

DEPARTMENT OF BUDGET AND FINANCE

Adoption of Chapter 6-82

Hawaii Administrative Rules

August 29, 1997

SUMMARY

Chapter 6-82, Hawaii Administrative Rules, entitled "Pay Telephone Service", is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 6

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SUBCHAPTER 1

GENERAL PROVISIONS

'6-82-1 Purpose and scope of rules; non-application of chapter 6-82. (a) The purpose of this chapter is to adopt procedures and standards for pay telephone service that will:

- (1) Foster competition in the provisioning of pay telephone service;
- (2) Ensure the payment of fair compensation to providers of pay telephone service; and
- (3) Protect the interests of users of pay telephones.

(b) This chapter does not apply to:

- (1) International or interstate pay telephone service; or

(2) In-room telephones provided by an aggregator in a hotel, motel, hospital, school dormitory, or other such similar facility for use by the facility's guests, patients, students, or other transient (non-permanent) residents. [Eff]
(Auth: HRS "269 6, 269-16.9, 269-34) (Imp: HRS "269 16.9, 269-34, 47 U.S.C. '276)

'6-82-2 Application of additional sources. This chapter:

(1) Shall be read in context with any applicable:

(A) Federal law and regulation, including any FCC order and regulation implementing 47 U.S.C. '276; and

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(B) State law and commission order and rule, including chapter 269, HRS, and chapters 6-61, 6-80, and

6-81; and

(2) Supersedes any conflicting commission order or rule that may be in effect on the effective date of this chapter. [Eff _____] (Auth: HRS "269-6, 269-16.9, 269-34) (Imp: HRS "269-16.9, 269-34, 47 U.S.C. '276)

'6-82-3 Definitions. As used in this chapter, unless the context clearly requires otherwise:

"Aggregator" means the same as in '269-16.8, HRS.

"ANI" means automatic number identification.

"Call" means a customer's telecommunications message attempted.

"Certificate of authority" or "COA" means the certificate issued pursuant to chapter 6-80, subchapter 2.

"Certificate of public convenience and necessity" or "CPCN" means the certificate issued pursuant to '269 7.5, HRS.

"Certificate of registration" or "COR" means the certificate issued pursuant to chapter 6-80, subchapter 2.

"Commission" means the public utilities commission of the State.

"Completed call" means a call answered by the called party. A call is answered by a called party when the call is answered by a human recipient, an answering device, or a call processing device. A call is not a completed call when it reaches a telecommunications carrier's platform for routing to a called party.

"Consumer advocate" means the department of commerce and consumer affairs, division of consumer advocacy, of the State.

"CFR" means the Code of Federal Regulations.

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"FCC" means the Federal Communications Commission.

"HRS" means the Hawaii Revised Statutes.

"Incumbent telecommunications carrier" or "incumbent carrier" means the telecommunications carrier referred to in '269-7.5(c), HRS.

"Independent pay telephone service provider" means a pay telephone service provider other than the incumbent telecommunications carrier and includes both a telecommunications carrier and a non-telecommunications carrier.

"Interisland" means between and among the islands of the State.

"Interstate" means between and among the states of the United States, the territories of the United States, and the District of Columbia.

"Intrastate" means within the State.

"LATA" means local access and transport area.

"Local call" means a call within the same island, as opposed to an interisland call.

"Long distance" includes interisland, interstate, and international telecommunications service.

"Operator service" means a service provided by a telecommunications carrier to assist a customer to complete a telephone call.

"Pay telephone" means a telephone that is accessible by the public for use on a fee per call basis, independent of any other commercial transaction, and is activated for placing telephone calls by inserting a coin, calling collect, or using a calling card or by any other means. It includes a public pay telephone (i.e., a pay telephone

installed in a public place), semi-public pay telephone (i.e., a pay telephone installed in a semi-public place, such as a store, restaurant, bar, and government facilities), and institutional pay telephone; provided that the term does not include the in-room telephone service described in '6 82 1(b)(2).

"Pay telephone service" means the provision of a pay telephone and any ancillary services.

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"Pay telephone service provider" or "provider" means any person that provides pay telephone service. It includes the incumbent telecommunications carrier and independent pay telephone service providers.

"Person" includes individuals, partnerships, corporations, associations, joint stock companies, public trusts, organized groups of persons, whether incorporated or not, receivers or trustees of the foregoing, municipalities, including cities, counties, or other political subdivisions of the State, or any agency, authority, or instrumentality of the State, or any one or more of the foregoing.

"Rules" means the Hawaii Administrative Rules.

"State" means the State of Hawaii.

"Tariff" means the documents that describe the service or product offered by the pay telephone service provider and prescribe the terms and conditions and the schedule of rates and charges under which the service or product is offered.

"Telecommunications carrier" means the same as in '269-1, HRS, and includes the incumbent telecommunications carrier.

"Telecommunications relay service" means the same as relay services for the deaf, hearing-impaired, and speech-impaired, under '269-16.6, HRS.

"Telecommunications service" means the same as in '269-1, HRS.

"User" means a person who uses a pay telephone to initiate a call.

"U.S.C." means the United States Code. [Eff _____] (Auth: HRS "269 6, 269-16.9, 269-34) (Imp: HRS "269-16.9, 269 34, 47 U.S.C. '276)

'6-82-4 Enforcement of chapter 6-82; pay telephone service provider enforcement program.

(a) Chapter 269, HRS, and any other applicable State law and commission rule and order apply to the enforcement of this chapter.

(b) Upon consultation with the consumer advocate, pay telephone service industry, and any

'6-82-6

other person designated by the commission, the commission may develop and maintain a pay telephone service provider enforcement program. [Eff]
(Auth: HRS "269-6, 269-16.9, 269 34) (Imp: HRS "269-16.9, 269 34, 47 U.S.C. '276)

'6-82-5 Pay telephone service provider - public utility. Unless otherwise ordered or exempted by the commission, a pay telephone service provider is a public utility within the meaning of '269-1, HRS. [Eff] (Auth: HRS "269-6, 269-16.9, 269 34) (Imp: HRS "269-16.9, 269 34, 47 U.S.C. '276)

'6-82-6 Obligations of incumbent telecommunications carrier. Consistent with the purpose of fostering competition in the provisioning of pay telephone service, the incumbent telecommunications carrier shall:

(1) Offer to independent pay telephone service providers, on an unbundled basis

and under a nondiscriminatory public, tariffed offering, any individual central office coin transmission service that the incumbent carrier provides to its own pay telephone operations;

(2) Offer to independent pay telephone service providers on a nondiscriminatory basis such other services that the incumbent carrier provides to its own pay telephone operations, including, as applicable:

(A) Fraud protection;

(B) Special numbering assignments;

(C) Installation and maintenance of basic pay telephone lines; and

(D) Billing and collection services where the basic, tariffed pay telephone services offered to other pay telephone service providers function only in

'6-82-6

conjunction with billing and collection services, such as where coin services require the incumbent carrier to monitor coin deposits and such information is not otherwise available to third parties for billing and collection;

(3) Establish the demarcation point for the incumbent carrier's pay telephones at the same demarcation point as that for independent pay telephone service providers;

(4) Discontinue all intrastate and interstate carrier access charge pay telephone service elements and payments and all intrastate and interstate pay telephone subsidies from basic exchange and exchange access revenues; and

(5) Extend dialing parity to all pay telephones.

[Eff _____] (Auth: HRS "269-6, 269-16.9, 269 34) (Imp: HRS "269-16.9, 269 34, 47 U.S.C. '276)

'6-82-7 Severability clause. If any provision of this chapter, or the application

thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [Eff] (Auth: HRS "269-6, 269-16.9, 269-34) (Imp: HRS "269 16.9, 269-34)

'6-82-8 to 10 (Reserved)

'6-82-12

SUBCHAPTER 2

CERTIFICATION OF PAY TELEPHONE SERVICE PROVIDERS

'6-82-11 Certification. (a) A telecommunications carrier granted a CPCN, COA, or COR authorizing the provision of telecommunications service in the State need not apply for an additional COA or COR in order to offer or provide intrastate pay telephone service. Any such telecommunications carrier, however, before adding or expanding the nature or scope of its telecommunications services beyond that authorized in its existing CPCN, COA, or COR, to include intrastate pay telephone service, shall file a separate tariff for its new service, unless ordered otherwise by the commission.

(b) Any person, other than a telecommunications carrier covered by subsection (a),

seeking to offer, initiate, or provide intrastate pay telephone service shall apply in writing to the commission for a certificate of registration. The application shall comply with the applicable provisions of chapter 6-80, subchapter 2.

(c) The provisions of chapter 6-80, subchapter 2, govern the issuance or denial of any certificate authorizing pay telephone service. [Eff] (Auth: HRS "269-6, 269-16.9, 269-34) (Imp: HRS "269-16.9, 269-34, 47 U.S.C. '276)

'6-82-12 Terms and conditions of certification. Any certificate issued authorizing pay telephone service and any holder of such certificate are subject to the terms and conditions enumerated in chapter 6 80, subchapter 2, including those relating to suspension and revocation of certificates. [Eff] (Auth: HRS "269-6, 269-16.9, 269-34) (Imp: HRS "269 7.5, 269-16.9, 269-34, 47 U.S.C. '276)

'6-82-13

"6-82-13 to 17 (Reserved)

SUBCHAPTER 3

LOCATION CONTRACTS AND CARRIER SELECTION

'6-82-18 Non-impairment of existing contracts. Nothing in this chapter affects any contract between a location provider and a pay telephone service provider or

interLATA or intraLATA telecommunications carrier entered into before February 8, 1996, the date of the enactment of the Federal Telecommunications Act of 1996.
[Eff] (Auth: HRS "269-6, 269.9, 269 34) (Imp: 47 U.S.C. '276)

'6-82-19 Location contracts - limitations. (a) No location contract between a location provider and a pay telephone service provider may:

(1) Impose premature contract termination penalties or termination liability, unless a premature termination penalty or liability provision is clearly and plainly set forth in the:

(A) Contract with the location provider; and

(B) Pay telephone service provider's tariff.

(2) Grant to the pay telephone service provider an exclusive right to place pay telephones on the location provider's premises; or

(3) Restrict the location provider from using the pay telephones of any other pay telephone service provider.

(b) Notwithstanding subsection (a)(1), a pay telephone service provider may not enforce any premature termination penalty or liability provision

'6-82-21

included in any location contract entered into on or after February 8, 1996, for any premature termination occurring between January 31, 1997 and one year after the effective date of this chapter.

[Eff] (Auth: HRS "269-6, 269-16.9, 269-34) (Imp: HRS '269-16.9, 269-34, 47 U.S.C. '276)

'6-82-20 Right to negotiate carrier selection. A pay telephone service provider has the right to negotiate with the location provider on the location provider's selecting and contracting with and, subject to the terms of any agreement with the location provider, to select and contract with the carriers that carry interLATA and intraLATA calls from the pay telephone service provider's pay telephone.

[Eff] (Auth: HRS "269-6, 269-16.9, 269-34) (Imp: 47 U.S.C. '276)

'6-82-21 Report on location of pay telephones. Each pay telephone service provider, on an annual basis, shall submit to the commission a description of:

(1) The current locations of its pay telephone stations, by exchange or geographical areas; and

(2) The changes from its previous filing, noting the deletions and additions of pay telephone stations.

In addition to the annual filing, the commission may, at any time, require a pay telephone service provider to submit its current, updated listing of its pay telephone stations. [Eff] (Auth: HRS "269-6, 269-16.9, 269-34) (Imp: HRS "269-16.9, 269 34, 47 U.S.C. '276)

'6-82-22

"6-82-22 to 26 (Reserved)

SUBCHAPTER 4

RATES AND CHARGES

'6-82-27 Subsidy prohibited. The cross-subsidization of pay telephone service by basic exchange service or any local access charge or any other telecommunications service is prohibited. [Eff] (Auth: HRS "269-6, 269-16.9, 269-34) (Imp: HRS "269-16.9, 269-34, 47 U.S.C. '276)

'6-82-28 Pay telephone - user rates and charges. (a) Unless demonstrated that market failures do not allow for market-based rates, a pay telephone service provider shall provide its service to users of its pay telephone at the rates and on the terms and conditions as the market may determine. The rate for local calls shall be at a flat fee per call. No limitation may be placed on the duration of a call, except that, if required by the public interest, the commission, by order, may impose or allow the imposition of a limitation.

(b) A pay telephone service provider shall file tariffs with the commission, setting forth the rates, terms, and conditions of its pay telephone service. The tariffs shall be processed in compliance with the applicable provisions of:

- (1) The commission's orders and rules, including chapter 6-80, subchapter 4;
- (2) The terms and conditions of the provider's CPCN, COA, or COR; and
- (3) Federal law and regulation, including:
 - (A) 47 U.S.C. '276; and

'6-82-29

(B) Any FCC order and regulation implementing 47 U.S.C. '276.

Where it is demonstrated that market failures do not allow for market-based rates, the commission shall determine the rates for pay telephone service.

(c) Where locational monopoly in the provision of pay telephone service occurs as a result of market failure, whether due to the size of the location or the caller's lack of time to identify potential substitute pay telephones or any other factor, the commission may impose limitations and conditions, including capping the number of calls subject to

compensation that may be made from a particular pay telephone, to limit the exercise of locational market power. [Eff] (Auth: HRS "269-6, 269 16.9, 269-34) (Imp: HRS "269-8, 269-16, 269 16.9, 269-34, 47 U.S.C. '276)

'6-82-29 No user charge for certain access. A pay telephone service provider shall provide access to the user of the pay telephone, at no charge and without the necessity of inserting a coin or any other access device, to the following:

- (1) Dial tone;
- (2) The operator or telecommunications carrier of the user's choice;
- (3) Telecommunications relay service via 511 and 711 dialing;
- (4) Toll-free numbers;
- (5) The long distance carrier of the user's choice;
- (6) The telecommunications carrier's facilities, through which the user can:
 - (A) Report service trouble or complaints; or
 - (B) Request refunds or general assistance;
- (7) Emergency services via 911 dialing; and
- (8) Repair service. [Eff] (Auth: HRS "269-6, 269-16.9, 269-34) (Imp:

'6-82-29

HRS "269-8, 269 16, 269-16.9, 269-34, 47 U.S.C. '276)

'6-82-30 Refund for uncompleted call. Each pay telephone must be programmed to return, promptly after the user hangs up, the coins or money deposited by the user in an attempted but uncompleted call. Attempted but uncompleted calls include calls that result in the user encountering a:

(1) Busy signal;

(2) Ring but no answer; or

(3) Network recording, such as a recording informing the user that the dialed telephone number has been disconnected. [Eff] (Auth: HRS "269-6, 269 16.9, 269-34) (Imp: HRS "269-8, 269 16, 269-16.9, 269-34, 47 U.S.C. '276)

'6-82-31 User charge for directory assistance service. (a) A pay telephone service provider may charge the user of its pay telephone a market-based rate for directory assistance service.

(b) If the incumbent telecommunications carrier imposes a charge on a pay telephone service provider for directory assistance service made from that provider's pay telephone, the incumbent carrier must impute the same charge for directory assistance service to its own pay telephones. [Eff] (Auth: HRS "269-6, 269 16.9, 269-34) (Imp: 47 U.S.C. '276)

'6-82-32 Compensation for access code, 800, and debit card calls. (a) A pay telephone service provider shall be fairly compensated for each completed compensable call from the carrier to whom the call is routed. As used in this section, a

'6-82-38

"compensable call" means access code calls, subscriber 800 and other toll free calls, and debit card calls. It also includes 0+ calls in the absence of a contract providing compensation to the pay telephone service provider.

(b) The applicable FCC orders and regulations, as they may be amended from time to time, govern compensation for compensable calls.

[Eff] (Auth: HRS "269-6, 269-16.9, 269-34) (Imp: 47 U.S.C. '276)

'6-82-33 to 37 (Reserved)

SUBCHAPTER 5

PAY TELEPHONE SERVICE STANDARDS

'6-82-38 Pay telephone service standards - general. A pay telephone service provider shall:

- (1) Offer or provide pay telephone service according to its tariff on file with the commission;
- (2) Not unreasonably discriminate between and among customers in providing pay telephone service;
- (3) Not unreasonably discriminate between and among localities in providing pay telephone service;
- (4) Comply with all federal laws and regulations relating to pay telephone service, including any FCC order and regulation implementing 47 U.S.C. '276; and
- (5) To the extent applicable, comply with the telecommunications standards set forth in chapter 6-80, subchapters 8, 9, and 11. [Eff] (Auth: HRS "269-6,

'6-82-38

269 16.9, 269-34) (Imp: HRS "269-16.9, 269 34, 47 U.S.C. '276)

'6-82-39 Pay telephone service standards - operations. The following minimum operating standards apply:

- (1) A pay telephone station shall be adequately lighted so that its placards and touch tone dials are easily visible;
- (2) Unless otherwise ordered or exempted by the commission, pay telephones shall be capable of completing both local and long distance calls;
- (3) Pay telephone equipment shall be maintained in a clean and operable manner;
- (4) Pay telephone equipment connection to the public switched network shall

comply with any applicable:

(A) FCC regulations under 47 CFR Part 68, unless exempted by 47 CFR '68.2(a)(1) or any other applicable exemption under 47 CFR Part 68;

(B) National Electrical Safety Code standards; and

(C) National Electrical Code standards;

(5) Pay telephones shall offer or provide single line dial tone with touch tone dialing. In addition, pay telephones shall provide dial tone first, without charge, to allow free access to the services listed in '6 82 29;

(6) Pay telephones shall be configured and programmed so as not to require the payment of a higher charge than is tariffed by the pay telephone provider;

(7) Pay telephones shall be configured and programmed to charge only for completed calls. Pay telephones shall be programmed to return all coins or money used to make calls that are not completed;

'6-82-40

(8) Coin operated pay telephones shall be capable of receiving nickels, dimes, and quarters;

(9) Pay telephones operated by credit cards or other access methods shall clearly identify all credit cards or access methods that may be used;

(10) The provisioning of pay telephone service shall comply with any applicable:

(A) Federal law and regulation, including provisions of the Americans with Disabilities Act; and

(B) State statutes and rules pertaining to the access or use of pay telephones by the disabled; and

(11) A pay telephone keypad shall contain both alphabetic and numeric characters. The use of a letterless keypad for a pay telephone is prohibited.
[Eff] (Auth: HRS "269-6, 269-16.9, 269 34) (Imp: HRS "269-16.9, 269-34, 47 U.S.C. '276)

'6-82-40 Interconnection with the public switched network. (a) All pay telephones shall be interconnected with the public switched network in accordance with applicable:

- (1) Federal law and regulation;
- (2) State law and commission order and rule; and
- (3) Tariffs and interconnection agreements.

(b) Pay telephone service providers shall enter into any necessary access, interconnection, and network termination agreements, consistent with chapter 6-80.

(c) A telecommunications carrier furnishing access necessary for a pay telephone to be interconnected with the public switched network shall provide such access at a flat rate. [Eff _____] (Auth: HRS "269 6, 269-16.9, 269 34) (Imp: HRS "269-16.9, 269 34, 47 U.S.C. '276)

'6-82-41

'6-82-41 Operator services. A pay telephone service provider:

- (1) Shall not obtain service from an operator service provider that is not authorized or certified, pursuant to chapter 6-79, to provide operator service in the State; and
- (2) May not restrict access to the operator service provider servicing its pay telephone. [Eff _____] (Auth: HRS "269-6, 269 16.9, 269-34) (Imp: HRS "269 16.9, 269 34, 47 U.S.C. '276)

'6-82-42 Required user information at the pay telephone station. A pay telephone service provider shall conspicuously display on, or in the immediate vicinity of, its telephone or telephone equipment, the following information:

- (1) A permanent and distinctive identification number of the pay telephone station, which may be the telephone number of the pay phone, that is clearly visible to the customer;
- (2) The general operation of the pay telephone;
- (3) The name, mailing address, and toll-free business telephone number of the pay telephone service provider;
- (4) The name, mailing address, and toll-free business telephone number of the operator service provider preselected to serve the pay telephone;
- (5) The telephone number of the pay phone;
- (6) The rate charged for a local call;
- (7) Coin or money deposit and return information;
- (8) That calls can be made at no charge and without the use of a coin for the services listed in '6-82-29, including 911;
- (9) Dialing instructions for the services listed in '6-82-29;

'6-82-47

(10) That 911 is the primary emergency telephone number to be used when dialing from the pay telephone;

(11) The name, business address, and toll-free business telephone number of the long distance telecommunications carrier preselected to carry long distance calls from the pay telephone;

(12) That the user may access the long distance carrier of the user's choice (other than the preselected carrier) by dialing that carrier's access code;

(13) The amount of any surcharges or additional charges imposed for the use of the pay telephone by the pay telephone provider or by the owner of the premises where the pay telephone is located;

(14) The toll-free business telephone number to dial to obtain from the preselected operator service provider information on the rates, surcharges, terms, or conditions applicable to operator assisted calls placed from the pay telephone;

(15) A toll-free business telephone number to dial:

- (A) To secure a refund for an uncompleted call as provided in '6-82-30;
- (B) To obtain a resolution from the pay telephone provider of a billing or service complaint; or
- (C) To file a pay telephone repair request; and

(16) That incoming calls are blocked, if the pay telephone will not accept or signal incoming calls. [Eff _____] (Auth: HRS "269-6, 269-16.9, 269-34) (Imp: HRS "269 16.9, 269-34, 47 U.S.C. '276)

"6-82-43 to 47 (Reserved)

'6-82-48

SUBCHAPTER 6

PUBLIC INTEREST PAY TELEPHONE

'6-82-48 Public interest pay telephone - defined. "Public interest pay telephone," as used in this subchapter, means a pay telephone that is placed, in the interest of the public health, safety, or welfare, at a location where there would not otherwise be a pay telephone as a result of the operation of the competitive marketplace. "Public interest pay telephone" does not include a pay telephone that is:

- (1) Provided for a location provider with whom a pay telephone service provider has a contract;

(2) Located at a place where access by the general public is restricted; or

(3) Located near another pay telephone. [Eff] (Auth: HRS "269-6, 269-16.9, 269-34) (Imp: 47 U.S.C. '276)

'6-82-49 Installation of public interest pay telephone. (a) The commission may, on its own initiative or at the written request of any person, investigate and determine whether it is in the public interest to direct the placement of a public interest pay telephone at or about a particular location. If a written request to the commission for the installation of a public interest pay telephone is made, the original plus eight copies must be filed with the commission. The commission will notify the following persons of the commission's investigation:

(1) The telecommunications carrier or carriers providing telecommunications service to the geographical or exchange area in which the targeted location is situated;

(2) The pay telephone service providers providing pay telephone service in the

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geographic or exchange area described in paragraph (1); and

(3) The consumer advocate.

Each person receiving notification of the commission's investigation shall, within fifteen days of the notification, file a response to the proposed placement of a public interest pay telephone. The respondent shall indicate in its response whether it has any objection to the placement of a public interest pay telephone at or about the targeted location. The original plus eight copies of the response must be filed with the commission.

(b) In determining whether a public interest pay telephone should be placed at or about the targeted location, the commission shall consider, among other things:

(1) The public interest to be served by the placement of a public interest telephone

at or about the targeted location;

- (2) The relative proximity of the targeted location to another pay telephone;
- (3) The accessibility of any existing pay telephone in the neighborhood of the targeted location;
- (4) The potential for a freely competitive marketplace to provide pay telephones at or about the targeted location; and
- (5) Any other factors deemed relevant by the commission.

(c) If the commission deems it in the public interest to place a public interest pay telephone at a particular location, the commission may direct any telecommunications carrier or any pay telephone service provider to install and maintain a public interest pay telephone at that location. The commission may, at its option, select the public interest pay telephone service provider through a competitive bidding process, in which event the applicable provisions of '6-81-55(a) and (b) will apply. [Eff _____] (Auth: HRS "269-6, 269-16.9, 269-34) (Imp: '276)

'6-82-50

'6-82-50 Funding for public interest pay telephone. (a) The telecommunications carrier or pay telephone service provider selected to install and maintain a public interest pay telephone is entitled to recover all costs associated with the installation and maintenance of the public interest pay telephone. It shall be reimbursed for its costs from the universal service fund to the extent it does not recover its costs from payments made to it from the use and operations of the public interest pay telephone.

(b) All pay telephone service providers providing pay telephone service within the State shall contribute towards the cost of providing public interest pay telephone service. The commission shall, by order, from time to time but not less than annually, set the amount of the contribution required to be made on account of public interest pay telephone service by each pay telephone service provider, based on a percentage of the provider's gross operating revenues from the provisioning of pay telephone service in the State during the preceding calendar year; provided that the commission may:

- (1) Set a minimum amount to be paid by any provider; and

(2) Periodically review and adjust the percentage or minimum amount, or both, based on the need to provide public interest pay telephone service.

(c) Each pay telephone service provider shall pay its contribution directly to the administrator of the universal service fund. Any late payment bears interest at the rate of ten percent per year. A payment is late if not made within fifteen days of the due date. The administrator of the universal service fund shall separately account for the payments made into the universal service fund for the provision of public interest pay telephone service.

(d) The commission may, as necessary, advance reasonable commission funds for any start-up costs associated with the implementation of public interest pay telephone service.

'6-82-57

(e) The applicable provisions of chapter 6-81, subchapters 3 and 4, apply to the administration of and contributions to the universal service fund for the provision of public interest pay telephone service. [Eff] (Auth: HRS "269-6, 269-16.9, 269-34, 269-35, 269-41, 269-42, 269-43) (Imp: 47 U.S.C. '276)

'6-82-51 Cost verification. The provider of public interest pay telephone service shall file with the commission, from time to time as directed by the commission but not less than annually, a verified accounting of its costs in providing public interest pay telephone service. The commission may prescribe the form on which such verified accounting must be made. All such accounts are subject to audit by an independent certified public accountant selected by the commission. [Eff] (Auth: HRS "269-6, 269-16.9, 269-34) (Imp: 47 U.S.C. '276)

'6-82-52 User rates for public interest pay telephone. The user rates, terms, and conditions of a public interest pay telephone shall not be greater than the prevailing market user rates, terms, and conditions of other pay telephones in the geographic

or exchange area in which the public interest pay telephone is located. [Eff] (Auth: HRS "269-6, 269-16.9, 269-34) (Imp: 47 U.S.C. '276)

'6-82-53 to 57 (Reserved)

'6-82-58

SUBCHAPTER 7

INSTITUTIONAL PAY TELEPHONE SERVICE

'6-82-58 Institutional pay telephone - defined. "Institutional pay telephone," as used in this subchapter, means a pay telephone located in:

(1) A government or government-contracted correctional facility or center, including a prison or jail, and provided for the convenience and benefits of the inmates (including juveniles) in such facility; or

(2) A psychiatric facility, special treatment facility, or community mental health center, as defined in '334-1, HRS, and provided for the convenience and benefit of the patients in such facility. [Eff] (Auth: HRS "269-6, 269-16.9, 269-34) (Imp: HRS "269-16.9, 269-34, 47 U.S.C. '276)

'6-82-59 Use limitations. (a) Notwithstanding any provision to the contrary in this chapter, upon consultation with the affected facility identified in '6-82-58 and with the facility's consent, a pay telephone service provider may, consistent with the legal rights of inmates and patients, impose such limitations on the use of its institutional pay telephone and on access to pay telephone features and services as necessary to protect and maintain the security, safety, and general welfare of the facility and its staff, visitors, inmates, and patients.

(b) Consistent with subsection (a), a provider of institutional pay telephone service may:

(1) Limit the use of the pay telephone to outgoing calls, including outgoing collect calls only;

(2) Block access to certain outgoing telephone numbers and calls;

'6-82-60

(3) Block incoming calls;

(4) Limit the duration of telephone calls; and

(5) Terminate the connection of telephone calls.

(c) A provider of institutional pay telephone service shall ensure that the operator service provider providing operator service to the institutional pay telephone adheres to the limitations placed on the institutional pay telephone. [Eff _____] (Auth: HRS "269-6, 269-16.9, 269-34) (Imp: HRS "269-16.9, 269-34, 47 U.S.C. '276)

'6-82-60 Institutional pay telephone service - user rates. (a) Unless demonstrated that market failures do not allow for market-based rates, a provider of institutional pay telephone service shall provide its service at the rates and on the terms and conditions as the market may determine. The rate for local calls shall be at a flat fee

per call.

(b) The provider shall file tariffs with the commission, setting forth the rates, terms, and conditions of its institutional pay telephone service, as provided in '6-82-28. The tariffs filed with the commission must include:

(1) Any limitations on the use of the institutional pay telephone and on access to the pay telephone's features and services established pursuant to '6-82-59; and

(2) The terms of any contract, agreement, standards, or guidelines established and agreed to between the institutional pay telephone service provider and the facility institution in which the institutional pay telephone is situated.

Where it is demonstrated that market failures do not allow for market-based rates, the commission shall determine the rates for institutional pay telephone service.

[Eff _____] (Auth: HRS "269-6, 269-16.9, 269-34) (Imp: HRS "269-16.9, 269-34, 47 U.S.C. '276)

'6-82-61

'6-82-61 Applicability of other pay telephone requirements. Unless clearly inapplicable, all provisions of chapter 6-82, subchapters 1 to 6, apply to institutional pay telephones and institutional pay telephone service. [Eff _____] (Auth: HRS "269-6, 269-16.9, 269-34) (Imp: HRS "269-16.9, 269 34, 47 U.S.C. '276)

"6-82-62 to 66 (Reserved)

DEPARTMENT OF BUDGET AND FINANCE

Chapter 6-82, Hawaii Administrative Rules, on the Summary Page dated August 29, 1997, was adopted on August 29, 1997, following public hearings held on March 17, 18, 19, 20, and 21, 1997, after public notice was given in the Honolulu Advertiser, Maui News, Hawaii Tribune-Herald, Ltd., West Hawaii Today, and The Garden Island on February 12, 1997.

The adoption of chapter 6-82 shall take effect ten days after filing with the Office of the Lieutenant Governor.

Earl I. Anzai

Director of Finance

Department of Budget &

Finance

Yukio Naito, Chairman

Public Utilities Commission

APPROVED:

Benjamin J. Cayetano

Governor

State of Hawaii

Dated: _____

APPROVED AS TO FORM:

Deputy Attorney General

Filed