but will be limited to annual increase of $6.50 for Maui, Kauai, and Hawaii Island. 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 reasonable, fair, and non-discriminatory. Hawaii has effective competition that is fair, and it is 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 any ratemaking oversight and would also extend to not filing price tariffs for informational purposes. Removing the PUC filing would essentially take the PUC's eyes off the ball on all rates, fares, charges, and terms and conditions.

Additionally, S.B. 991, S.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 bill as currently drafted could result in significantly reversing the benefits of competition and increase costs for all customers. 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 that proposes to strike out and repeal language on Page 6, Sections 5 and 6 that explicitly makes clear for the 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." This language should not be repealed.

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. 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.

LATE

verizon

Testimony of Michael Bagley
Director of Public Policy, Verizon
Before the House Committee on Intrastate Commerce
State Capitol, Conference Room 430
March 12, 2019

To: Chair Ohno, Vice-Chair Kobayashi, & Members of the Committee
Re: Testimony in support of SB 991, SD1 -- Relating to Telecommunications
Hearing Date: March 12, 2019 10:00 am

Chair Ohno, Vice-Chair Kobayashi, & Members of the Committee:

I am providing testimony on behalf of Verizon, regarding SB 991, SD1 legislation which seeks to modernize the state's statutory and regulatory framework, to reflect the reality of current circumstances and allow basic exchange service providers the opportunity to better serve and provide more benefits to their customers in Hawaii.

We concur with testimony provided separately by Hawaii Telecom, that the scope of SB 991, SD1 is limited to landline telephone service.

Streamlining and reducing regulations in an increasingly competitive environment in which telecom businesses operate, is a demonstration of good public policy that is in the public interest, and this bill supports these objectives.

SB 991, SD1 has the potential to reduce costs for both the basic exchange service provider and consumer, and allows resources to be directed towards consumer-friendly investments such as equipment 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 the Committee to vote in favor of passage of SB 991, SD1.