

ACT 80

H.B. NO. 2599

A Bill for an Act Relating to Telephone Service.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that telephone service to rural areas of the state is often so inferior to service elsewhere that lives are put into jeopardy. Multi-line service and other cost-saving measures, often used in rural areas, put those in need of emergency service, often the elderly, at great risk. State policy dictates that all persons who request telephone service be provided with equal access to services, including single line service. With today's technological advances, there is no reason for any resident of Hawaii to be placed at risk because of inferior telephone service.

The purpose of this Act is to insure that telephone service providers meet the needs of every customer including those in currently underserved areas.

SECTION 2. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§269- Universal service subsidies. (a) For any alternative telecommunications provider authorized to provide basic local exchange service to any area of the State pursuant to section 269-16.9(h), the commission may consider the following:

- (1) Transferring the subsidy, if any, of the local exchange provider's basic residential telephone service to the alternative provider; and
- (2) Transferring from the local exchange carrier to the alternative provider the amounts, if any, generated by the local exchange provider's services other than basic residential telephone service and which are used to subsidize basic residential service in the area.

(b) To receive the subsidy amounts from the local exchange service provider, the alternative telecommunications provider shall be required, to the extent possible, to obtain basic residential service subsidies from both the local exchange service provider and national universal service providers."

SECTION 3. Section 269-16.9, Hawaii Revised Statutes, is amended to read as follows:

"[§269-16.9] Telecommunications providers and services. (a) Notwithstanding any provision of this chapter to the contrary, the commission may, upon its own motion or upon the application of any person, and upon notice and hearing, exempt a telecommunications provider or a telecommunications service from any or all of the provisions of this chapter upon a determination that the exemption is in the public interest. In determining whether an exemption is in the public interest, the commission shall consider whether the exemption promotes state policies in telecommunications, the development, maintenance, and operation of effective and economically efficient telecommunications services, and the furnishing of telecommunications services at just and reasonable rates and in a fair manner in view of the needs of the various customer segments of the telecommunications industry. Among the specific factors the commission may consider are:

- (1) The responsiveness of the exemption to changes in the structure and technology of the State's telecommunications industry;
- (2) The benefits accruing to the customers and users of the exempt telecommunications provider or service;
- (3) The impact of the exemption on the quality, efficiency, and availability of telecommunications services;
- (4) The impact of the exemption on the maintenance of fair, just, and reasonable rates for telecommunications services;

- (5) The likelihood of prejudice or disadvantage to ratepayers of basic local exchange service resulting from the exemption;
- (6) The effect of the exemption on the preservation and promotion of affordable, universal, basic telecommunications services as those services are determined by the commission;
- (7) The resulting subsidization, if any, of the exempt telecommunications service or provider by nonexempt services;
- (8) The impact of the exemption on the availability of diversity in the supply of telecommunications services throughout the State;
- (9) The improvements in the regulatory system to be gained from the exemption, including the reduction in regulatory delays and costs;
- (10) The impact of the exemption on promoting innovations in telecommunications services;
- (11) The opportunity provided by the exemption for telecommunications providers to respond to competition; and
- (12) The potential for the exercise of substantial market power by the exempt provider or by a provider of the exempt telecommunications service.

(b) The commission shall expedite, where practicable, the regulatory process with respect to exemptions and shall adopt guidelines under which each provider of an exempted service shall be subject to similar terms and conditions.

(c) The commission may condition or limit any exemption as the commission deems necessary in the public interest. The commission may provide a trial period for any exemption and may terminate the exemption or continue it for such period and under such conditions and limitations as it deems appropriate.

(d) The commission may require a telecommunications provider to apply for a certificate of public convenience and necessity pursuant to section 269-7.5; provided that the commission may waive any application requirement whenever it deems the waiver to be in furtherance of the purposes of this section. The exemptions under this section may be granted in a proceeding for certification or in a separate proceeding.

(e) The commission may waive other regulatory requirements under this chapter applicable to telecommunications providers when it determines that competition will serve the same purpose as public interest regulation.

(f) If any provider of an exempt telecommunications service or any exempt telecommunications provider elects to terminate its service, it shall provide notice of this to its customers, the commission, and every telephone public utility providing basic local exchange service in this State. The notice shall be in writing and given not less than six months before the intended termination date. Upon termination of service by a provider of an exempt service or by an exempt provider, the appropriate telephone public utility providing basic local exchange service shall ensure that all customers affected by the termination receive basic local exchange service. The commission shall, upon notice and hearing or by rule, determine the party or parties who shall bear the cost, if any, of access to the basic local exchange service by the customers of the terminated exempt service.

(g) Upon the petition of any person or upon its own motion, the commission may rescind any exemption or waiver granted under this section if, after notice and hearing, it finds that the conditions prompting the granting of the exemption or waiver no longer apply, or that the exemption or waiver is no longer in the public interest, or that the telecommunications provider has failed to comply with one or more of the conditions of the exemption or applicable statutory or regulatory requirements.

(h) For purposes of this section, the commission, upon determination that any area of the State has less than adequate telecommunications service, shall require the existing telecommunications provider to show cause as to why the commission should not authorize an alternative telecommunications provider for that area under the terms and conditions of this section.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved June 7, 1994.)

Note

1. Edited pursuant to HRS §23G-16.5.