

ACT 180

S.B. NO. 603

A Bill for an Act Relating to Public Utilities.

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

SECTION 1. The legislature finds that competition in the telecommunications market is robust. Consumers have many choices when deciding how to communicate: traditional land-line telephony, voice over internet protocol, and wireless phone service.

The legislature further finds that advances in voice over internet protocol and wireless phone services make these technologies viable substitutes for traditional land line telephony. These services currently provide 9-1-1 capability, number portability, reliable service, and extensive network coverage. Even though some federal and state regulators feel that these new technologies, especially wireless phone service, can never replace the traditional land line phone for casual and emergency communication needs, many consumers do not share this view. According to the Federal Communications Commission, the number of switched access lines of Hawaii's incumbent local exchange carrier decreased from 735,459 in 2001 to only 541,030 in 2007. The number of wireless subscribers in Hawaii, however, increased from 595,721 to 1,096,181 over the same period. While some consumers subscribing to wireless phone service maintain their land line or wired phone service, other consumers are subscribing to wireless service as a true alternative and thus are disconnecting their land line service. Hawaii is not unique in this respect: the telecommunications market trend is similar across the United States.

The legislature further finds that competitive local exchange carriers, currently enjoying a non-competitive switched access market, should adapt to the changing telecommunications market. When the Telecommunications Act

of 1996 opened up competition in the telecommunications market, it forced incumbent local exchange carriers to wholesale their services to competitive local exchange carriers so that they (the competitive local exchange carriers) in turn, could re-sell these services to consumers. The Act was designed to open up competition by allowing other carriers into the market, in hopes that these other carriers would eventually develop their own networks. After twelve years of competition, competitive local exchange carriers are still heavily reliant upon the incumbent local exchange carriers for wholesale services. This regulatory scheme has impeded growth of the incumbent carriers, as competition from other telecommunications and information services have eroded market share and revenue. Thus, highly regulated switched access services will continue to saddle incumbent local exchange carriers from competing with other services, while competitive local exchange carriers continue to rely on the re-sale of the incumbent's network services.

The legislature further finds that competition in Hawaii's telecommunications market is not a level playing field; the incumbent local exchange carrier is highly regulated, while other telecommunications service providers do not share the same level of regulation. Although the incumbent local exchange carrier continues to maintain the majority of lines, this dominance of market share does not take into account the meteoric rise of wireless subscribers and voice over internet protocol service. To determine competition in a modern telecommunications market, all types of services need to be evaluated for their effects in the marketplace. It will also force competitive local exchange carriers to adapt their strategies in a competitive environment.

The purpose of this Act is to require the public utilities commission to:

- (1) Classify the State's local exchange intrastate services as fully competitive with respect to certain classifications of services; and
- (2) Require telecommunications carriers to file their rates, fares, charges, and bundled service offerings for information purposes only.

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

“§269- Local exchange intrastate services; fully competitive. (a) Notwithstanding section 269-16.9 or any other law to the contrary, the public utilities commission shall treat the State's local exchange intrastate 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 rates, fares, and charges, 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 service than the rate for the same service included in the telecommunications carrier's filed tariff. All rates, fares, charges, and bundled service offerings shall be filed with the public utilities commission for information purposes only.

(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 to provide lifeline telephone service, comply with carrier of last resort obligations, or comply with applicable service quality standards.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Became law on July 15, 2009, without the governor’s signature, pursuant to Art. III, §16, State Constitution.)

Note

1. Edited pursuant to HRS §23G-16.5.