

DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII

PUBLIC UTILITIES COMMISSION

HAWAII ADMINISTRATIVE RULES

TITLE 6

CHAPTER 80

COMPETITION IN TELECOMMUNICATIONS SERVICES

\$7.00



DEPARTMENT OF BUDGET AND FINANCE

Adoption of Chapter 6-80
Hawaii Administrative Rules

May 17, 1996

SUMMARY

Chapter 6-80, Hawaii Administrative Rules,
entitled "Competition in Telecommunications Services,"
is adopted.



HAWAII ADMINISTRATIVE RULES

TITLE 6

DEPARTMENT OF BUDGET AND FINANCE

CHAPTER 80

COMPETITION IN TELECOMMUNICATIONS SERVICES

Subchapter 1 General Provisions

- §6-80-1 Purpose of rules
- §6-80-2 Scope of rules
- §6-80-3 Application of additional sources
- §6-80-4 Definitions
- §6-80-5 Continuance of service
- §6-80-6 Policy favoring voluntary negotiations and agreements
- §6-80-7 Consolidated proceeding
- §6-80-8 Filing of existing agreements with the commission
- §6-80-9 Confidentiality of proprietary information and materials
- §6-80-10 Enforcement of chapter 6-80
- §6-80-11 Severability clause
- §§6-80-12 to 16 (Reserved)

Subchapter 2 Application and Certification to Provide Telecommunications Service

- §6-80-17 Application for certification
- §6-80-18 Issuance or denial of certification
- §6-80-19 Suspension or revocation
- §6-80-20 Temporary certificate of authority - carrier of last resort
- §§6-80-21 to 24 (Reserved)

Subchapter 3 Classification of Services

- §6-80-25 Classification of services
- §6-80-26 Reclassification of services

- §6-80-27 Procedures for classifying or reclassifying a service
- §§6-80-28 to 31 (Reserved)

Subchapter 4 Costs, Rates, and Pricing

- §6-80-32 Pricing - fully and partially competitive services
- §6-80-33 Pricing - noncompetitive services
- §6-80-34 Pricing - resale and exempt services
- §6-80-35 Cross-subsidization prohibited
- §6-80-36 Separate subsidiary for competitive service
- §6-80-37 Nondiscrimination in the provision of telecommunications services
- §6-80-38 Refunds or credits
- §6-80-39 Tariffs
- §6-80-40 Denial or approval of tariffs
- §6-80-41 Proposed increases or decreases in prices
- §6-80-42 Cost studies
- §6-80-43 to 46 (Reserved)

Subchapter 5 Access, Interconnection, Unbundling, and Resale

- §6-80-47 Intrastate access, interconnection, unbundling, and resale - request for
- §6-80-48 Exemption for rural telephone carrier
- §6-80-49 Intrastate access, interconnection, unbundling, and resale - standards
- §6-80-50 Negotiation
- §6-80-51 Network termination
- §6-80-52 Mediation
- §6-80-53 Arbitration
- §6-80-54 Approval of agreement by the commission
- §§6-80-55 to 59 (Reserved)

Subchapter 6 Number Portability and Directory Services

- §6-80-60 Availability of number portability
- §6-80-61 Number portability
- §6-80-62 Customer access to number portability

- §6-80-63 Directory assistance and directory publication
- §6-80-64 Directories
- §6-80-65 Directory errors
- §6-80-66 Number changes
- §6-80-67 Intercept service
- §§6-80-68 to 72 (Reserved)

Subchapter 7 Poles, Ducts, Conduits,
and Rights-of-Way

- §6-80-73 "Utility" defined
- §6-80-74 Poles, ducts, conduits, and rights-of-way
- §6-80-75 Negotiation
- §6-80-76 Price, terms, and conditions
- §6-80-77 Mediation and arbitration
- §6-80-78 Approval of agreement by the commission
- §6-80-79 Tariff
- §6-80-80 Attachment modification
- §§6-80-81 to 85 (Reserved)

Subchapter 8 Standards for
Telecommunications Service

- §6-80-86 Standards for telecommunications service - sources
- §6-80-87 Operating standards for telecommunications service - general
- §6-80-88 Records
- §6-80-89 Exchange area maps
- §6-80-90 Capital improvements
- §6-80-91 Annual financial reports
- §6-80-92 Other reports
- §6-80-93 Standards for service quality
- §6-80-94 Service installation
- §6-80-95 Disruption of service
- §6-80-96 Answering calls
- §6-80-97 Transmission requirements
- §6-80-98 Call completion
- §6-80-99 Rates and special charges information
- §6-80-100 Customer billing
- §6-80-101 Billing information
- §6-80-102 Billing disputes
- §6-80-103 Adjustments for out of service conditions

§6-80-104 Establishment of credit
§6-80-105 Customer deposits
§6-80-106 Denial or discontinuance of service
§6-80-107 Customer complaints
§§6-80-108 to 112 (Reserved)

Subchapter 9 Customer Rights and Privacy

§6-80-113 Customer rights in a competitive
telecommunications market
§6-80-114 Customer's entitlement to information
§6-80-115 Standards for customer privacy
§6-80-116 Aggregate customer information
§§6-80-117 to 121 (Reserved)

Subchapter 10 Abandonment or Discontinuance of Service

§6-80-122 Abandonment or discontinuance of
noncompetitive service
§6-80-123 Abandonment or discontinuance of fully or
partially competitive service
§§6-80-124 to 128 (Reserved)

Subchapter 11 Prohibited Acts

§6-80-129 Prohibited acts
§6-80-130 to 134 (Reserved)

Subchapter 12 Exemption and Waiver

§6-80-135 Exemption and waiver
§6-80-136 Standard list of waivers
§6-80-137 Modification and rescission
§§6-80-138 to 142 (Reserved)

SUBCHAPTER 1

GENERAL PROVISIONS

§6-80-1 Purpose of rules. The purpose of this chapter is to adopt standards and procedures governing intrastate competition in the State's telecommunications marketplace, as mandated by:

- (1) Act 225, Session Laws of Hawaii 1995, enacted on June 29, 1995;
- (2) The commission's telecommunications infrastructure docket (docket no. 7702); and
- (3) The Federal Telecommunications Act of 1996, enacted on February 8, 1996.
[Eff JUN 0 3 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-2 Scope of rules. (a) This chapter applies to all intrastate telecommunications services provided by telecommunications carriers, including:

- (1) Interisland;
- (2) Resale; and
- (3) Commercial mobile radio service.
- (b) This chapter does not apply to:
 - (1) International or interstate service; or
 - (2) Any telecommunications service exempted from this chapter by federal preemption, law, or regulation, or by State law or commission order, but only to the extent of the exemption granted by the applicable law, regulation, or order. [Eff JUN 0 3 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-3 Application of additional sources. This chapter:

- (1) Shall be read in context with any applicable:
 - (A) Federal law and regulation; and
 - (B) State law and commission order and rule, including chapter 269, HRS, and chapter 6-61; and
- (2) Supersedes any conflicting commission order or rule that may be in effect on the effective date of this chapter.
[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-4 Definitions. As used in this chapter, unless the context clearly requires otherwise:

"Access" means access to an exchange network for the purpose of enabling a telecommunications carrier to originate or terminate exchange service.

"Access line" means the medium over which a customer connects to an exchange network.

"Alternative regulation" means regulation other than rate based or rate of return regulation.

"Basic exchange service" or "basic service" means the same as in §6-81-19.

"Bona fide request" means a written request made in good faith, with earnest intent and without fraud, deceit, or pretense.

"Business customer" means a customer to whom business service is provided.

"Business service" means the telecommunications service provided to a customer where the use is primarily or substantially of a business, professional, institutional, or occupational nature.

"Caller ID" means caller number identification delivery.

"Central office" means a switching unit within an exchange area having the necessary equipment and operating arrangements for terminating and interconnecting access lines, toll lines, and trunks.

"Certificate of authority" or "COA" means the certificate issued pursuant to §6-80-18(a).

"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 §6-80-18(b).

"Commercial mobile radio service" means the same as in 47 U.S.C. §§153(n) and 332(d)(1). It includes cellular, paging, and personal communications services.

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

"Compensation agreement" means an arrangement or agreement by which telecommunications carriers compensate each other for transporting and terminating traffic on their respective networks.

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

"Cost-based" means based on the underlying cost of providing a telecommunications facility, function, or service and includes, as the context requires, total service long run incremental cost, imputed cost, and allocated common cost.

"Customer" includes any person:

- (1) Who has requested or applied for telecommunications service from a telecommunications carrier;
- (2) Currently receiving telecommunications service from a telecommunications carrier;
or
- (3) Who moves to another location within a telecommunications carrier's service territory and requests that telecommunications service be discontinued at the previous location and begun at the new location.

"Customer complaint" or "complaint" includes trouble reports and complaints concerning any service matter made or reported by a customer to a telecommunications carrier or its service representative, excluding directory assistance calls.

"Customer list information" means any information:

- (1) Identifying the listed names of customers of a telecommunications carrier and the customers' telephone numbers, addresses, or primary advertising classification (as such classifications are assigned at the time of the establishment of service), or any combination of such listed names, numbers, addresses, and classifications; and
- (2) That the telecommunications carrier or an affiliate has published or caused to be published, or accepted for publication in any directory format.

Customer list information does not include a customer's name and telephone number or a customer's address or advertising classification that the customer elects not to have listed for public dissemination or published in any directory format.

"Economically reasonable" means without undue economic hardship.

"Exchange" means a unit established and described in the tariff of a telecommunications carrier for the provision of service within a specific, prescribed geographical area, such as a city, town, or community and its environs. An exchange may consist of one or more central offices together with associated facilities used in furnishing telecommunications service within the specific geographical or exchange area.

"Exchange area" or "exchange service area" means the geographical territory served by an exchange.

"Exchange service" means telecommunications service provided to business and residential customers within a given exchange service area in accordance with tariffs, including the use of exchange facilities required to establish connections:

- (1) Between customer locations within the exchange; and
- (2) Between customer locations and trunks accessing other exchanges.

"Facilities" means the means used to provide telecommunications service and includes programs, buildings, plants, instruments, equipment, and every other paraphernalia, such as conduits, ducts, poles, cables, wires, and switches, that facilitate the provision of telecommunications service.

"FCC" means the Federal Communications Commission.

"Federal Telecommunications Act" means the Federal Telecommunications Act of 1996.

"HRS" means the Hawaii Revised Statutes.

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

"Interconnect" or "interconnection" means the interface of the network of one telecommunications carrier with that of another telecommunications carrier.

"Interconnector" means a telecommunications carrier that interconnects with another carrier.

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

"Interoffice" means between central offices.

"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.

"Market power" means the ability to control the telecommunications market in terms of entry and price.

"Network" includes a telecommunications carrier's facilities used to originate and terminate traffic.

"Non-incumbent telecommunications carrier" or "non-incumbent carrier" means a telecommunications carrier other than the incumbent telecommunications carrier.

"Number portability" means the ability of a customer to retain, at the same location, the customer's existing telephone number, without impairment of quality, reliability, or convenience, when changing or switching from one telecommunications carrier to another; in other words, the telephone number is "portable" between carriers.

"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 of any one or more of the foregoing.

"Personally identifiable customer information" means the private, personal, and non-public information about a customer, including the customer's non-listed or non-published name, address, or telephone number; age; gender; social security number; billing, credit, or payment information, history, and status; and any other information made available to a telecommunications carrier by the customer solely by virtue of the carrier-customer relationship. It also includes information relating to the quantity, technical configuration, type, destination, and amount of use of a telecommunications service subscribed to by a customer.

"Physical collocation" means the type of interconnection provided by the telecommunications carrier to an interconnector where the interconnector locates its equipment within a space assigned by a telecommunications carrier for the interconnector's exclusive use and where the interconnector has physical access and control over the interconnector's equipment, subject to any applicable tariffs.

"Public utility" means the same as in §269-1, HRS.

"Resale" or "resell" means the offering or provision of telecommunications service by a telecommunications carrier through the use of services or facilities owned, maintained, or provided by another telecommunications carrier.

"Residential customer" means a customer to whom residential service is provided.

"Residential service" means the telecommunications service provided to a customer predominantly for personal or domestic use at the customer's residence or dwelling.

"Rules" means the Hawaii Administrative Rules.

"Rural telephone carrier" means the same as 'rural telephone company' in 47 U.S.C. §153.

"State" means the State of Hawaii.

"Tandem office" means a switching center that indirectly interconnects two or more central offices when direct connection is not available.

"Tariff" means the documents that describe the service or product offered by the telecommunications carrier 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 service" means the same as in §269-1, HRS.

"Total service long run incremental cost" or "TSLRIC" means the total additional cost to provide the entire forecasted quantity of service divided by the forecasted quantity, based on the least cost, most efficient technology that is capable of being implemented at the time the total service incremental cost is calculated. The cost is calculated over a period long enough to avoid all costs associated with the provision of the service (i.e., the time interval over which all plant, equipment, and other investments are to be replaced). The forecasted quantity is the highest level of anticipated annual demand for at least the next three years. Where a service or component that is not fully competitive is used as an input to the service at issue, the tariffed rate or charge paid by competitors is the cost of the service or component. The costs of joint facilities, including loop costs, are excluded in calculating the incremental cost.

"Traffic" means a flow of attempts, calls, messages, or signals over a circuit, line, or group of lines. It includes the flow of voice, data, image, and video attempts, calls, messages, and signals.

§6-80-4

"Trunk" means a single or multichannel telecommunications medium between two or more switching systems.

"Unbundle" or "unbundled" means the identification and separation of the physical components, functions, and services of an exchange network.

"U.S.C." means the United States Code.

"Virtual collocation" means the type of interconnection provided by a telecommunications carrier to an interconnector that is economically, technically, and administratively comparable to the manner in which the telecommunications carrier's facilities interconnect with its own network. It may, at the interconnector's discretion, include an arrangement where the interconnector is provided equipment in a location under an arrangement where the interconnector may not have ownership of the equipment and does not have physical access or control, other than through remote monitoring, subject to any applicable tariff. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-1, 269-34 to 43, 47 U.S.C. §§153, 222, 251, 252)

§6-80-5 Continuance of service. On the effective date of this chapter, all telecommunications carriers providing telecommunications service in the State shall continue to provide the service they are then providing in the geographical or exchange areas they are then serving. Abandonment or discontinuance of such service is subject to the provisions of subchapter 10. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-6 Policy favoring voluntary negotiations and agreements. (a) It is the commission's policy to:

- (1) Encourage voluntary negotiations and agreements between telecommunications carriers for access, interconnection, unbundling, network termination, and other telecommunications-related matters; and
- (2) Assist the telecommunications carriers in their negotiations at any point in the negotiations by mediating or, as necessary, arbitrating the carriers' differences.

(b) An agreement regarding interconnection, network termination, and other telecommunications-related matters must not discriminate against a telecommunications carrier not a party to the agreement, impede competition, or conflict with the public interest, convenience, and necessity. To that end, the commission retains the authority to monitor the progress of any negotiations and to review any negotiated agreement. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §252)

§6-80-7 Consolidated proceeding. (a) To the extent feasible and practical, disputed issues of access, interconnection, unbundling, and network termination shall be combined into a single petition before the commission.

(b) The commission may consolidate in a single proceeding any disputed issues presented before the commission by any person. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-8 Filing of existing agreements with the commission. A telecommunications carrier shall file with the commission any existing written agreement that it may have on the effective date of this chapter with another telecommunications carrier regarding

§6-80-8

access, interconnection, network termination, or other telecommunications-related matter. The carrier shall serve a copy of any agreement filed with the commission on the consumer advocate. The agreement is subject to commission review and approval as prescribed in subchapters 5 and 7.

§6-80-9 Confidentiality of proprietary information and materials. (a) The confidentiality of a telecommunications carrier's proprietary information and materials is recognized and preserved, to the extent provided by law. No telecommunications carrier is required to release or share with any person any of the carrier's confidential proprietary information or materials, except as provided in subsection (c).

(b) Every telecommunications carrier shall respect and protect the confidentiality of proprietary information and materials of, and relating to, other telecommunications carriers (including resellers of telecommunications services), equipment manufacturers, and customers. A telecommunications carrier that receives or obtains proprietary information from another carrier for purposes of providing any telecommunications services shall use such information only for such purpose and not for its own marketing efforts.

(c) Where any confidential proprietary information is relevant to a proceeding before the commission, the commission may require the submission of such information in the proceeding under confidential seal and subject to appropriate restrictions against the use of such information for marketing or strategic purposes. [Eff JUN 03 1996]
(Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §222)

§6-80-10 Enforcement of chapter 6-80.
Chapter 269, HRS, and any other applicable State law and commission rule and order apply to the enforcement of this chapter. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-11 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 JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§§6-80-12 to 16 (Reserved)

SUBCHAPTER 2

APPLICATION AND CERTIFICATION TO PROVIDE TELECOMMUNICATIONS SERVICE

§6-80-17 Application for certification.

(a) All certificates of public convenience and necessity to provide telecommunications service, issued pursuant to §269-7.5, HRS, and in effect on the effective date of this chapter, remain in full force and effect.

(b) Any exemption to the CPCN requirement for telecommunications service, granted pursuant to §269-7.5(c), HRS, and in effect on the effective date of this chapter, remains in full force and effect.

(c) Any person, other than the incumbent telecommunications carrier, seeking to offer, initiate, or provide intrastate telecommunications service must apply in writing to the commission for a certificate of authority. The application must:

- (1) Include information on the:
 - (A) Type of telecommunications service to be offered;
 - (B) Geographical scope of the carrier's proposed operation;
 - (C) Type of equipment to be employed in the service;
 - (D) Rates or charges proposed to be imposed and the regulations that will govern the proposed service; and
 - (E) Applicant's financial ability to render the proposed service, including a copy of the most recent audited financial statement and, if more than three months have elapsed since the date of the most recent audited financial statement, a current, unaudited financial statement; and
- (2) Comply with all applicable commission orders and rules.

The commission may reject any application that fails to meet any of these requirements or is otherwise incomplete.

(d) Where exempted by federal law from entry regulation by the State, a telecommunications carrier seeking to offer, initiate, or provide intrastate telecommunications service shall apply for a certificate of registration with the commission by complying with subsections (c)(1) (A) - (D) and (c)(2) only.

(e) The incumbent telecommunications carrier and any telecommunications carrier granted a CPCN before the effective date of this chapter need not apply for a COA or COR in order to continue offering or providing the telecommunications service it is validly

offering or providing on the effective date of this chapter. Any such telecommunications carrier, however:

- (1) Before substantially altering, modifying, or changing the nature or scope of authorized telecommunications services provided under its existing CPCN; or
- (2) Before adding or expanding the nature or scope of telecommunications services beyond the authority contained in its existing CPCN;

shall file a separate tariff for the proposed, modified, or new service, unless ordered otherwise by the commission. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-7.5, 269-16.9, 269-34 to 43)

§6-80-18 Issuance or denial of certification.

(a) The commission shall issue a certificate of authority to any qualified applicant, authorizing the whole or any part of the telecommunications service covered by the application, if it finds that:

- (1) The applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the proposed telecommunications service in the State;
- (2) The applicant is fit, willing, and able to properly perform the proposed telecommunications service and to conform to the terms, conditions, and rules prescribed or adopted by the commission; and
- (3) The proposed telecommunications service is, or will be, in the public interest.

(b) Where the telecommunications carrier is exempted by federal law from entry regulation by the State, the commission shall issue a certificate of registration to the carrier upon the filing of an application that complies with §6-80-17(d).

§6-80-18

(c) No hearing is required for the granting or denial of an application for a COA; provided that the commission may hold a hearing before it grants or denies an application, if it deems a hearing to be appropriate.

(d) Any COA or COR issued by the commission shall:

- (1) Specify the telecommunications service to be provided;
- (2) Delineate the geographic area in which the service is to be provided; and
- (3) Define the terms and conditions of the COA or COR as the commission may reasonably prescribe.

(e) Unless otherwise ordered by the commission, no COA or COR issued by the commission to any telecommunications carrier may be construed as granting a monopoly or exclusive privilege, franchise, or charter for the provision of telecommunications service.

(f) Unless otherwise ordered by the commission, the issuance of a COA or COR to any telecommunications carrier does not preclude the commission from issuing any additional certificates of authority or registration to any other person seeking to offer, initiate, or provide the same or similar telecommunications service in the same geographic area.

(g) Except as otherwise provided by federal or State law, and in order to protect the public interest and to preserve the State's commitment to universal service, the commission may establish reasonable terms and conditions for the entry of telecommunications carriers into the State. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-7.5, 269-16.9, 269-34 to 43)

§6-80-19 Suspension or revocation. To preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of

telecommunications services, and safeguard the rights of customers, upon the petition of any telecommunications carrier, any customer, or any other person, or the commission's own motion, the commission may, after notice and hearing, suspend or revoke, in whole or in part, a COA or COR, if the certificate holder:

- (1) Fails to make contributions required by the universal service fund;
- (2) Fails to provide adequate telecommunications service;
- (3) Fails to maintain access to emergency services; or
- (4) Violates any applicable:
 - (A) Federal laws or regulations; or
 - (B) State laws or commission orders or rules. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-7.5, 269-16.9, 269-34 to 43)

§6-80-20 Temporary certificate of authority - carrier of last resort. (a) The commission, upon a written application, may issue a temporary COA to a qualified applicant. A temporary COA is a certificate of limited authority, authorizing a telecommunications carrier only to participate in the bidding process for the selection of a carrier of last resort for a particular high cost area as set forth in section 6-81-55.

- (b) An application for a temporary COA must:
 - (1) Include information on the applicant's financial ability to render the proposed service, including a copy of the most recent audited financial statement and, if more than three months have elapsed since the date of the most recent audited financial statement, a current, unaudited financial statement; and
 - (2) Comply with all applicable commission orders and rules.

§6-80-20

(c) The commission shall issue a temporary COA, if it finds that the applicant:

- (1) Possesses sufficient technical, financial, and managerial resources and abilities to provide the proposed telecommunications service; and
- (2) Is fit, willing, and able to properly perform the proposed telecommunications service and to conform to the terms, conditions, and rules prescribed or adopted by the commission.

The commission may grant, deny, or reject (as incomplete) any application for a temporary COA, with or without a hearing.

(d) A temporary COA expires upon the selection of a carrier of last resort for the high cost area at issue. If a telecommunications carrier temporarily certified is selected as the carrier of last resort, the commission, on its own motion or upon the request of the carrier, shall issue a COA to the carrier, provided the carrier continues to meet the requirements of subsection (c). [Eff JUN 03 1996]
(Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-7.5, 269-16.9, 269-34 to 43)

§§6-80-21 to 24 (Reserved)

SUBCHAPTER 3

CLASSIFICATION OF SERVICES

§6-80-25 Classification of services. (a) All telecommunications services offered, initiated, or provided by telecommunications carriers within the State shall be classified as:

- (1) Fully competitive;
 - (2) Partially competitive; or
 - (3) Noncompetitive.
- (b) Any single telecommunications carrier may seek to offer, initiate, or provide any or all classes of services, unless ordered otherwise by the commission.
- (c) A service is fully competitive, if:
- (1) There are multiple providers of the service who can enter and exit the market with ease, with none of the providers being dominant in terms of sales;
 - (2) All customers for the service have access to information about prices and service quality; and
 - (3) All customers have the ability and incentive to obtain service from the most efficient provider at a price equal to the economic cost of the service.
- (d) In determining whether a service is fully competitive or partially competitive, the commission shall consider the following factors:
- (1) The identity, number, and size of any alternative carriers offering the same or equivalent service;
 - (2) The extent to which service of comparable quality is readily available from more than one carrier in the relevant market;
 - (3) The ability of alternative carriers to make equivalent or substitute services readily available at competitive rates, terms, and conditions;
 - (4) Other indicators of market power, including the various carriers' shares of the relevant market, the growth or shifts in market share, the ease of market entry and exit, and any affiliation between or among alternative carriers providing the same or similar service;
 - (5) Benefits to the public interest; and
 - (6) Any other factors deemed relevant by the commission.

§6-80-25

The degree and extent of competition determine whether the telecommunications service is fully competitive or partially competitive. Partial competition constitutes a classification that is transitional to full competition. Any service not classified as fully or partially competitive is noncompetitive.

(e) A telecommunications service may be classified as fully competitive, partially competitive, or noncompetitive for the entire State, some geographical area therein, including an exchange service area, or for a specific customer or class or group of customers.

(f) Notwithstanding subsections (c) and (d):

- (1) A service that is available to a substantial majority of potential customers in the relevant market from more than one carrier is deemed partially competitive, unless otherwise ordered by the commission; and
- (2) Specific services provided through resale are fully competitive for the reseller of the specific service, unless otherwise ordered by the commission.

(g) No telecommunications carrier, certified by the commission to provide intrastate telecommunications services, is precluded from offering or providing any competitive or noncompetitive service, provided the service is tariffed in accordance with subchapter 4, unless ordered otherwise by the commission.

[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-26 Reclassification of services. The commission may reclassify any telecommunications service from one category to another, if such reclassification is in the public interest.

[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-27 Procedures for classifying or reclassifying a service. (a) The classification or reclassification of a telecommunications service as fully competitive, partially competitive, or noncompetitive may be initiated by the filing of a petition by any telecommunications carrier or the consumer advocate, or upon the commission's own motion.

(b) If initiated by a petition, at a minimum, the petition must:

- (1) Explain and state the reasons for the proposed classification or reclassification; and
- (2) Include data, documents, and other evidence to support the proposed classification or reclassification.

The commission may direct the petitioner, consumer advocate, or any other telecommunications carrier to provide any additional information deemed relevant by the commission.

(c) Upon review and investigation, the commission may:

- (1) Reject the petition as incomplete; or
- (2) Deny or approve the proposed classification or reclassification, in whole or in part, with or without a hearing.

(d) In any classification or reclassification proceeding, the commission may order or direct the intervention or participation of any telecommunications carrier or any other person it deems appropriate; provided that the consumer advocate is a party to the proceeding as a matter of course.

(e) In a classification or reclassification proceeding initiated by a petition, the petitioner bears the burden of demonstrating that the proposed classification or reclassification is appropriate.
[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-28 to 31 (Reserved)

SUBCHAPTER 4

COSTS, RATES, AND PRICING

§6-80-32 Pricing - fully and partially competitive services. (a) Pricing for telecommunications services classified as fully competitive:

- (1) Is exempt from rate of return regulation;
- (2) Is not subject to a price ceiling;
- (3) Must be offered on prices, terms, and conditions reflected in a tariff filed with the commission;
- (4) May not be set below the total service long run incremental cost of providing the service, calculated as provided in §6-80-35(d); and
- (5) Must not result in the cross-subsidization of any fully competitive service from any noncompetitive service as proscribed in §6-80-35.

(b) Pricing for telecommunications services classified as partially competitive:

- (1) May be subject to flexibility and other than rate of return regulation, as authorized by the commission. Such alternative regulation may include price floors and price ceilings;
- (2) Must be offered on prices, terms, and conditions reflected in a tariff filed with the commission;
- (3) May not be set below the total service long run incremental cost of providing the service, calculated as provided in §6-80-35(d); and
- (4) Must not result in the cross-subsidization of any partially competitive service from any noncompetitive service as proscribed in §6-80-35. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-33 Pricing - noncompetitive services.

Pricing for noncompetitive services:

- (1) Is subject to rate of return regulation or to such other form of pricing, as authorized by the commission;
- (2) Must be cost-based and just and reasonable;
- (3) Must conform to the applicable requirements of §§269-12 and 269-16, HRS; and
- (4) Must not cross-subsidize any competitive service as proscribed in §6-80-35.
[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-16, 269-34 to 43)

§6-80-34 Pricing - resale and exempt services.

Notwithstanding §§6-80-32 and 6-80-33:

- (1) Pricing for services whose rates are fully exempt from state regulation by federal law or regulation is not subject to any restriction; provided that tariffs for those services shall be filed as provided in §6-80-39; and
- (2) Pricing for basic exchange service and pricing on resale of basic exchange service must be cost-based, just, and reasonable.
[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-35 Cross-subsidization prohibited.

(a) Noncompetitive services offered or provided by any telecommunications carrier must not cross-subsidize the telecommunications carrier's competitive services.

(b) Cross-subsidization is deemed to have occurred if:

- (1) Any fully competitive or partially competitive service is priced below the

total service long run incremental cost of providing the service;

- (2) Fully competitive services, taken as a whole, fail to cover their direct and allocated joint and common costs; or
- (3) If fully competitive and partially competitive services, taken as a whole, fail to cover the direct and allocated joint and common costs.

(c) The total service long run incremental cost of a service must include an imputation of an amount equal to the contribution that the telecommunications carrier receives for the use of the carrier's noncompetitive inputs by other telecommunications carriers to provide the same or equivalent service.

(d) The total service long run incremental cost of a service is the sum of the:

- (1) The tariffed rates for the noncompetitive services or noncompetitive service elements, or their functional equivalents, that the carrier itself utilizes to provide the service;
- (2) Long run incremental costs of facilities and functionalities that are utilized but not specifically tariffed; and
- (3) Long run incremental costs of any other identifiable element associated with the provision of the service.

(e) A telecommunications carrier may not offer a noncompetitive telecommunications service jointly with any fully or partially competitive service or with any interstate, international, or other service not within the jurisdiction of the commission, except upon the commission's express approval. The commission's approval is subject to a satisfactory showing by the telecommunications carrier seeking to offer such joint services that the costs of the fully or partially competitive service or the costs of the interstate, international, or other non-jurisdictional service are not subsidized by the noncompetitive service. An application for approval to offer any such joint services must be filed with the commission not less

than thirty days before the joint services are marketed, sold, or advertised. [Eff JUN 03 1996]
 (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43,
 47 U.S.C. §254)

§6-80-36 Separate subsidiary for competitive service. The commission may order or direct a telecommunications carrier that offers or provides both competitive and noncompetitive services to establish a fully separate subsidiary to provide all or part of its competitive service where:

- (1) No less costly means is available and effective in fully and properly identifying and allocating costs between the carrier's competitive and noncompetitive services, and the incremental cost of establishing and maintaining such subsidiary would not require increases in rates or charges to levels that would effectively preclude the offering or provision of the affected competitive service;
- (2) Establishment of a subsidiary is deemed necessary by the commission to avoid or prevent cross-subsidization; or
- (3) Establishment of a subsidiary is deemed necessary by the commission to protect the public interest. [Eff JUN 03 1996]
 (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-37 Nondiscrimination in the provision of telecommunications services. A telecommunications carrier shall not unreasonably discriminate among its customers in offering or providing any competitive or noncompetitive telecommunications service. It shall offer or provide its service under the same rates, terms, and conditions to all customers similarly

§6-80-37

situated or within a reasonably constituted class.
[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to
43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §§251, 252)

§6-80-38 Refunds or credits. If the commission finds that any class of customers of a noncompetitive service has paid excessive rates because of below cost pricing of any fully competitive or partially competitive service, the commission may order refunds or credits to the affected customers of the noncompetitive service. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-39 Tariffs. (a) All telecommunications service tariffs filed by a telecommunications carrier with the commission, in effect before the effective date of this chapter, remain in full force and effect, unless in conflict with any provisions of this chapter. This chapter supersedes any conflicting provisions incorporated in any telecommunications service tariffs on file with the commission.

(b) Subject to subsection (a), no telecommunications carrier shall offer, initiate, or provide any telecommunications service, at wholesale or retail, unless the carrier files with the commission a tariff, subject to the prices, terms, conditions, and requirements set forth in:

- (1) Section 269-16, HRS, if applicable and as implemented by this subchapter;
- (2) All applicable commission orders and rules, including this chapter; and
- (3) The applicable CPCN, COA, or COR.

(c) Any tariff filed with the commission by a telecommunications carrier must, at a minimum:

- (1) Describe the service and, if applicable, define the classes and grades of service to be offered, initiated, or provided;

- (2) Indicate whether the service to be offered, initiated, or provided is fully competitive, partially competitive, or noncompetitive;
 - (3) Contain the applicable price of the service;
 - (4) Set forth the terms and conditions under which service will be provided;
 - (5) Reference all applicable agreements; and
 - (6) Be supported by any applicable cost studies, pursuant to §6-80-42.
- (d) All tariffs filed with the commission are subject to public inspection and photocopying during the commission's regular business hours. The commission may assess a reasonable fee for photocopying. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-8, 269-16, 269-34 to 43)

§6-80-40 Denial or approval of tariffs. (a) A tariff for a fully competitive service is effective upon its filing with the commission. A tariff for a service whose rates are fully exempt from state regulation by federal law or regulation is effective when the service is publicly offered; provided that the tariff must be filed with the commission not later than thirty days after the service is first offered. The commission may, at any time, upon its own motion or upon a motion filed by any interested party or the consumer advocate, investigate such tariffs, if deemed necessary to protect the public interest. The commission shall conduct such investigation on an expedited basis.

(b) A telecommunications carrier shall file its tariff for any partially competitive service or noncompetitive service at least thirty days before the effective date of the proposed service. The commission may suspend the operation of the tariff and investigate the justness and reasonableness of the tariff. The commission may conduct a hearing to aid its investigation. The commission shall conduct

its investigation on an expedited basis. With or without such suspension, the commission may:

- (1) Deny or reject the tariff; or
- (2) Allow the tariff to take effect.

(c) Any person may protest or oppose any proposed tariff filing for a partially competitive or noncompetitive service by filing a written protest with the commission and serving a copy of the protest on the telecommunications carrier proposing the tariff not less than fifteen days before the proposed effective date of the tariff. The carrier may file a reply to the protest not later than five days before the proposed effective date of the tariff with proof of service of a copy of the reply on the protestor. A written protest does not require the commission to suspend the operation of the tariff, but may be considered by the commission in deciding whether to:

- (1) Deny or reject the tariff; or
- (2) Allow the tariff to take effect.

(d) The commission may, in its discretion and for good cause shown, allow any tariff for a partially competitive or noncompetitive service to become effective before the expiration of the thirty-day period provided in subsection (b).

[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-8, 269-16, 269-34 to 43)

§6-80-41 Proposed increases or decreases in prices. Section 6-80-40 applies to any proposed increase or decrease in prices for fully competitive, partially competitive, and noncompetitive services.

[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-8, 269-16, 269-34 to 43)

§6-80-42 Cost studies. (a) The incumbent telecommunications carrier shall complete and submit a cost study for all tariffs of noncompetitive services, unless ordered otherwise by the commission.

(b) A non-incumbent telecommunications carrier need not submit a cost study for any tariff, whether for fully competitive, partially competitive or noncompetitive service, unless ordered otherwise by the commission.

(c) The commission may, on its own initiative or at the request of a telecommunications carrier or the consumer advocate, order any telecommunications carrier to complete and submit a cost study to the commission for any service.

(d) Any cost study, where required, must include an analysis of the total service long run incremental cost underlying the service, unless ordered otherwise by the commission. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-8, 269-34 to 43)

§§6-80-43 to 46 (Reserved)

SUBCHAPTER 5

ACCESS, INTERCONNECTION, UNBUNDLING, AND RESALE

§6-80-47 Intrastate access, interconnection, unbundling, and resale - request for. (a) Upon a bona fide request of another carrier, a telecommunications carrier shall:

- (1) Unbundle its network facilities, functions, and services, to the extent technically feasible and economically reasonable;
- (2) Make its facilities, functions, and services available, on an unbundled basis, for intrastate access and interconnection by the other carrier, at any technically feasible and economically reasonable point within the carrier's network;

- (3) Offer such facilities, functions, and services for resale or shared use, to the extent technically feasible and economically reasonable; and
- (4) Make available and offer such facilities, functions, and services of such quality at least equal to that provided by the carrier to itself or to any of its subsidiaries or affiliates, or to any other carrier to which it provides interconnection.

(b) Upon receipt by a telecommunications carrier of a bona fide request for access, interconnection, or unbundling from another carrier, the carriers shall, within thirty days following receipt of the request, attempt to reach agreement concerning responsibility for any costs and expenses incurred by the requested carrier in analyzing and evaluating the technical feasibility of the request. If the carriers are unable to reach agreement within thirty days, the carrier initiating the request for access, interconnection, or unbundling shall notify the commission and the consumer advocate in writing of the impasse. Following notification, the commission may take any action it deems appropriate, including:

- (1) Resolving the issues in dispute; or
- (2) Directing the carriers to resume negotiations.

(c) A telecommunications carrier that denies the request of another carrier for access, interconnection, or unbundling on the grounds that the requested access, interconnection, or unbundling is not technically feasible or is not economically reasonable bears the burden of demonstrating that fact. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §§251, 252)

§6-80-48 Exemption for rural telephone carrier.

(a) The requirements of §6-80-47 do not apply to a rural telephone carrier unless:

- (1) The carrier has received a bona fide request for access, interconnection, unbundling, or resale; and
- (2) The commission determines that the request is not unduly economically burdensome, is technically feasible, and is consistent with the provisions of chapter 6-81.

(b) A carrier making a request of a rural telephone carrier for access, interconnection, or unbundling shall notify the commission of its request. Within one hundred twenty days of the receipt of the notice of the request, the commission shall terminate the exemption, if it finds that the request is not unduly economically burdensome, is technically feasible, and is consistent with the provisions of chapter 6-81. Upon termination of the exemption, the commission shall establish a schedule for compliance with the request that is consistent in time and manner with FCC regulations.

(c) The commission may require the requesting carrier or the rural telephone carrier to submit such information as the commission deems necessary in making a determination whether to terminate the exemption. The commission may make its determination, with or without a hearing. [Eff JUN 03 1996]
(Auth: HRS §269-6) (Imp: 47 U.S.C. §251)

§6-80-49 Intrastate access, interconnection, unbundling, and resale - standards. The following standards apply to intrastate access, interconnection, unbundling, and resale:

- (1) Telecommunications carriers shall offer or provide such services on rates, terms, and conditions that are just, reasonable, and nondiscriminatory and on a competitively neutral and cost-based basis, which may include a reasonable profit;
- (2) A telecommunications carrier may not offer or provide any such services at excessive

prices; and, except as otherwise provided in this chapter, no telecommunications carrier is required to offer or provide any such services at prices below total service long run incremental cost, provided that the commission may direct the carrier to provide a discount on unbundled elements in cases in which the full functionality used by the carrier in the provision of its service is offered to other carriers on an impaired basis;

- (3) Exchange networks shall be interconnected on a seamless and transparent basis, so that customers can seamlessly receive calls that originate on another carrier's network and place calls that terminate on another carrier's network without dialing extra digits;
- (4) Telecommunications carriers shall be interconnected in a manner that gives the carriers seamless integration into, and use of, the signaling and interoffice networks at reasonable rates, including access to switches, signaling systems, and other facilities, or information associated with originating and terminating communications or otherwise facilitating interoperability for any communication carried by the network facilities;
- (5) Access, interconnection, and unbundling must maintain the technical and economic integrity of the network of a telecommunications carrier;
- (6) To ensure inter-operability of networks and to maintain the integrity of each telecommunications carrier's network, the telecommunications carriers shall abide by the technical interconnection standards, including technical engineering, operations, and maintenance standards, as established by national telecommunications industry organizations;

- (7) Telecommunications carriers shall make their networks and facilities available for access and interconnection to other carriers at:
 - (A) Central offices;
 - (B) Tandem offices;
 - (C) Any other switching points; or
 - (D) Any mutually agreed upon or technically feasible meet-point;
- (8) The cost of constructing, operating, or maintaining any interconnecting network or facility shall be incurred by, and shared between, the interconnecting carriers on an equitable, cost-based basis;
- (9) A telecommunications carrier shall provide for physical collocation of equipment necessary for access or interconnection at the carrier's premises, except that the carrier may provide for virtual collocation if it demonstrates that physical collocation is not practical for technical reasons or due to space limitations. Nothing in this paragraph prohibits carriers from voluntarily entering into agreements for the virtual collocation of equipment;
- (10) A telecommunications carrier shall make available to a requesting carrier, to the extent technically feasible and economically reasonable, those unbundled network components, functions, and services that the requesting carrier needs for purposes of providing telecommunications services. A telecommunications carrier may not require or compel a requesting carrier to take any network component, function, or service that the requesting carrier does not need for its purposes in providing telecommunications services;
- (11) Exchange facilities, functions, and services shall be offered and made available for resale or shared use, provided that:

- (A) Residential access lines may not be resold to offer, initiate, or provide business services;
 - (B) Resellers may not use residential access lines to offer, initiate, or provide business services; and
 - (C) The carrier offering a telecommunications service for resale or shared use may impose reasonable restrictions upon its resale or sharing as may be set forth in the carrier's tariff;
- (12) All telecommunications services sold at retail to customers that are not telecommunication carriers are subject to resale at wholesale rates; and
- (13) The wholesale rates of resold services shall be determined on the basis of the retail rates, excluding that portion of the retail rates attributable to any marketing, billing, collection, and other costs that will be avoided by the resale of the services. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §§251, 252)

§6-80-50 Negotiation. Telecommunications carriers shall enter into negotiations on the prices, terms, and conditions for access, interconnection, and unbundled facilities, functions, and services and for the resale of unbundled facilities, functions, and services, except that the prices for access and unbundled facilities, functions, and services and for the resale of unbundled facilities, functions, and services must be tariffed, as provided in subchapter 4. The carriers shall negotiate in good faith and use their best efforts to reach agreement. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §§251, 252)

§6-80-51 Network termination.

Telecommunications carriers shall reciprocally compensate each other for the costs associated with transporting and terminating telecommunications traffic on their respective networks. The carriers shall negotiate in good faith and use their best efforts to reach agreement on the prices, terms, and conditions for terminating traffic on their respective networks. Telecommunications carriers shall develop terms and conditions that are just and reasonable and provide for fair, nondiscriminatory, and cost-based rates, based on a reasonable approximation of the additional costs of terminating such traffic. Compensation agreements may include "bill and keep" and any other mutual compensation arrangements. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §§251, 252)

§6-80-52 Mediation. (a) Any party negotiating an agreement for access, interconnection, unbundling, or network termination may, at any point in the negotiation, petition the commission in writing for the commission to participate in the negotiation and mediate any differences arising in the course of the negotiation. Such a petition must, to the extent practicable and applicable, conform to the provisions of chapter 6-61, subchapter 2.

(b) The petitioner shall serve a copy of the petition for mediation on all parties to the negotiation and on the consumer advocate not later than by the date on which the petition is filed with the commission. A non-petitioning party to the negotiation may file with the commission a response to the petition within ten days following the filing of the petition for mediation. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §252)

§6-80-53 Arbitration. (a) During the period from the one hundred thirty-fifth to the one hundred sixtieth day (inclusive) following the date upon which a carrier receives a bona fide request for access, interconnection, or unbundling or for a network termination agreement, the carrier or any other party to the negotiation may petition the commission in writing for the commission to arbitrate any unresolved issues. Such a petition must:

- (1) To the extent practicable and applicable, conform to the provisions of chapter 6-61, subchapter 2;
- (2) Set forth:
 - (A) The unresolved issues;
 - (B) The position of each party relating to those issues; and
 - (C) Any other issues discussed and resolved by the parties; and
- (3) Include all relevant documents and materials relating to subsection (2).

The commission may request from any of the parties to the negotiation further information or materials necessary for the commission to reach a decision on the unresolved issues. If any party refuses or fails unreasonably to respond on a timely basis to any reasonable request from the commission, the commission may then proceed on the basis of the best information available to it, regardless of the originating source.

(b) The petitioner shall serve a copy of the petition for arbitration on all parties to the negotiation and on the consumer advocate not later than by the date upon which the petition is filed with the commission. A non-petitioning party to the negotiation may file with the commission a response to the petition within twenty-five days following the filing of the petition for arbitration.

(c) The commission shall limit its consideration and any response to a petition for arbitration to the issues set forth in the petition and the response, if any. The commission shall resolve each unresolved

issue set forth in the petition and the response, if any, by imposing appropriate conditions upon the parties as required to implement access, interconnection, unbundling, and network termination, not later than nine months following the date upon which the carrier received the bona fide request for access, interconnection, or unbundling, or for a network termination agreement.

(d) In resolving by arbitration any unresolved issues and imposing appropriate terms and conditions upon the parties, the commission shall:

- (1) Ensure that such resolution and conditions meet the requirements of:
 - (A) 47 U.S.C. §251;
 - (B) FCC regulations implementing 47 U.S.C. §251; and
 - (C) The applicable provisions of this chapter;
- (2) Establish any rates for access, interconnection, unbundling, or network termination that are just and reasonable, cost-based, and nondiscriminatory and in accordance with:
 - (A) 47 U.S.C. §251;
 - (B) FCC regulations implementing 47 U.S.C. §251; and
 - (C) The applicable provisions of this chapter; and
- (3) Provide a schedule for the implementation of the terms and conditions by the parties to the agreement. [Eff JUN 03 1996]
 (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §§251, 252)

§6-80-54 Approval of agreement by the commission. (a) All agreements concerning access, interconnection, unbundling, and network termination adopted by negotiation or arbitration, including any agreement negotiated and adopted before the effective date of this chapter, must be submitted to the

commission for review and approval. Upon the submission of an agreement to the commission for review and approval, a copy of the agreement shall be served on the consumer advocate.

(b) The commission shall approve or reject the agreement, with written findings as to any deficiencies. The commission may only reject:

- (1) An agreement, or any portion of the agreement, adopted by negotiation if it finds that:
 - (A) The agreement, or any portion of the agreement, discriminates against a telecommunications carrier not a party to the agreement; or
 - (B) The implementation of the agreement, or any portion of the agreement, is not consistent with the public interest, convenience, and necessity; or
- (2) An agreement, or any portion of the agreement, adopted by arbitration if it finds that the agreement, or any portion of the agreement, does not meet the requirements of:
 - (A) 47 U.S.C. §251;
 - (B) FCC regulations implementing 47 U.S.C. §251; or
 - (C) The applicable provisions of this chapter, including provisions relating to service quality standards.

(c) The commission shall approve or reject the agreement within ninety days after submission by a party of an agreement adopted voluntarily by negotiation, or within thirty days after submission by a party of an agreement adopted by arbitration. If the commission fails to act within the prescribed time period, the agreement is deemed approved.

(d) Each approved agreement will be available for public inspection and photocopying within ten days after the agreement is approved by the commission. The commission may charge a reasonable and non-discriminatory fee to the parties to the agreement to

cover the costs of approving and filing the agreement. The commission may also assess a reasonable photocopying fee.

(e) All modifications, revisions, or amendments to any agreement concerning access, interconnection, unbundling, and network termination are subject to commission review and approval, as provided in this section. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §251, 252)

§§6-80-55 to 59 (Reserved)

SUBCHAPTER 6

NUMBER PORTABILITY AND DIRECTORY SERVICES

§6-80-60 Availability of number portability.

(a) Telephone number portability shall be implemented in the State when a technically feasible and economically reasonable solution has been developed by the telecommunications industry.

(b) Until a number portability solution has been developed by the telecommunications industry, as an interim number portability solution, interconnecting telecommunications carriers, including the incumbent carrier, shall, unless shown to be economically unreasonable, make available, at tariffed rates, based on total service long run incremental cost, and on tariffed terms and conditions, remote call forwarding where remote call forwarding is available.

[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §251)

§6-80-61 Number portability. (a) As soon as technically feasible and economically reasonable, the commission, on its own motion or on the petition of any telecommunications carrier, shall institute a proceeding for the deployment of number portability. The commission shall hold a hearing to determine the terms and conditions of the deployment.

(b) Telecommunications carriers shall:

- (1) Make necessary modifications to their facilities, networks, and equipment to allow for portability of telephone numbers between and among telecommunications carriers; and
- (2) Cooperate and use their best efforts to design, develop, and deploy the facilities, database, and associated connections necessary to support number portability.

(c) The costs associated with the design, development, and deployment of the facilities, database, and associated connections shall be recovered on a cost-based basis from all telecommunications carriers accessing or utilizing number portability, including the incumbent carrier. The commission shall determine the contributions to be made by each carrier.

(d) Once the telephone number portability database is developed and deployed, an independent third-party administrator designated by the commission shall administer the database and control the assignment of telephone numbers. The administrator shall use the administrator's best efforts to make telephone numbers available to telecommunications carriers on an equitable basis.

(e) The costs of maintaining and administering the database shall be recovered from all telecommunications carriers accessing or utilizing the database, including the incumbent carrier, on such equitable basis as the commission may determine.

[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §251)

§6-80-62 Customer access to number portability.

(a) When and where number portability is deployed, every customer, upon request, is entitled to number portability.

(b) As between carriers, the carrier receiving a new customer who desires to retain the customer's telephone number shall bear the costs associated with number portability. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §251)

§6-80-63 Directory assistance and directory publication. (a) On the effective date of this chapter and until ordered otherwise by the commission, the incumbent telecommunications carrier shall, for the entire State and for all telecommunications providers doing business in the State:

- (1) Administer and maintain a central file of customer list information for purposes of directory listing and directory assistance;
- (2) Provide directory assistance services; and
- (3) Publish and distribute to customers of all telecommunications carriers the local white and yellow page telephone directories at no charge to the customers.

(b) Every non-incumbent telecommunications carrier shall provide the incumbent carrier with customer list information of its customers to be included in the central customer list information file and shall promptly notify the incumbent carrier of any additions, changes, or modifications to its list information. The incumbent carrier shall promptly update the central file upon the receipt of any such additions, changes, or modifications.

(c) For purposes of subsection (a), the incumbent carrier may establish and file with the commission cost-based tariffs to be charged all telecommunications carriers, including the incumbent carrier, for listing in and maintenance of the central customer list information file, providing directory

§6-80-63

assistance service, and publishing and distributing the telephone directories.

(d) The incumbent telecommunications carrier shall make listings in the yellow pages available to customers of non-incumbent telecommunications carriers at the same rates and on the same terms and conditions as those offered to the incumbent carrier's own customers.

(e) This section does not preclude a non-incumbent telecommunications carrier or any other person from providing directory assistance or from publishing and distributing its own telephone directory; provided that any customer agreements with respect to privacy, including personally identifiable customer information, are respected and adhered to by all persons. All telecommunications carriers, including the incumbent carrier, shall provide customer list information gathered in their capacity as providers of telecommunications service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any telecommunications carrier or person upon request for the purpose of providing directory assistance or publishing telephone directories in any format.

(f) As appropriate, telecommunications carriers providing customer list information shall indicate whether a particular listing is only for directory listing or only for directory assistance.

[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §222)

§6-80-64 Directories. (a) A telephone directory must:

- (1) Be designed and directory listings must be arranged so that customer numbers can be obtained readily;
- (2) Not list non-listed or non-published telephone numbers;
- (3) State on the front cover the name of the telecommunications carrier issuing the

- directory, the area covered by the directory, and the month and year of issue;
- (4) Display in the beginning of the directory, preceding the customer listings:
- (A) Information about emergency calls to agencies such as the police and fire departments;
 - (B) Instructions, for all telecommunications carriers whose customers' numbers are listed in the directory, on placing repair service calls, information calls, directory assistance calls, intrastate calls, and calls to interexchange carriers;
 - (C) Information, for all telecommunications carriers whose customers' numbers are listed in the directory, about billing, nuisance call procedures, and emergency call procedures, and a list of locations where the carriers' tariffs are available for public inspection;
 - (D) Information on Caller ID and its related services, including information on:
 - (i) How Caller ID may be blocked on a per call or per line basis; and
 - (ii) The telephone number to dial for verification that the customer's request for per line blocking has been effectuated; and
 - (E) A notice that the commission regulates the carriers whose customers' numbers are listed in the directory and that any customer that has first contacted the customer's carrier concerning a problem and is not satisfied by the corrective action taken may contact the commission. The notice shall also include the name, address, and telephone number of the commission.
- (b) Every customer of all telecommunications carriers whose customers' numbers are listed in the

§6-80-64

directory is entitled to receive up to one copy of the appropriate directory for each telephone line at no charge. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-65 Directory errors. (a) Except for non-published telephone numbers, if the name or telephone number of a customer is incorrectly listed in or omitted from the alphabetical or classified directory, the telecommunications carrier responsible for the completion of calls to the customer's number shall intercept the calls to the published number when the intended number is not already in service and the published number has been established for service.

(b) The customer's correct name and telephone number shall be placed in the files of the directory assistance and intercept operators, and the correct number furnished, on request or interception. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-66 Number changes. (a) When a customer's telephone number is changed after a directory is published, the responsible telecommunications carrier shall, unless the customer directs otherwise, intercept all calls to the former number as specified in §6-80-67.

(b) When the telephone number of a customer or group of customers is changed because of plant additions, plant changes, or changes to other carrier operations, the responsible telecommunications carrier shall give reasonable notice to all affected customers even though the change may occur at the same time a new directory is issued. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-67 Intercept service. (a) The intercept service prescribed in §§6-80-65 and 6-80-66 shall be provided through either a live operator or a suitable recorded announcement. On an intercept, the responsible telecommunications carrier shall provide sufficient information to the caller to indicate the reason the call is being intercepted and provide directions to assist the caller in completing the call. The carrier shall provide intercept service for the following minimum periods:

- (1) For a customer-initiated residential service number change, sixty days or until the distribution date of the next directory, whichever is sooner;
- (2) For a customer-initiated business service number change, one hundred eighty days or until the distribution date of the next directory, whichever is sooner;
- (3) For a carrier-initiated number change, one year or until the distribution date of the next directory, whichever is shorter; and
- (4) For a directory error or omission described in §6-80-65, until the distribution date of the next directory. All calls to the erroneous number shall be intercepted within seventy-two hours of the time the carrier becomes aware of the error or omission.

(b) A telecommunications carrier shall update intercept records within twenty-four hours of a number change. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§§6-80-68 to 72 (Reserved)

SUBCHAPTER 7

POLES, DUCTS, CONDUITS, AND RIGHTS-OF-WAY

§6-80-73 "Utility" defined. As used in this subchapter, "utility" means a public utility as defined in §269-1, HRS, that owns or controls poles, ducts, conduits, or rights-of-way used or usable, in whole or in part, for telecommunications services. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §224)

§6-80-74 Poles, ducts, conduits, and rights-of-way. (a) Upon a bona fide request, a utility shall provide to telecommunications carriers nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the utility, provided that:

- (1) Such access is technically feasible, physically and legally possible, and economically reasonable;
- (2) Safety of the general public is not put at risk; and
- (3) The availability and reliability of existing utility services to the general public are not compromised.

(b) The costs and expenses incurred by the utility of whom a request is made for access to poles, ducts, conduits, or rights-of-way, and the costs and expenses incurred by any other person who has an interest in the poles, ducts, conduits, or rights-of-way and is affected by the request for access, including the State and county governments, in analyzing and evaluating the technical feasibility, physical and legal possibility, and economic reasonableness of the request, are subject to agreement by all affected parties. If the parties are unable to reach agreement within thirty days of

the bona fide request for access, the telecommunications carrier requesting access shall inform the commission in writing of the impasse. Following notification, the commission may:

- (1) Resolve the issues in dispute; or
 - (2) Direct the parties to resume negotiations; or
 - (3) Take any other action it deems appropriate.
- [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §224, 251, 252, 253)

§6-80-75 Negotiation. (a) The prices, terms, and conditions for access to poles, ducts, conduits, and rights-of-ways are subject to negotiation. The parties to the negotiation are the carrier requesting access and the requested utility. They may also include any other person who has an interest in the poles, ducts, conduits, and rights-of-ways and is affected by the request for access. If any pole, duct, conduit, or right-of-way is owned or controlled jointly by two or more parties through a joint pole committee, the joint pole committee's participation as a party to the negotiation is at the joint pole committee's option; provided that any agreement reached on access to any pole, duct, conduit, or right-of-way owned or controlled jointly by two or more parties through the joint pole committee is subject to approval by the joint pole committee. The parties shall negotiate in good faith and use their best efforts to reach agreement.

(b) The commission may authorize access to utility poles as provided in any joint pole agreement, tariffs, rules, orders, or FCC regulations.
[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §224, 251, 252, 253)

§6-80-76

§6-80-76 Price, terms, and conditions. (a) The price, terms, and conditions for access to poles, ducts, conduits, and rights-of-way must be just, reasonable, and nondiscriminatory.

(b) A utility shall apportion the cost of providing space on a pole, duct, conduit, or right-of-way, other than a usable space, among the entities accessing the pole, duct, conduit, or right-of-way. The apportionment shall equal two-thirds of the cost of providing space other than the usable space, and shall be allocated equally among all attaching entities.

(c) A utility shall apportion the cost of providing usable space among all entities accessing the pole, duct, conduit, or right-of-way according to the percentage of usable space required by each entity. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §224, 251, 252, 253)

§6-80-77 Mediation and arbitration. (a) Any party negotiating an agreement for access to a pole, duct, conduit, or right-of-way may, at any point in the negotiation, petition the commission in writing for the commission to participate in the negotiation and mediate any differences arising in the course of negotiation. In that event, the provisions of §6-80-52 will apply.

(b) During the period from the one hundred thirty-fifth to the one hundred sixtieth day (inclusive) following the date upon which a utility receives a bona fide request for access to a pole, duct, conduit, or right-of-way, the utility or any other party to the negotiation may petition the commission in writing for the commission to arbitrate any unresolved issues. In that event, the provisions of §6-80-53 will apply. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §224, 251, 252, 253)

§6-80-78 Approval of agreement by the commission. (a) All agreements concerning access to poles, ducts, conduits, and rights-of-way adopted by negotiation or arbitration, including any agreement negotiated and adopted before the effective date of this chapter, must be submitted to the commission for review and approval. Upon the submission of an agreement to the commission for review and approval, a copy of the agreement shall be served on the consumer advocate.

(b) The commission shall approve or reject the agreement, with written findings as to any deficiencies. The commission may only reject:

- (1) An agreement, or any portion of the agreement, adopted by negotiation if it finds that:
 - (A) The agreement, or any portion of the agreement, discriminates against a telecommunications carrier not a party to the agreement; or
 - (B) The implementation of the agreement, or any portion of the agreement, is not consistent with the public interest, convenience, and necessity; or
- (2) An agreement, or any portion of the agreement, adopted by arbitration if it finds that the agreement, or any portion of the agreement, does not meet the requirements of:
 - (A) 47 U.S.C. §§224 and 251;
 - (B) FCC regulations implementing 47 U.S.C. §§224 and 251; or
 - (C) The applicable provisions of this chapter.

(c) The commission shall approve or reject the agreement within ninety days after submission by a party of an agreement adopted voluntarily by negotiation, or within thirty days after submission by a party of an agreement adopted by arbitration. If the commission fails to act within the prescribed time period, the agreement is deemed approved.

§6-80-78

(d) Each approved agreement will be available for public inspection and photocopying within ten days after the agreement is approved by the commission. The commission may charge a reasonable and nondiscriminatory fee to the parties to the agreement to cover the costs of approving and filing the agreement. The commission may also assess a reasonable photocopying fee.

(e) All modifications, revisions, or amendments to any agreement concerning access to a pole, duct, conduit, or right-of-way are subject to commission review and approval, as provided in this section. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §224, 251, 252, 253)

§6-80-79 Tariff. If there are multiple requests for access to a pole, duct, conduit, or right-of-way under the ownership or control of a telecommunications carrier, or if the commission otherwise deems it reasonable and practicable, the commission may require the carrier to file a cost-based tariff with the commission for access to the pole, duct, conduit, or right-of-way. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §§224, 251, 252, 253)

§6-80-80 Attachment modification. (a) Whenever the owner of a pole, duct, conduit, or right-of-way intends to modify or alter the pole, duct, conduit, or right-of-way, the owner shall provide written notification of such action to any entity that has obtained access to the pole, duct, conduit, or right-of-way so that such entity may have a reasonable opportunity to add to or modify its existing attachment. Any entity that adds to or modifies its existing attachment after receiving such notification

shall bear a proportionate share of the costs incurred by the owner in making such pole, duct, conduct, or right-of-way accessible.

(b) An entity that obtains access to a pole, duct, conduit, or right-of-way is not required to bear any of the costs of rearranging or replacing its attachment, if such rearrangement or replacement is required as a result of an additional attachment or the modification of an existing attachment sought by any other entity, including the owner of such pole, duct, conduit, or right-of-way. [Eff JUN 03 1996]
(Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §§224, 251, 252, 253)

§§6-80-81 to 85 (Reserved)

SUBCHAPTER 8

STANDARDS FOR TELECOMMUNICATIONS SERVICE

§6-80-86 Standards for telecommunications service - sources. (a) Telecommunications carriers shall abide by and adhere to:

- (1) The standards set forth in this subchapter;
 - (2) The standards set forth in part VII of the commission's general order number 8, dated December 20, 1972, as amended, to the extent applicable and not inconsistent with this chapter;
 - (3) Any other standards or rules that the commission may establish or adopt from time to time governing telecommunications services; and
 - (4) Any applicable federal standards.
- (b) Any waiver or exemption from the standards referred to in subsection (a) is subject to

§6-80-86

subchapter 12. The burden is on the telecommunications carrier seeking the waiver or exemption to prove that the waiver or exemption is in the public interest.

(c) Where a telecommunications carrier supplied service to a customer before the effective date of this subchapter under conditions more favorable or advantageous to the customer than the minimum levels of service provided in this subchapter, whether as to contracted quality or character of service, the carrier shall not reduce the level of service without the prior approval of the commission.

(d) The commission may, by rule or order, add to the standards set forth in this subchapter.

[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-87 Operating standards for telecommunications service - general. A telecommunications carrier shall:

- (1) Provide telecommunications services on a non-discriminatory basis to all customers similarly situated or within a reasonably constituted class, according to any applicable commission standards or any tariffs on file with the commission;
- (2) Employ prudent management and engineering practices that ensure the availability of sufficient facilities and personnel to achieve the standards of service quality required by prudent telecommunications industry practice, and this chapter;
- (3) Provide telecommunications service in its service exchange twenty-four hours a day. The carrier shall provide sufficient equipment and operating capabilities at all times, including during the average busy hour and average busy season. As used in this paragraph, "busy hour" means the hour

each day during which the greatest volume of traffic is handled in the central office, and "busy season" means the consecutive thirty-day period of the year during which the greatest volume of traffic is handled in the central office;

- (4) Design, construct, install, operate, and maintain its plants, facilities, and equipment in a manner consistent with prudent and generally accepted telecommunications industry practices and standards, except as modified by the commission;
- (5) Keep all meters and recording devices used to record data and prepare customers' bills and the controlling channel equipment associated with such meters and recording devices in good operating condition, and periodically inspect and test the equipment to ensure proper functioning;
- (6) Make reasonable provision for emergencies resulting from power failures, unusual and prolonged increases in telecommunications traffic, or lack of personnel and from fire, storm, hurricane, or other acts of God;
- (7) Adopt and adhere to a maintenance program to ensure safe, adequate, and reliable service at all times;
- (8) Adopt and maintain customer response procedures and standards;
- (9) Adopt and maintain service reliability procedures and standards;
- (10) Maintain sufficient records of its operations, and make such records available to the commission and the consumer advocate at any time upon request;
- (11) Maintain current and accurate records of its customers;
- (12) Adopt and maintain a suitable safety program;
- (13) Adopt and maintain measures that ensure that a customer's choice of carriers or services

- will not be changed or modified without the customer's authorization, including a stand-alone form for written authorizations;
- (14) As soon as practical, notify its customers in writing of any changes in price, scope, or quality of service;
 - (15) Adopt and maintain standards and procedures for respecting and safeguarding personally identifiable customer information, equipment, and records;
 - (16) Maintain on file in each of its instate business offices its complete tariffs and exchange maps and make them available for public inspection during regular business hours;
 - (17) Permit all carriers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays; and
 - (18) To the extent readily achievable, ensure that telecommunications service is accessible to and usable by individuals with disabilities, as that term is defined by §3(2)(A) of the Americans with Disabilities Act of 1990 (42 U.S.C. §12102(2)(A)).
[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §§251, 255)

§6-80-88 Records. (a) A telecommunications carrier shall make its records, books, accounts, and other documents available to the commission and the consumer advocate at any time upon request.

(b) Unless otherwise specified by the commission, a telecommunications carrier shall preserve the records required to be kept and maintained for the period of time specified in the current edition of the FCC's records retention

schedule. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-8, 269-8.2, 269-34 to 43)

§6-80-89 Exchange area maps. (a) Each telecommunications carrier shall file with the commission a description of its exchange service area. The description must clearly delineate the boundaries of the territory within which a service is provided. As appropriate, the carrier shall attach to the description a map of the service territory.

(b) A telecommunications carrier receiving State or federal universal service fund subsidy for providing basic service in a high cost area, and a carrier providing noncompetitive service, shall file with the commission an exchange area map for each of its exchanges that clearly show the boundary lines of the exchange area. The maps must conform to the following:

- (1) The boundary lines of each exchange area must either follow easily recognizable geographic features, such as waterways and existing roads, or be drawn by references to specific, recognizable reference points; and
- (2) Contain the same detail as county highway maps, including the location of highways, section lines, geographic town and range lines, and waterways. Map scale and other details must be shown, as required by the commission.

The carrier shall annually review each exchange area boundary map and update it, if necessary. With every revised map or description, the carrier shall indicate, where applicable, the boundaries of all existing or proposed central offices used for billing purposes. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-8, 269-34 to 43)

§6-80-90 Capital improvements. (a) By January 1 of each year, a telecommunications carrier receiving State or federal universal service fund subsidy for providing basic service in a high cost area, and a carrier providing noncompetitive service, shall file with the commission a capital improvements budget that projects expenditures for capital improvements during the ensuing five years. The budget must include details about the carrier's contemplated first year expenditures.

(b) A telecommunications carrier receiving State or federal universal service fund subsidy for providing basic service in a high cost area, and a carrier providing noncompetitive service, shall submit to the commission for review proposed capital expenditures for any single project related to plant replacement, expansion, or modernization, that is estimated to exceed \$500,000. The carrier shall submit the proposed expenditures for review at least sixty days before the commencement of construction or commitment for expenditure, whichever is earlier. The commission may:

- (1) Approve the whole or any portion of the proposed project, in which event the project or the portion approved may be included by the carrier in its rate base; or
- (2) After a hearing, reject the whole or any portion of the proposed project, if it determines that the project or a portion of it is not necessary or is unreasonably in excess of probable future requirements for basic exchange or noncompetitive service, in which event the carrier may not include the project or the rejected portion of the project in its rate base. The commission may subsequently allow the inclusion of the project or the rejected portion in the carrier's rate base upon a showing by the carrier that the project or the rejected portion has become necessary or useful in providing basic exchange or noncompetitive service.

If the commission does not act upon the proposed expenditure within ninety days of its submission for review, the carrier may include the project in its rate base without any determination by the commission. The carrier shall submit data concerning the proposed project in such form and detail as the commission may prescribe. [Eff JUN 0 3 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-8, 269-16, 269-34 to 43)

- §6-80-91 Annual financial reports. (a) A telecommunications carrier chartered, certified, or registered to provide telecommunications services in the State shall file an annual financial report with the commission by March 31 for the preceding calendar year. The financial report must:
- (1) Be prepared in a manner that separately reflects the carrier's intrastate-based operations, as if the carrier operated solely in intrastate business; and
 - (2) Include a certification that the report conforms with generally accepted accounting principles.
- (b) The financial report must include the following:
- (1) A statement of operations reflecting intrastate revenues by services and intrastate expenses by accounts; and
 - (2) A balance sheet reflecting the carrier's intrastate operations.
- (c) A telecommunications carrier receiving State or federal universal service fund subsidy for providing basic service in a high cost area, and a carrier providing noncompetitive service, shall also file annually by March 31 the following schedules:
- (1) A schedule to support direct and indirect charges from and to the carrier's affiliates;

§6-80-91

(2) A schedule reflecting:

- (A) The equipment used by the carrier in its intrastate operation;
- (B) The original cost of each piece of equipment; and
- (C) The accumulated depreciation of each piece of equipment.

(d) The required financial reports shall be submitted on forms prescribed by the commission. The carrier shall serve a copy of the reports on the consumer advocate. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-8, 269-8.5, 269-34 to 43)

§6-80-92 Other reports. (a) A telecommunications carrier shall annually file the following statistical data by March 31 for the preceding calendar year:

- (1) Number of intrastate customers, by telecommunications service; and
- (2) Number of intrastate calls, by telecommunications service, originating and terminating in the State.

The data required under this subsection may be filed on a confidential basis with the commission, consistent with §6-80-9.

(b) On a quarterly basis, as specified by the commission, a telecommunications carrier shall file a tabulation of complaints and information on the resolution of complaints, classified by subject area. The tabulation, filed with the commission, shall be available for public inspection, except where the customer has requested confidentiality.

(c) A telecommunications carrier shall furnish to the commission, at such times and in such form as the commission may prescribe, the results of any service-related tests, summaries, or records in its possession. The carrier shall also furnish the commission any information concerning the carrier's facilities or operations that may be requested.

(d) A telecommunications carrier shall promptly report to the commission any specific occurrence or development that disrupts service to twenty-five per cent or two thousand of its customers, whichever is less, for a period in excess of one hour or which may impair the carrier's ability to furnish service to a substantial number of its customers.

(e) A telecommunications carrier shall file with the commission within seven days a report of any major accident in connection with the operation of the carrier's facilities. It shall promptly notify the commission by telephone of any fatal accident.

(f) A telecommunications carrier shall serve a copy of the reports described in this section on the consumer advocate. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-8, 269-9, 269-34 to 43)

§6-80-93 Standards for service quality.

(a) Every telecommunications carrier shall, through tariffs filed with the commission, establish service quality standards. Sections 6-80-94 to 6-80-98 prescribe minimum standards. The minimum standards apply to all telecommunications carriers, except those standards that specifically reference basic service in high cost areas provided by carriers receiving State or federal universal service fund subsidy and noncompetitive services. Standards that specifically reference basic service in high cost areas provided by carriers receiving State or federal universal service fund subsidy and noncompetitive services do not apply to fully competitive and partially competitive services, provided that:

- (1) The provider of any such fully competitive or partially competitive services establishes its own standards; and
- (2) The commission, if it deems it appropriate and in the public interest, may require the provider of fully competitive or partially

competitive services to observe the minimum standards.

(b) Failure to comply with the standards set forth in the carrier's tariff or the standards provided in §§6-80-94 to 6-80-98, or otherwise to maintain acceptable level of service, may constitute grounds to revoke a carrier's CPCN or COA. Service failures may also be considered in arriving at a proper equity return for carriers receiving State or federal universal service fund subsidy for providing basic service in high cost areas, and for providers of noncompetitive services, and may result in further action as the commission deems appropriate.

(c) The commission may, on a periodic basis or from time to time, require a carrier to file with the commission service quality performance reports, detailing the carrier's compliance history. When filed, the carrier shall serve a copy of any such reports on the consumer advocate.

[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-8, 269-34 to 43)

§6-80-94 Service installation. (a) Except as provided in subsection (b), a telecommunications carrier shall respond to a customer's request for service as quickly as practicable. For basic service in high cost areas provided by carriers receiving State or federal universal service fund subsidy and for noncompetitive services, the minimum standards are:

- (1) Complete installation of service within three days of the receipt of a request in ninety per cent of the requests for basic service;
- (2) Complete installation of service within thirty days of the receipt of a request in ninety-five per cent of all other requests for service; and
- (3) Meet installation date commitments in ninety per cent of all service order requests,

except where the carrier is unable to meet its commitment due to customer-caused delays and causes beyond the reasonable control of the carrier.

(b) A request for a new service requiring line extension or the construction of facilities shall be filled within ninety days of the receipt of the request, unless a delay is unavoidably caused by the unavailability of materials or other situations beyond the reasonable control of the carrier. "Line extension" and "construction of facilities," as used in this subsection, include facility placements for which a permit is required, but do not include drop wires less than three hundred feet in length that connect the carrier's distribution facility to the customer's premises.

(c) If a line extension is required or if facilities are not available, the carrier shall inform the customer within ten days of the receipt of an application for service of the estimated completion date.

(d) If completion of installation is delayed for a number of requests for telecommunications service due to a shortage of facilities, upon the completion of the facilities the carrier shall give priority to furnishing those services that are essential to public health and safety. In cases of prolonged shortage or emergency, the commission may require the carrier to establish a priority plan, subject to the commission's approval, for clearing held orders.

(e) The carrier shall tariff any line extension policy.

(f) On a quarterly basis, as specified by the commission, the carrier shall file a report with the commission of all applications for service not met within the time periods specified in the carrier's tariff or in subsections (a) and (b). Repeated delays in providing service, except delays caused by the customer or by factors beyond the reasonable control

§6-80-94

of the carrier, may constitute grounds for the revocation of the carrier's CPCN or COA.

[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-95 Disruption of service. (a) If service is disrupted, a telecommunications carrier shall make all possible efforts to reestablish service in the shortest time practicable with due regard to safety. For basic service in high cost areas provided by carriers receiving State or federal universal service fund subsidy and for noncompetitive services, the minimum standards are:

- (1) Clearing ninety-five per cent of all out-of-service troubles within twenty-four hours of the time such troubles are reported;
- (2) Averaging no greater than six customer trouble reports per one hundred local access lines in an exchange area per month; and
- (3) Meeting ninety per cent of the repair date commitments.

(b) If service is to be interrupted for scheduled repairs or maintenance, or if the occurrence of an interruption in service is otherwise known to the carrier, the carrier shall promptly notify its affected customers and, as appropriate, fire and law enforcement agencies, before the interruption occurs. Repair and maintenance work shall be performed at a time that will cause the least inconvenience to its customers.

(c) If a national emergency or local disaster occurs, resulting in the disruption of normal telecommunications service, the carrier may temporarily interrupt service to its customers to provide necessary service to civil defense or other emergency service agencies until normal service to these agencies can be restored.

(d) The carrier shall maintain an accurate record of trouble reports made by its customers. The

record must include the identity of the customer or service affected, the time, date, and nature of the report, the action taken to clear the trouble, and the date and time the trouble was cleared or other disposition was made of the trouble report. The carrier shall make the record available to the commission and the consumer advocate at any time upon request. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-96 Answering calls. A telecommunications carrier shall answer calls promptly. For basic service in high cost areas provided by carriers receiving State or federal universal service fund subsidy and for noncompetitive services, the minimum standards are:

- (1) Answering eighty-five per cent of all calls made to the carrier's repair service department or business office within twenty seconds; and
- (2) Answering eighty-five per cent of all calls to interisland toll operators and directory assistance operators within ten seconds.

Answering time is the time it takes for an operator, service representative, or an automated system to accept information and process the call or service request. Any time spent branding the call or requiring the consumer to navigate a voice menu is included as part of the answering time.

[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-97 Transmission requirements. A telecommunications carrier shall maintain its transmission facilities at adequate volume levels and free of excessive distortion. At a minimum, a telecommunications carrier shall design and maintain its facilities to achieve the following levels:

§6-80-97

- (1) Design to 8.5 dB customer line loss and maintain at no more than 10 dB line loss. A carrier without interoffice facilities shall design to no more than 9 dB customer line loss; and
- (2) Design customer line to 25 dBrnC noise and maintain at no more than 30 dBrnC noise. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-98 Call completion. A telecommunications carrier shall provide prompt call completion. For basic service in high cost areas provided by carriers receiving State or federal universal service fund subsidy and for noncompetitive services, the minimum standards are:

- (1) Maintain dial tone delay to less than three seconds in ninety-eight per cent of all calls; and
- (2) Complete ninety-seven per cent of all correctly dialed local and interisland calls. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-99 Rates and special charges information. A telecommunications carrier shall:

- (1) Upon a customer's request, provide explanations of its rates, charges, and provisions applicable to telecommunications service furnished or available under its tariffs;
- (2) Notify a residential customer of any service connection charge before the charge is incurred;
- (3) Notify a customer of any special charges not specifically stated in the carrier's tariff that may be assessed the customer, such as

- charges for extraordinary construction, maintenance, and replacement, for special installations, equipment, and assemblies, and for overtime work; and
- (4) Provide a customer with an estimate of the initial billing for service (including fractional monthly amounts).
[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-100 Customer billing. (a) A telecommunications carrier shall bill its customers on a regular basis. At a minimum and as applicable, each bill must itemize the following:

- (1) The exchange access charges for the services requested by the customer;
 - (2) The extended area service charges, when segregated as a separate tariff element;
 - (3) The enhanced and other local service charges;
 - (4) The period of time for which the local service and equipment charges apply;
 - (5) If the carrier has assumed responsibility for collecting toll charges, the toll calls charged to the customer's account, the date and time of each call, the length of each call, the destination of each call or point of origin for collect or third party calls, or both the destination and point of origin;
 - (6) The telephone number of the carrier's business office;
 - (7) The due date of the bill;
 - (8) State and federal taxes, if applicable; and
 - (9) The interstate customer line charges.
- (b) A telecommunications carrier shall apply any partial payment of a bill to the discharge of what is due for basic service before applying the payment to the discharge of what is due for any other service.
[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-101

§6-80-101 Billing information. (a) A telecommunications carrier shall maintain an accurate record of each customer showing the customer's name and address and the class and type or types of service furnished to the customer.

(b) A telecommunications carrier shall not resell or otherwise make available to any third party any billing name and address information, except for the sole and limited purpose of enabling another entity to bill and collect for telecommunications services or as required by law.

(c) Any carrier providing billing name and address information to a qualified third party, as provided in subsection (b), first shall obtain from the third party a signed agreement of adherence to the carrier's procedures concerning the handling of personally identifiable customer information, including the handling of non-listed and non-published telephone numbers and the requirement that billing name and address information may not be resold or otherwise made available to any other party except as specified in subsection (b).

(d) Any carrier that determines that a third party is not adhering to the signed agreement shall cease providing billing name and address information to that third party after fifteen days' notice to its customers and to the commission, along with a justification why the cessation is necessary.
[Eff. JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-102 Billing disputes. (a) When a dispute arises between a customer and a telecommunications carrier regarding any bill, the carrier may require the customer to pay the undisputed portion of the bill. The carrier shall conduct an appropriate investigation of the disputed charge or charges and shall provide a report of the investigation to the customer. Where the dispute is not reconciled, the carrier shall advise the customer that the customer

has the right to file a complaint with the commission regarding the dispute.

(b) A customer shall be rebilled under the appropriate tariff schedule when:

- (1) The customer was billed under a tariff schedule for which the customer was not eligible; or
- (2) The customer was eligible for billing under more than one schedule but was billed under a schedule contrary to the customer's election or if the customer's election was based on erroneous information provided by the carrier.

(c) Nothing in subsection (b) requires the carrier to adjust billings when the carrier has acted in good faith based on the information available.

(d) If a telecommunications carrier underbills as a result of the carrier's omission or negligence and the amount owed by the customer has accumulated over a period of one month and exceeds \$25, the carrier shall offer and enter into reasonable arrangements for the payment of the amount owed by the customer. If a carrier overbills a customer, the carrier shall refund the overbilled amount. The carrier may refund the overbilled amount by a credit on future bills; provided that if the refund amount is \$25 or more, the carrier shall offer the customer a choice of a cash refund.

(e) A carrier may not consider a customer's bill past due unless it remains unpaid for twenty calendar days after the billing date stated on the bill.

[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-103 Adjustments for out of service conditions. (a) Except as provided in subsection (b), a telecommunications carrier shall make appropriate adjustments or refunds to a customer when service to the customer is interrupted for

§6-80-103

reasons other than the negligence or wilful act of the customer and remains interrupted for more than twenty-four hours after being reported or found to be out of order.

(b) If service is interrupted by a natural or other disaster beyond the control of the telecommunications carrier, the carrier shall make adjustments and refunds to its affected customers if service is not restored within forty-eight hours.

(c) The amount of any adjustment or refund shall be based on the known period of interruption, beginning from the time the service interruption is first reported or found. The adjustment or refund is the prorated part of the month's charge for the days or portion of days that service or facilities remained inoperative.

(d) The refund may be made in the form of a credit on a subsequent bill. [Eff .I.II.N 0 3 1996]
(Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-104 Establishment of credit. (a) For purposes of receiving service from a telecommunications carrier, a customer may establish credit in one or more of the following ways:

- (1) Furnishing credit information and references satisfactory to the carrier. In determining whether the credit of the customer is acceptable, the carrier may consider the customer's credit and payment history rating as reported by a nationally recognized credit reporting organization, the customer's ownership interest in the premises where service is to be furnished, and the customer's employment;
- (2) Establishing a record of prompt payment for service for six to twelve consecutive months; or

(3) Furnishing a guarantor satisfactory to the carrier to secure payment of bills for service rendered.

(b) If service to a customer is discontinued for nonpayment of bills, before service to the customer may thereafter be furnished, the carrier may require the customer to pay all amounts past due, in addition to any connection charges, and to either re-establish credit as provided in subsection (a) or advance a deposit.

(c) If bills are not paid within five days of the customer's receipt of a notice of discontinuance of service for nonpayment of bills, the carrier may require the customer to make a cash deposit as provided in §6-80-105. [Eff. JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-105 Customer deposits. (a) A telecommunications carrier may require a customer to make a cash deposit to guarantee payment of bills for service until credit is established. The deposit may not exceed two times the average monthly bill for the same class of service provided by the carrier to the same class of customers in the given exchange. An estimate of monthly billings may be used for the purpose of determining a deposit if it can be shown that the customer's usage may be substantially different from the average usage for the same class of service.

(b) The carrier shall return the deposit to the customer within thirty days of the customer's establishing credit. If returned within thirty days, the carrier need not pay any interest on the deposit. If the deposit is not returned within thirty days, the carrier shall pay simple interest on the deposit at the rate of at least six per cent per annum from the date of the establishment of the credit until:

- (1) The deposit is returned;
- (2) Service is terminated; or

§6-80-105

(3) Notice is sent to the customer's last known address that the deposit is no longer required.

(c) The carrier shall maintain a record of each unclaimed deposit for at least three years, during which time the carrier shall make a reasonable effort to return the deposit. Unclaimed deposits, together with accrued interest, are to be credited to an appropriate account. [Eff. 03/03/1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-106 Denial or discontinuance of service.

(a) A telecommunications carrier may deny or discontinue service to a customer without the customer's permission and without prior notice for any one or more of the following reasons:

- (1) If a condition immediately dangerous or hazardous to life, physical safety, or property exists;
- (2) Upon an order of any court, the commission, or any other duly authorized public authority; or
- (3) If service was obtained fraudulently or without the authorization of the carrier.

(b) A telecommunications carrier may deny or discontinue service to a customer without the customer's permission and with prior notice only for one or more of the following reasons:

- (1) Nonpayment of a past due bill not in dispute;
- (2) Failure to make a security deposit or obtain a guarantee when one is required;
- (3) Obtaining service by subterfuge;
- (4) Unauthorized interference, diversion, or use of the telecommunications service situated or delivered on or about the customer's premises;
- (5) Violation of any rule of the telecommunications carrier filed with the commission;

- (6) Failure to comply with laws and regulations pertaining to telecommunications service; or
- (7) Failure of the customer to permit the carrier reasonable access to the carrier's facilities or equipment.

(c) The customer shall be notified in writing of the carrier's intention to discontinue service and be allowed not less than five days from the date of the notification to respond. If the notification is mailed to the customer, the customer shall be allowed an additional two days to respond. All notices of proposed discontinuance must state:

- (1) The reason for and date of the scheduled discontinuance of service; and
- (2) Actions which the customer may take to avoid discontinuance of service.

(d) The following do not constitute sufficient cause for denying or discontinuing service:

- (1) Delinquency in payment for service by a previous occupant of the premises to be served (provided that service may be denied to the premises of a person who is a member of the household of a customer who is delinquent in payment for service to the same premises);
- (2) Failure to pay directory advertising charges; and
- (3) Failure to pay any disputed amount pending resolution of the dispute.

(e) In addition to subsection (d), basic service to residences may not be discontinued for nonpayment of:

- (1) Interisland, interstate, or international service;
- (2) Flexibly priced services;
- (3) Fully or partially competitive services; or
- (4) Any telecommunications service offered by a third party.

The carrier, however, may refuse to provide interisland service, flexibly priced services, or fully or partially competitive services for nonpayment for any of these services, even if the debt is to

§6-80-106

JUN 03 1996

another carrier. [Eff] (Auth: HRS
§§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-107 Customer complaints. A telecommunications carrier shall promptly respond to customer complaints. The carrier shall:

- (1) Receive trouble reports twenty-four hours a day and all other complaints during normal business hours, without toll or any other charge;
- (2) Investigate all customer complaints fully and promptly;
- (3) Handle all customer complaints in an efficient and courteous manner;
- (4) Advise a customer who has exhausted the carrier's internal procedures and expresses dissatisfaction with the carrier's action of the customer's right to have the customer's complaint considered and reviewed by the commission. The advice must include the commission's address and telephone number;
- (5) Investigate and respond within thirty days to any customer complaint transmitted by the commission to the carrier, either by letter or by telephone;
- (6) Not issue any notice of discontinuance of service for nonpayment of a disputed amount while a complaint on the matter is under investigation by the carrier or the commission; and
- (7) Maintain an accurate record of each customer complaint, including the complainant's name, the date and nature of the complaint, and its disposition. The record shall be kept for a period of two years following the final settlement or disposition of the complaint. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§§6-80-108 to 112 (Reserved)

SUBCHAPTER 9

CUSTOMER RIGHTS AND PRIVACY

§6-80-113 Customer rights in a competitive telecommunications market. (a) In a competitive intrastate telecommunications market, customers, to the extent technically feasible, are entitled to the results enumerated below. A competitive intrastate telecommunications market is evolving and each of the enumerated results is to be achieved within a reasonable time frame. The results to which customers are entitled are:

- (1) Safe, adequate, and reliable telecommunications service, regardless of the carrier chosen or subscribed to by the customer;
- (2) Increased choice of telecommunications carriers and services;
- (3) Non-discriminatory access to the telecommunications carrier of the customer's choice without the need to dial additional digits or access codes;
- (4) Equal opportunity to access basic and advanced intrastate telecommunications services;
- (5) Quality services at prices comparable to current prices or less;
- (6) Access to a telecommunications network that is seamless and transparent; and
- (7) Basic, essential levels of telecommunications services to all residences and households of the State at affordable rates and pricing options, without undue discrimination.

§6-80-113

(b) The following are guides in the achievement of the results enumerated in subsection (a):

- (1) Competition must not threaten the safety or reliability of existing or future public utility services and facilities;
- (2) To the extent that competitive services are not available to all customers, barriers to competition that bar certain customers or classes of customers from access to such services must be removed; and
- (3) Customers with little or no market choice should be responsible only for an equitable share of costs arising from the restructuring of the telecommunications industry. [Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43, 47 U.S.C. §251)

§6-80-114 Customer's entitlement to information.

Every customer is entitled to basic information about a telecommunications carrier's service. Upon request for service, a telecommunications carrier shall provide the following information to the customer:

- (1) The availability of facilities to provide the requested service at the location where the customer desires service;
- (2) The carrier's lowest-priced alternative available at the customer's location to meet the customer's needs;
- (3) The availability for inspection by the customer of the carrier's rate schedules and rules relating to the carrier's service, as filed with the commission, and the customer's right to obtain at reproduction cost a copy of any tariff and service rule;
- (4) The circumstances under which the carrier may require a deposit or additional deposit; how a deposit is calculated; the interest

- paid on deposits; and the time frame and requirement for the return of the deposit to the customer;
- (5) The hours, addresses, and telephone numbers of carrier offices where bills may be paid and information may be obtained;
 - (6) The toll free number that the customer may use for repair service or billing inquiries;
 - (7) The time allowed to pay outstanding bills;
 - (8) How billing disputes may be resolved;
 - (9) Alternative payment plans offered by the carrier, such as automatic bill payment;
 - (10) Available grievance procedures and the right of the customer to file a complaint with the commission regarding any matter concerning the carrier's rates or service;
 - (11) Grounds for suspension of service;
 - (12) The steps the carrier must take before it may terminate service;
 - (13) That service cannot be discontinued for nonpayment of a disputed amount under investigation by the carrier;
 - (14) That basic residential service may not be discontinued for non-payment of interisland, interstate, or international service, flexibly priced services, fully or partially competitive services, or any telecommunications service offered by a third party, subject to the right of the carrier to refuse to provide interisland service, flexibly priced services, or fully or partially competitive services based on the nonpayment for any of these services, even if the debt is to another carrier;
 - (15) The right of the customer to change carriers and the procedures for changing carriers;
 - (16) The steps necessary to be taken to have service reconnected after involuntary suspension; and
 - (17) Information on Caller ID and its related services, including information on:

§6-80-114

- (A) How caller ID may be blocked on a per call or per line basis; and
- (B) The telephone number to dial for verification that the customer's request for per line blocking has been effectuated. [Eff JUN 03 1996]
(Auth: HRS §§269-6, 269-34 to 43)
(Imp: HRS §§269-34 to 43)

§6-80-115 Standards for customer privacy. (a) A telecommunications carrier shall:

- (1) Except as required by law or with the approval of the customer, collect, maintain, use, disclose or permit access to personally identifiable customer information that it receives or obtains by virtue of its provision of a telecommunications service only to the extent necessary to initiate, provide, or maintain the telecommunications service from which the information is derived or services necessary to, or used in, the provision of the telecommunications service, including billing and collection and the publishing of directories;
- (2) Respect and safeguard personally identifiable customer information, equipment, and records from unauthorized access or use;
- (3) Maintain the confidentiality of personally identifiable customer information when undertaking or participating in projects or ventures with others, and not disseminate, distribute, disclose, transfer, or sell such information for use by persons outside of the telecommunications industry or by other carriers for marketing purposes;
- (4) Provide a customer or, upon the affirmative written request of the customer, provide to any person designated by the customer access to all personally identifiable customer

information about that customer, collected and maintained by the telecommunications carrier. The carrier shall make the information available at reasonable times and at a convenient place designated by the carrier. The carrier shall provide the customer reasonable opportunity to correct any error in the information;

- (5) Respect customers' rights to personal privacy, as recognized by law;
- (6) Maintain the privacy and confidentiality of customer conversations and data transmitted via the telecommunications network and lines, unless otherwise authorized by law;
- (7) Offer and maintain a customer's right to non-listed or non-published numbers;
- (8) Promptly honor a customer's request for account, billing, or payment information that the carrier has about the customer;
- (9) Promptly honor a customer's request to remove the customer's name from the carrier's solicitation list; and
- (10) Make available to every customer Caller ID per line blocking at no charge.

(b) Nothing in this section prohibits a telecommunications carrier from using, disclosing, or permitting access to personally identifiable customer information obtained from its customers, either directly or indirectly through its agents:

- (1) To initiate, render, bill, and collect for telecommunications services;
- (2) To protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services; or
- (3) To provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call, if such call is initiated by the customer and the customer approves the use of such

§6-80-115

information to provide such service.
[Eff JUN 03 1996] (Auth: HRS §§269-6,
269-34 to 43) (Imp: HRS §§269-34 to 43,
47 U.S.C. §222)

§6-80-116 Aggregate customer information.

(a) A telecommunications carrier may use, disclose, or permit access to aggregate customer information, derived from information received or obtained by the carrier by virtue of its provision of a telecommunications service, to other carriers or persons for purposes other than the provision of telecommunications services; provided that the carrier provides such aggregate customer information to other carriers or persons on reasonable and nondiscriminatory terms and conditions upon reasonable request.

(b) "Aggregate customer information," as used in this section, means collective data that relate to a group or category of services or customers, from which individual customer identities and characteristics have been removed. [Eff JUN 03 1996] (Auth: HRS §269-6) (Imp: 47 U.S.C. §222)

§§6-80-117 to 121 (Reserved)

SUBCHAPTER 10

ABANDONMENT OR DISCONTINUANCE OF SERVICE

§6-80-122 Abandonment or discontinuance of noncompetitive service. (a) A telecommunications carrier intending or seeking to abandon or discontinue offering or providing a noncompetitive service in any

80-80

geographic or exchange area shall, not later than six months before the proposed date of abandonment or discontinuance of service, provide a written notice of its intent to:

- (1) The commission;
- (2) The consumer advocate;
- (3) Its affected customers; and
- (4) Every telecommunications carrier in the State providing the same or equivalent service that is proposed to be abandoned or discontinued.

(b) The commission shall investigate the proposed abandonment or discontinuance of service. It may suspend the proposed abandonment or discontinuance of service and, after an expedited hearing:

- (1) Allow the proposed abandonment or discontinuance to take effect upon such reasonable terms and conditions that it deems are in the public interest;
- (2) Delay the proposed abandonment or discontinuance until:
 - (A) Another carrier is able to provide the same or equivalent service, consistent with the public interest; and
 - (B) The other carrier initiates the provision of the same or equivalent service for the given geographical or exchange area;
- (3) If the service proposed to be abandoned or discontinued constitutes basic service in a high cost area provided by the carrier of last resort, the commission may delay the proposed abandonment or discontinuance until:
 - (A) The commission selects a new carrier of last resort pursuant to chapter 6-81 or designates another carrier to temporarily provide basic service in the high cost area; and
 - (B) The new carrier of last resort or temporary carrier initiates the

§6-80-122

provision of basic service in the area;
or

- (4) Deny the proposed abandonment or discontinuance of service.
[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§269-34 to 43)

§6-80-123 Abandonment or discontinuance of fully or partially competitive service. (a) A

telecommunications carrier intending or seeking to abandon or discontinue offering or providing a fully or partially competitive service shall, not later than thirty days before the proposed date of abandonment or discontinuance, provide a written notice of its intent to the commission, the consumer advocate, and its affected customers. The commission may suspend and investigate the proposed abandonment or discontinuance and hold an expedited hearing on the matter.

(b) The commission may:

- (1) Allow the proposed abandonment or discontinuance of service to take effect on such reasonable terms and conditions that it deems are in the public interest;
- (2) Delay the effective date of the proposed abandonment or discontinuance of service; or
- (3) Deny the proposed abandonment or discontinuance of service unless the carrier demonstrates that a reliable competitive alternative exists at reasonable rates.

(c) This section does not apply to telecommunications carriers whose entry into the market is preempted by federal law, except that such carriers shall, not later than thirty days before the proposed effective date of any contemplated abandonment or discontinuance of service, provide a written notice of their intent to abandon or discontinue service to the commission, the consumer

advocate, and their affected customers.
[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to
43) (Imp: HRS §§269-34 to 43)

§§6-80-124 to 128 (Reserved)

SUBCHAPTER 11

PROHIBITED ACTS

§6-80-129 Prohibited acts. No
telecommunications carrier shall:

- (1) File, submit, or present to the commission an application, petition, tariff, or other document that contains false or misleading information, facts, or materials, or that omits material information, facts, or materials;
- (2) Engage in subsidization of competitive services by noncompetitive services, predatory pricing, price discrimination, or other similar anti-competitive behavior;
- (3) Refuse to negotiate with others in good faith, or refuse to use its best efforts in negotiating;
- (4) Engage in acts, conduct, or behavior with the sole purpose of delaying negotiations;
- (5) Unreasonably refuse or delay access to its exchange by another telecommunications carrier;
- (6) Unreasonably refuse to provide or delay interconnection or unbundling to another telecommunications carrier;
- (7) Provide inferior interconnections to another telecommunications carrier;

- (8) Degrade the quality of access provided to another telecommunications carrier;
- (9) Impair the speed, quality, or efficiency of access lines used by another telecommunications carrier;
- (10) Upon bona fide request, unreasonably refuse to fully disclose in a timely manner all information necessary to achieve the objectives of subchapters 5, 6, and 7;
- (11) Unreasonably bundle unwanted services or products for sale or lease to another telecommunications carrier;
- (12) Sell services or products, extend credit, or offer other terms and conditions on more favorable terms to an affiliate of the telecommunications carrier, or to the carrier's retail department, than to other carriers;
- (13) Prevent or prohibit customers from terminating the carrier's service at any time without penalty or liability, except business customers who are served by special contracts and customers who sign up for services under written service agreements that specifically include a penalty or liability for early termination of service, in which case, the carrier's tariff must set forth such penalty or liability;
- (14) Substitute its service for a similar service provided by a carrier of the customer's choice or cause a telecommunications service to be provided to a customer by a telecommunications carrier other than the carrier of the customer's choice, without the customer's written consent;
- (15) Fail to respect the privacy of personally identifiable customer information as provided in §6-80-115;
- (16) Violate any applicable State law or commission order or rule; or
- (17) Engage in any action, conduct, or behavior contrary or detrimental to the public

interest. [Eff JUN 03 1996] (Auth: HRS
§§269-6, 269-34 to 43) (Imp: HRS §§269-34
to 43, 47 U.S.C. §§ 251, 252, 254, 258)

§§6-80-130 to 134 (Reserved)

SUBCHAPTER 12

EXEMPTION AND WAIVER

§6-80-135 Exemption and waiver. (a) The commission may, upon its own motion or upon the written request of any person or telecommunications carrier, exempt or waive a telecommunications carrier or telecommunications service from the provisions of chapter 269, HRS, this chapter, or any other telecommunications-related rule, in whole or in part, upon the commission's determination that the exemption or waiver is in the public interest; provided that the commission may not exempt or waive a telecommunications carrier or telecommunications service from:

- (1) Any provisions of §269-34, HRS; or
- (2) Any provisions of this chapter that implement §269-34, HRS.

(b) The applicable provisions of §269-16.9, HRS, apply to any exemptions or waivers issued by the commission.

(c) The commission may hold a hearing on any proposed exemption or waiver. [Eff JUN 03 1996]
(Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS
§§ 269-16.9, 269-34 to 43)

§6-80-136 Standard list of waivers. (a) Unless ordered otherwise by the commission, the following regulatory requirements of chapter 269, HRS, for the provision of intrastate telecommunications services by telecommunications carriers other than the incumbent carrier are waived:

- (1) Requirement that a separate, formal application for certification be filed with the commission for each new telecommunications service the telecommunications carrier proposes to offer, as mandated by §269-7.5, HRS, and §6-61-86. Instead, the carrier shall file a separate tariff for each proposed new service;
 - (2) Requirement that a telecommunications carrier maintain its financial records in conformance with the uniform system of accounts, as mandated by §269-8.5, HRS. Instead, the carrier may maintain its financial records in accordance with generally accepted accounting principles;
 - (3) Requirement that all records and books pertaining to the telecommunications carrier's intrastate operations be located in the State, as mandated by §269-8.2, HRS. Instead, the carrier shall promptly provide copies of its out-of-state records and books to the commission upon the commission's request; and
 - (4) Requirement subjecting telecommunications carriers to rate of return regulation and to public and contested case hearings on proposed rate increases, as mandated by §269-16, HRS, and §§6-61-86 to 6-61-88; except that waiver of this requirement does not apply to basic service in high cost areas provided by carriers receiving State or federal universal service fund subsidy or to noncompetitive services.
- (b) In addition to subsection (a), fully competitive services shall be exempt from the

thirty-day tariff filing requirement.

[Eff JUN 03 1996] (Auth: HRS §§269-6, 269-34 to 43) (Imp: HRS §§ 269-16.9, 269-34 to 43)

§6-80-137 Modification and rescission.

(a) Upon its own motion or upon the written request of any person, the commission may modify by order any exemption or waiver granted, if it deems that such action is necessary to protect the public interest.

(b) Upon its own motion or upon the written request of any person, the commission may rescind any exemption or waiver granted, if, after notice and hearing, it finds that:

- (1) The conditions prompting the granting of the exemption or waiver no longer apply;
- (2) The exemption or waiver is no longer in the public interest; or
- (3) The telecommunications carrier has failed to comply with:
 - (A) One or more of the conditions of the exemption or waiver; or
 - (B) Any applicable State law or commission order or rule. [Eff JUN 03 1996]
(Auth: HRS §§269-6, 269-34 to 43)
(Imp: HRS §§ 269-16.9, 269-34 to 43)

§§6-80-138 to 142 (Reserved)

DEPARTMENT OF BUDGET AND FINANCE

Chapter 6-80, Hawaii Administrative Rules, on Summary Page dated May 17, 1996, was adopted on May 17, 1996, following public hearing held on March 4, 5, 6, 7, and 8, 1996, after public notice was given in the Honolulu Advertiser on February 2, 1996, The Garden Island on February 2, 1996, the Maui News on February 2, 1996, the Hawaii Tribune-Herald on February 4, 1996, and West Hawaii Today on February 4, 1996.

The adoption of chapter 6-80 shall take effect ten days after filing with the Office of the Lieutenant Governor.



Earl I. Anzai
Director of Finance
Department of Budget and
Finance



Yukio Naito
Chairman
Public Utilities Commission

APPROVED:



Benjamin J. Cayetano
Governor
State of Hawaii

Dated: May 23, 1996

LIEUTENANT GOVERNOR'S
OFFICE

'96 MAY 23 19:58

APPROVED AS TO FORM:

Alan Jackson
Deputy Attorney General

MAY 23 1996

Filed

LIEUTENANT GOV.
OFFICE

'96 MAY 23 09:58

