

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

TO THE
HOUSE COMMITTEE ON
HIGHER EDUCATION AND TECHNOLOGY

March 23, 2022
2:00 p.m.

Chair Takayama and Members of the Committee:

MEASURE: H.C.R. No. 118 / H.R. 118

TITLE: URGING THE PUBLIC UTILITIES COMMISSION TO DEVELOP AND ADOPT AN EFFICIENT, STREAMLINED PROCESS FOR REVIEWING ELECTRIC UTILITIES' REQUESTS TO PROVIDE MIDDLE MILE BROADBAND SERVICES IN FURTHERANCE OF THE STATE'S EFFORTS TO EXPEDITE BROADBAND ACCESS AND EQUITY.

POSITION:

The Public Utilities Commission ("Commission") offers the following comments for consideration.

COMMENTS:

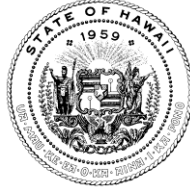
The Commission appreciates the intent of these resolutions to facilitate improvements in broadband services to rural, unserved, underserved, and urban communities throughout the state.

The Commission affirms that the existing process for reviewing any utility requests to provide middle-mile broadband services is efficient and streamlined, and may be expedited to the extent that utilities are transparent with their accounting processes and avoid engaging in anti-competitive practices. As such, this resolution may not be necessary.

The Commission will take appropriate actions to ensure that regulated utilities are required to accurately account for their broadband-related financial activities and to distinguish these transactions from those that might impact ratepayers. Such actions will

help to identify cost causation and prevent cross-subsidization among electricity customers and broadband customers, or between electric utilities and unregulated affiliates that may provide broadband service using utility infrastructure.

Thank you for the opportunity to testify on this measure.



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 Higher Education & Technology
Wednesday, March 23, 2022
2:00 PM
Conference Room 309 & Videoconference**

**On the following measure:
HCR118/HR118, URGING THE PUBLIC UTILITIES COMMISSION TO DEVELOP
AND ADOPT AN EFFICIENT, STREAMLINED PROCESS FOR REVIEWING
ELECTRIC UTILITIES' REQUESTS TO PROVIDE MIDDLE MILE BROADBAND
SERVICES IN FURTHERANCE OF THE STATE'S EFFORTS TO EXPEDITE
BROADBAND ACCESS AND EQUITY**

Chair Takayama 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 offers comments on this resolution.

The purpose of this resolution is to request the Hawaii Public Utilities Commission (Commission) to develop an efficient and streamlined process for reviewing electric utilities' requests to provide "middle mile" broadband services in support of expanding broadband services for Hawaii residents in underserved and unserved areas.

The Department appreciates and supports the intent of the resolution and recognizes the importance of developing broadband facilities that reach all communities throughout the state, especially those in unserved and underserved areas. The COVID

pandemic has clearly shown the need for broadband facilities to allow for distance learning, telemedicine, teleworking, and staying connected in our communities.

The Department recognizes that the purpose of the resolution is to encourage the Commission to enable the electric utilities to facilitate broadband access to our most vulnerable populations. The Department appreciates how the resolution recognizes that the Commission needs to ensure that the electric utility does not favor itself or its affiliates, where there should be no cross-subsidization and ensure that no electric rates include funding for facilities beyond that which is reasonably required for electric service. Along those lines, while the Commission has established rules known as the Affiliate Transaction Requirements¹ that provide safeguards to avoid potential market-power abuses and cross-subsidization between regulated and unregulated activities and to govern the interactions between the Hawaiian Electric Companies and their affiliates in transactions related to acquisitions or investments, in developing streamlined processes, it may be necessary for the Commission to revisit those guidelines to ensure that such cross-subsidization does not occur for broadband activities.

The Department respectfully notes that, beyond any proceedings that the Commission may initiate pursuant to this resolution based on its existing statutory authority, clarifying language to HRS § 269-19, via other legislation, may be necessary to provide for a streamlined application process for the sale, lease, assign, mortgage, disposal or encumbrance of any utility property used for broadband deployment. Further, in order to facilitate a streamlined process while still protecting electric customers and the respective electric, broadband, and telecommunications markets, the Commission may need to consider whether a standardized application requiring the electric utility companies to file more than sufficient information to facilitate a streamlined and efficient review process instead of requiring the regulators to rely on a discovery process to address concerns may be helpful.

¹ Promulgated by order in Exhibit A of Order No. 36112, in Docket No. 2018-0065, issued on January 24, 2019.

Thank you for the opportunity to testify on this resolution