

SB

1607

EDT

**TESTIMONY OF CARLITO P. CALIBOSO
CHAIRMAN, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT & TECHNOLOGY
FEBRUARY 9, 2009**

MEASURE: S.B. No. 1607
TITLE: Relating to Regulation.

Chair Fukunaga and Members of the Committee:

DESCRIPTION:

This bill proposes to amend chapter 269, Hawaii Revised Statutes ("HRS"), to allow the state's incumbent local carrier to modify its rates, fares, and charges without prior approval or provision of cost support information to the Public Utilities Commission ("Commission"). The bill also provides that information relating to the incumbent's rates, fares, charges or bundled service offerings shall be filed with the Commission, but only for informational purposes.

POSITION:

The Commission appreciates the intent of this bill, and offers the following comments for consideration.

COMMENTS:

- As this committee is aware, amending section 269-16, HRS, to remove rate, fare, charge, and price regulation over incumbent telecommunications services as provided by this bill, would remove rate or price controls for those services, which were originally enacted to protect consumers.
- This measure is based on the assumption and finding that such protections are no longer required to protect consumers because telephone services are competitive and such services can be obtained from alternative providers.
- The Commission defers to the Legislature's findings in this regard.

Thank you for the opportunity to testify.



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TO THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND
TECHNOLOGY

THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009

MONDAY, FEBRUARY 9, 2009, 1:15 P.M.

TESTIMONY OF CATHERINE P. AWAKUNI, EXECUTIVE DIRECTOR, DIVISION OF
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER
AFFAIRS TO THE HONORABLE SENATOR FUKUNAGA, CHAIR, AND MEMBERS
OF THE COMMITTEE

SENATE BILL NO. 1607 RELATING TO REGULATION.

DESCRIPTION:

This measure exempts the incumbent local exchange carrier ("ILEC") from the provisions of chapter 269, Hawaii Revised Statutes, relating to rates, fares, and charges and requires rate filings with the PUC for information purposes only.

POSITION:

The Division of Consumer Advocacy ("Consumer Advocate") offers comments for this Committee's consideration.

COMMENTS:

The exemption from all rate review is too broad, given that the ILEC may also be the carrier of last resort for some customers. While not as likely, if given the discretion to adjust its rates either upward or downward, the ILEC could choose, under the language of this measure, to increase rates for certain hard to serve areas, including rural or remote portions of the neighbor islands. Instead of complete pricing freedom, it may be more appropriate to grant the ILEC the limited flexibility to only decrease its rates. Such an approach is contemplated in S.B. No. 895 (at section -39(d)), which was heard by this Committee last week.

Thank you for this opportunity to testify.



**Testimony to the Senate Committee on Economic Development & Technology
Monday, February 9, 2009
1:15 p.m.
Conference Room 016**

RE: SENATE BILL NO. 1607 RELATING TO REGULATION

Chair Fukunaga, Vice Chair Baker, and Members of the Committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). The Chamber supports Senate Bill No. 1607, relating to Regulation.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber of Commerce of Hawaii ("Chamber") supports SB 1607- Relating to Regulation. The Chamber believes that this measure will promote competition in the telecommunications marketplace which will benefit Hawaii's economy and our consumers.

Over the past several years, we have all been able to observe first hand the explosion of new products and services in the communications marketplace. Consumers now have the freedom to choose between numerous wireline, wireless, or VoIP providers for their phone service needs. Competition has driven down the price of phone service, increased innovation, and improved customer service.

The Chamber believes that the time has come to update Hawaii's regulatory framework by removing unnecessary regulatory barriers in telecommunications and allowing true competition to take hold. In a true open and competitive environment, the marketplace will determine the winners and losers with the major winner being Hawaii's consumers.

For these reasons, the Chamber of Commerce of Hawaii respectfully requests that the Committee approves SB 1607. Thank you for the opportunity to provide testimony.

SB 1607

RELATING TO REGULATION

**JOHN KOMEIJI
SR. VICE PRESIDENT & GENERAL COUNSEL**

HAWAIIAN TELCOM

February 9, 2009

Chair Fukunaga and members of the Economic Development and Technology Committee:

I am John Komeiji, testifying on behalf of Hawaiian Telcom on SB 1607, Relating to Regulation. Hawaiian Telcom strongly supports this bill and would like to offer several amendments for your consideration.

The stated purpose of this bill is to help level the regulatory playing field in telecommunications services by allowing the incumbent local exchange carrier regulatory parity in its ability to offer new and existing products and services immediately. Passage of this measure will help to provide Hawaiian Telcom the freedom to provide consumers a more timely and greater selection of products, services, and bundled offerings at competitive prices in the same manner as other service providers such as wireless and VoIP, which are either unregulated or do not face the same level of regulatory oversight that Hawaiian Telcom currently faces.

Dramatic changes in technology and the telecommunications industry have resulted in significant competition to Hawaiian Telcom. For example, competition from wireless, internet phone (VoIP), and other wireline providers all provide competitive alternatives to the traditional landline. The Federal Communications Commission (FCC) has confirmed this competitive transformation in Hawaii's telecommunications marketplace. According to the FCC, the number of access lines for Hawaii's incumbent local exchange carrier (Hawaiian Telcom) decreased from 735,000 in 1999 to only 524,000 in 2008. The number of local wireless subscribers, however, soared to 1,100,000 over the same period. In addition, the number of VoIP customers jumped from zero to 65,000 over the same period.

In Hawaii, Hawaiian Telcom is currently subject to many laws and requirements that were enacted long ago, some as early as 1913 when the incumbent local exchange carrier was a monopoly with no other service providers. These laws and requirements have not been adapted to recognize that Hawaiian Telcom is no longer a monopoly and is now subject to significant competition in the services it provides. Today consumers have the freedom to choose between a wide array of wireless, internet phone, and competing wireline providers.

Hawaiian Telcom supports this effort to provide our company with a more level regulatory playing field which will help us to provide consumers with what they demand: more innovation, competitive pricing, timely introduction, and greater selection of new products and services.

We would like to offer the following amendments which will help clarify the original intent of the measure:

1. On page 14, line 5 insert the phrase, “except for the rates, fares, and charges applicable to facilities for intrastate switched and special access with respect to wholesale customers,” to clarify that this section does not apply to wholesale services.
2. On page 14, line 7 delete the term, “incumbent local exchange” and replace with the term “telecommunications” to clarify that this section shall apply to all telecommunications carriers and not exclusively to the incumbent local exchange carrier.
3. On page 14, line 7 insert the phrase, “classifications, rules, and practices implementing such rates, fares, and charges” to clarify what are covered under this section.
4. On page 14, line 8 delete the term, “incumbent local exchange” and replace with the term “telecommunications” to clarify that this section shall apply to all telecommunications carriers and not exclusively to the incumbent local exchange carrier.
5. On page 14, line 11 delete the term, “shall not be required” and replace with the word “/or” to clarify that this section shall apply to bundled services.

The amendment should read as follows:

(h) Notwithstanding any law to the contrary, **except for the rates, fares, and charges applicable to facilities for intrastate switched and special access with respect to wholesale customers**, none of the provisions of this chapter shall apply to the rates, fares, and charges of the **telecommunications** [incumbent local exchange] carrier, and the **classifications, rules, and practices implementing such rates, fares, and charges**. **The telecommunications** [incumbent local exchange] 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 and/or [shall not be required] to bundle any service offerings into a single or combined pricing package. Notwithstanding the above, all rates, fares, charges, and bundled service offerings shall be filed with the commission for informational purposes only and become effective immediately upon filing."

Based on the aforementioned, Hawaiian Telcom supports this measure and respectfully requests your favorable consideration. Thank you for the opportunity to testify.



February 6, 2009

Senator Carol Fukunaga, Chair
Senator Rosalyn H. Baker, Vice Chair
Committee on Economic Development and Technology

Re: SB 1607, Relating to Regulation – Oppose
EDT - February 9, 2009, 1:15 pm – Conference Room 016

Aloha Chair Fukunaga, Vice Chair Baker and members of the Committee:

On behalf of tw telecom (TWTC) which has operated in Hawaii since 1994 and manages approximately 25,000 access lines in the State of Hawaii, thank you for the opportunity to submit testimony today. I am Lyndall Nipps, Vice President of Regulatory Affairs for tw telecom.

The purpose of this bill is to exempt the incumbent local exchange carrier, Hawaiian Telcom, from the provisions of chapter 269, HRS, relating to rates, fares, and charges and requires rate filings with the PUC for information purposes only.

TWTC objects to this bill and disagrees with the findings that changes in the telecommunications industry have resulted in effective competition and lessened the need for regulatory oversight over the Hawaiian Telcom.

TWTC acknowledges that competition has developed since the time the existing Telecommunications Act and rules were developed. However, TWTC disagrees with findings in this bill and statements that have been made in connection with other bills suggesting that the market for telecommunications services is fully competitive, and that the existing regulatory scheme is unfair to Hawaiian Telcom. If one were to look at Hawaii's market data for the local telecommunications market, one would undoubtedly find that Hawaiian Telcom continues to dominate both the residential and business sectors in all relevant categories – number of customers, number of lines, revenues, buildings connected to its own network, miles of fiber, etc. Further, such statements ignore the fact that there are a number of different market segments in Hawaii, e.g., residential, business, wholesale, retail, wireless, and wireline, and that not all of these market segments are subject to the same level of competition.

The majority of the Hawaii telecommunications regulatory scheme was crafted within the last decade and was the result of significant efforts by Hawaiian Telcom's predecessor, the Public Utilities Commission, and other interested parties. That regulatory scheme recognized that asymmetrical power requires asymmetrical regulation. Further, that regulatory scheme already contains a procedure for the Public Utilities Commission to reclassify services as partially or fully competitive where the facts justify such reclassification. Those rules also give the PUC discretion to subject such services to

alternative regulation. Hawaiian Telcom has not sought to utilize those procedures. The determination of the extent of regulation and any changes to existing rate regulations should be made by the PUC under existing procedures based on factual findings with opportunity for input by all interested parties, not through legislation which seeks to circumvent those procedures.

For these reasons, we respectfully request that you hold this bill.

Sincerely,

/s/

Lyndall Nipps
Vice President, Regulatory Affairs

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SB 1607
Relating To Regulation

Robert T. Tanimura, Ph. D.
Director – Public Affairs, Policy & Communications
Verizon Communications
808-595-6521

Monday February 9, 2009

Senator Carol Fukunaga, Chair
Senator Rosalyn H. Baker, Vice Chair
Senate Committee On Economic Development And Technology

Support with Amendments - SB 1607 Relating To Regulation.

My name is Robert T. Tanimura and I am testifying on behalf of Verizon Communications on SB 1607, "A Bill For An Act Relating Regulation." Verizon offers the following comments on SB 1607:

- Verizon agrees that the telecommunications world has changed radically in the past few years. Today, there is robust competition in Hawaii between different technological platforms. This competition obviates the need for public utility regulation for telecommunications carriers. Indeed, it is essential for Hawaii to create an environment that is conducive to private investment in telecommunications and broadband and SB 1607 would further this goal by allowing all carriers to compete on an equal footing.
- However, there are two important modifications that should be made to the proposed legislation. First, the exemption from public utility rate regulation should be made for all telecom carriers, not just the incumbent local exchange carriers (ILEC), in order to ensure a level playing field. Second, the exemption from public utility rate regulation should apply only to retail services and not to intrastate switched and special access services, which are wholesale services provided other carriers. The same level of platform competition that is present for retail service does not exist for wholesale carrier services at this time.

Thank you for the opportunity to testify.