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SUBCHAPTER 1

GENERAL PROVISIONS

§6-81-1 Purpose of the rules. The purpose of this chapter is to adopt standards and procedures governing the implementation of the universal service fund for the State, pursuant to:

(1) Act 225, Session Laws of Hawaii 1995, enacted on June 29, 1995; and
(2) The Federal Telecommunications Act of 1996, enacted on February 8, 1996.

[Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§6-81-2 Policy. It is the State's policy to preserve and advance universal service by:

(1) Maintaining affordable, just, and reasonable rates for basic exchange service;
(2) Assisting customers located in areas of the State that have high costs of basic telecommunications services and assisting low-income customers and customers with disabilities in obtaining and maintaining access to basic services; and
(3) Enhancing the deployment of access to basic and advanced telecommunications services to

public institutions. [Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§6-81-3 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] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43)

§6-81-4 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.

"Administrator" means the administrator of the universal service fund.

"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 for a business, professional, institutional, or occupational nature.

"Carrier of last resort" means the telecommunications carrier designated by the commission to be eligible for disbursements from the State universal service fund for a specific high cost area.

"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.

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

"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.

"Elementary school" means a nonprofit institutional day or residential school that provides elementary education, as determined under State law.

"Enhanced 911" means the same as "statewide enhanced 911 emergency telephone service," in §269-16.95, HRS.

"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" means the geographical territory served by an exchange.

"Exchange service" means the telecommunications service provided to business and residential customers within a given exchange 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.

"FCC" means the Federal Communications Commission.

"Health care provider" means:

(1) A post-secondary educational institution offering health care instruction, a teaching hospital, and a medical school;

(2) A community health center or a health center providing health care to migrants;

(3) A governmental health department or agency;

(4) A community mental health center;

(5) A not-for-profit hospital;

(6) A rural health clinic; and

(7) A consortia of health care providers consisting of one or more entities described in paragraphs (1) to (6).

"High cost area" means a given geographical or exchange area within the State designated as high cost, pursuant to §6-81-52(b).

"Household" means a family or a group of individuals who live together in the same dwelling, such as a single family home, apartment, or condominium unit, provided that such family or group is not comprised exclusively of individuals who have other primary residences or who are claimed as dependents on the tax returns of other persons. A household may consist of an individual who shares a dwelling unit with others and contributes toward the

expenses of the unit, but maintains a separate, independent livelihood and occupies, on an exclusive basis, a clearly defined area in the dwelling unit.

"HRS" means the Hawaii Revised Statutes.

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

"Lifeline telephone program" means the program of providing discounted residential telephone rates to elders with limited income and to the handicapped with limited income, as described in §269-16.5(b), HRS.

"Low income customer" means a residential customer who meets the eligibility criteria to participate in the low income assistance program, pursuant to §§6-81-44 and 6-81-45.

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

"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.

"Public institution" or "public institutional telecommunications user" means an elementary or secondary school, a library, or a health care provider.

"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.

"Secondary school" means a nonprofit institutional day or residential school that provides

secondary education, as determined under State law, except that the term does not include any education beyond grade 12.

"State" means the State of Hawaii.

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

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

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

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

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

"Universal service" means the offering and providing of basic exchange service to all customers in the State at affordable, just, and reasonable rates.

"Universal service fund" or "fund" means the State universal service fund. [Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§6-81-5 Use of the fund. (a) The universal service fund may be used for any of the following purposes:

(1) To defray the costs of administering the fund, including the costs of completing an annual, independent audit;

(2) To subsidize telecommunications carriers that provide basic service to:

(A) Low income customers; and

(B) Customers in high cost areas; and

(3) To the extent provided in this chapter, to subsidize telecommunications carriers that

provide basic service and advanced telecommunications service to public institutions.

(b) Nothing in this chapter prohibits a provider of commercial mobile radio service from qualifying for disbursements from the universal service fund.

[Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§6-81-6 General requirements. (a) The State's universal service fund is a fund of last resort. A telecommunications carrier may not receive universal service funding from the State unless:

(1) It first applies for funding from the federal universal service fund or any other source of funding, to the extent applicable, and is denied or declined such funding, or demonstrates that such funding is insufficient; or

(2) It is ineligible for funding, other than from the State universal service fund.

(b) Whenever a telecommunications carrier is entitled to a subsidy from the universal service fund, the carrier may elect to have the amount of the subsidy treated as an offset to its obligation to contribute to the universal service fund.

(c) The commission may require the posting of a performance bond by any telecommunications carrier, at an amount set by the commission, as a condition for providing universal service in the State.

[Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§6-81-7 Implementation date of the fund. The commission shall determine when contributions to the fund and payments from the fund may begin. The

commission shall inform all telecommunications carriers required to contribute to the fund and those entitled to payments from the fund of the start dates. [Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§6-81-8 Continuance of basic service. On the effective date of this chapter, the incumbent telecommunications carrier shall continue to provide basic service in the geographical or exchange areas it is then serving, unless:

(1) It is allowed to discontinue the service pursuant to chapter 6-80, subchapter 10;
(2) The customer chooses another telecommunications carrier as its provider of such service; or
(3) Another telecommunications carrier is designated by the commission as a carrier of last resort for a given high cost area, pursuant to subchapter 6.

[Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§6-81-9 Designation of telecommunications carriers eligible to receive federal universal service support. (a) Pursuant to 47 U.S.C. § 214, the commission will, upon the written petition of a common carrier or the commission's own motion, designate telecommunications carriers as eligible to receive federal universal service support. Carriers designated as eligible telecommunications carriers shall, throughout the service area for which the designation is received:

(1) Offer the services supported by federal universal service support mechanisms using

either its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(2) Advertise the availability of such services and the charges thereof using media or general distribution.

(b) Upon request and consistent with the public interest, convenience, and necessity, the commission may, in the case of a high cost area, and shall, in the case of all other service areas (as defined by the commission), designate more than one carrier as an eligible telecommunications carrier. Before designating an additional telecommunications carrier for a high cost area, the commission must find that the designation is in the public interest.

[Eff] (Auth: HRS §§269-6) (Imp: 47 U.S.C. §214)

§6-81-10 Designation of telecommunications carrier for unserved areas. In no event shall any geographical area or community be without basic service or any other service supported by the State or federal universal service support mechanisms. If no telecommunications carrier will provide any of the services that are supported by either the State or the federal universal service support mechanisms to any unserved community (or any portion of the community) that requires such service, the commission shall:

(1) Determine which telecommunications carrier or carriers are best able to provide such service to the unserved community (or portion of the community); and

(2) Order such carrier or carriers to provide such service to that community (or portion of the community).

Any telecommunications carrier or carriers ordered to provide such service are eligible for support from the State universal service fund or the

federal universal service fund, as the case might be. [Eff] (Auth: HRS §269-6) (Imp: 47 U.S.C. §214)

§6-81-11 Abandonment or discontinuance of service. Section 6-80-122 applies to any proposed abandonment or discontinuance of a service supported by the State or federal universal service support mechanisms, except that, as necessary, before allowing a telecommunications carrier to abandon or discontinue any service supported by the State or federal universal service support mechanisms, the commission shall require:

(1) The other telecommunications carriers receiving support from the State or federal universal service support mechanisms in the area served by the carrier seeking to abandon or discontinue service to ensure that all customers served by the carrier abandoning or discontinuing service will continue to be served; and

(2) Sufficient notice to permit the purchase or construction of adequate facilities by the other telecommunications carriers.

The purchase or construction required under paragraph (2) must be completed within one year of the date the commission approves the abandonment or discontinuance of service. [Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §214)

§6-81-12 Enforcement of chapter 6-81. Chapter 269, HRS, and any other applicable State law and commission rule and order apply in the enforcement of this chapter. [Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43)

§6-81-13 Severability clause. If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43)

§§6-81-14 to 18 (Reserved)

SUBCHAPTER 2

SCOPE OF UNIVERSAL SERVICE

§6-81-19 Universal service - basic exchange service. (a) On the effective date of this chapter, basic exchange service consists of single-line dial tone; touch tone dialing; access to operator service; access to enhanced 911; telecommunications relay service; telephone directory; and access to directory assistance service via 411 dialing.

(b) For purposes of this section:

(1) "Dial tone" means the ability to make or receive telephone calls with or without operator intervention;

(2) "Single-line" means single-party line or a one-party line; and

(3) "Touch tone dialing" means dual tone multi-frequency, as opposed to dial pulse signalling.

(c) The commission may by rule or order, from time to time, redefine basic service to include or exclude a particular service. In determining whether

basic service should be redefined to include or exclude a particular service, the commission shall consider the following factors:

(1) The extent to which the service is readily available, is in demand, and, through the operation of market choices by customers, has been subscribed to by a substantial majority of the residents in the State;

(2) The extent to which the service has gained common acceptance in the community and is being deployed in the public telecommunications networks by telecommunications carriers;

(3) The extent to which the service is essential to education, public health, or public safety;

(4) The extent to which the service is consistent with public interest, convenience, and necessity; and

(5) Any other factors deemed relevant by the commission.

(d) Any person by a written petition or the commission on its own motion may initiate a proceeding to review the definition of basic service or to redefine it. The commission shall hold a hearing in such a proceeding. The consumer advocate shall be a party to the proceeding. In addition, any telecommunications carrier required to contribute to the fund and any other interested persons may intervene as parties or otherwise participate in the proceeding.

(e) In its review of the definition of basic service, the commission may investigate whether it is in the public interest to include any of the following in basic service:

(1) Access to all telecommunications services that are used by a majority of residents located in the metropolitan areas of the State; and

(2) Access to advanced telecommunications services.

(f) In addition to the services included in the definition of basic service, the commission may designate additional services for support through the universal service fund for schools, libraries, and health care providers for the purposes of subchapter 7. [Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§6-81-20 Access to telecommunications relay service and enhanced 911. Every telecommunications carrier, including a carrier of last resort, offering or providing basic exchange service, shall make provisions to ensure access by its customers to:

(1) Telecommunications relay service, as provided in §269-16.6, HRS; and

(2) Enhanced 911, as provided in §269-16.95, HRS. [Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-16.6, 269-16.95, 269-35, 269-38, 269-41 to 43, 47 U.S.C. §§254, 255)

§§6-81-21 to 25 (Reserved)

SUBCHAPTER 3

ADMINISTRATION OF THE FUND

§6-81-26 Administration of the fund. (a) A neutral third party designated by the commission shall administer the universal service fund.

(b) The commission shall select the administrator based on competitive bids, pursuant to

chapter 103D, HRS, or by any other means duly authorized by law.

(c) No telecommunications carrier or any of its affiliates, subsidiaries, agents, officials, or employees is eligible to serve as the administrator.

(d) The administrator's general duties are:

(1) Collecting and receiving contributions to the fund;

(2) Distributing moneys from the fund;

(3) Managing the daily operations and affairs of the fund; and

(4) Conducting periodic audits of telecommunications carriers to ensure that the carriers are accurately reporting and making proper contributions to the universal service fund.

The commission may specify other duties that it deems appropriate in the administrator's contract.

(e) The fund is subject to an annual audit by an independent certified public accountant selected by the commission. [Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§6-81-27 Start-up costs. The commission may advance reasonable commission funds for any start-up costs associated with the implementation of the universal service fund. [Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§6-81-28 to 32 (Reserved)

SUBCHAPTER 4

CONTRIBUTIONS TO THE FUND

§6-81-33 Contributors to the fund. (a) All telecommunications carriers operating or providing telecommunications service within the State shall contribute to the universal service fund. Telecommunications carriers subject to this subsection include:

(1) The incumbent telecommunications carrier; and

(2) All carriers certified by or registered with the commission pursuant to §269-7.5(b), HRS, or §6-80-18(a) or (b), including:

(A) Carriers or providers of commercial mobile radio service;

(B) Resellers; and

(C) Narrow and broadband personal communications service providers, private network providers, cable television firms, power companies, enhanced service providers, and very small aperture satellite service providers.

(b) The commission may require any person other than a telecommunications carrier to contribute to the universal service fund if, after written notice and hearing, the commission determines:

(1) The person is offering a commercial service (i.e., for compensation or profit) within the State that directly benefits from the telecommunications infrastructure situated within the State; and

(2) The commercial service directly competes with a telecommunications service provided within the State by a telecommunications carrier that is required to make a contribution to the fund.

(c) The commission may exempt a telecommunications carrier or class of carriers from the requirement to contribute to the universal service fund if the carrier's telecommunications activities are limited to such an extent that the level of such carrier's contribution to the preservation and advancement of universal service would be de minimis. [Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§6-81-34 Amount of contributions. (a) The commission shall annually, by order, set the amount of the contribution required to be made to the universal service fund by each telecommunications carrier, based on a percentage of the carrier's gross operating revenues from the retail provision of intrastate telecommunications services during the preceding calendar year; provided that the commission may:

(1) Set a minimum amount to be paid by any carrier;

(2) Establish different percentages to be applied to different classes or types of carriers; and

(3) Periodically review and readjust the percentage or minimum amount, or both, based on the fund's actual and forecast income and disbursements.

(b) Each telecommunications carrier shall pay its contribution directly to the administrator at dates or intervals set by the commission.

(c) Interest shall be charged on any late payment at the rate of ten percent per year. A payment is late if not made within fifteen days of the due date.

(d) All contributions and interest payments made to the administrator shall be deposited into the

universal service fund account. [Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§6-81-35 Surcharge. (a) A telecommunications carrier contributing to the universal service fund may impose a surcharge on its customers, both residential and business, to recover the amount of its contribution.

(b) The carrier shall separately and clearly identify and explain on its customers' bills the surcharge assessed for the universal service fund.

(c) The surcharge shall not be imposed until at least thirty days' written notice is provided to the commission. The notice must specify the amount of the proposed surcharge and the form in which the surcharge will be designated on customers' bills.

(d) The commission, as appropriate, may order modifications in the amount of the surcharge or in the form of the designation on customers' bills. [Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§6-81-36 to 40 (Reserved)

SUBCHAPTER 5

LOW INCOME CUSTOMER

§6-81-41 Lifeline telephone program. On the effective date of this chapter, the program of providing discounted residential telephone rates to

elders with limited income and to the handicapped with limited income, then in effect pursuant to §269-16.5, HRS, continues in full force and effect. Upon the full implementation of the universal service fund and at a time designated by the commission, the lifeline program shall be incorporated into the low income assistance program provided in this subchapter. [Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-16.5, 269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§6-81-42 Low income assistance program. The low income assistance program is to provide basic service at discounted rates to residential customers who qualify for the discounted rates under §§6-81-44 and 6-81-45. The difference between the discounted rates and the tariffed residential basic service rates shall be subsidized by the universal service fund, as provided in this subchapter. [Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§6-81-43 Discounted rates. The discounted rates payable by those eligible to participate in the low income assistance program are:

(1) Fifty per cent of the tariffed residential basic service rate; and

(2) Fifty per cent of the tariffed access and connection charges for residential basic service. [Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§6-81-44 Eligibility for low income assistance. Any residential basic service customer who meets the following criteria is eligible to participate in the low income assistance program:

(1) The customer has only one telephone access line in the household;

(2) The household is the customer's primary residence;

(3) The telephone is listed in the customer's name; and

(4) The total annual income of all individuals living in the customer's household does not exceed $10,000. [Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§6-81-45 Certification of eligibility. (a) A telecommunications carrier providing basic service to residential customers shall provide a standard form on which any of its limited income residential customers may certify as to the customer's eligibility to participate in the low income assistance program. Certification is valid for a year, and a customer continuing to be eligible shall recertify on an annual basis.

(b) A certification of eligibility is prima facie evidence that the customer meets the eligibility criteria. The carrier, at its cost, bears the responsibility of verifying the accuracy of any certification. Such verification may be on a random and case-by-case basis and performed only as the carrier deems necessary. The commission may, as it deems necessary, conduct periodic reviews of any telecommunications carrier's verification process. [Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§6-81-46 Distribution of universal service fund to the provider of service to low income customers. Telecommunications carriers providing basic service to residential customers eligible to participate in the low income assistance program may apply to the administrator of the universal service fund for subsidies to recover the difference between the discounted rates paid by the customers in the low income assistance program and the tariffed rates. The administrator shall pay the subsidies from the universal service fund under the terms and conditions, and in the manner, prescribed by the commission. [Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§§6-81-47 to 51 (Reserved)

SUBCHAPTER 6

HIGH COST AREA

§6-81-52 High cost area. (a) The commission may designate a given geographical or exchange area within the State as a high cost area. A high cost area is one in which the cost of providing basic exchange service is high in comparison to the cost of providing basic exchange service in other areas of the State.

(b) A determination that a given area is a high cost area may be made upon the written petition of any interested person filed with the commission or upon the commission's own motion. The necessary disparity between the cost of providing basic exchange service in a given area and the cost of providing basic exchange service in the rest of the State to qualify

the given area as a high cost area shall be determined by the commission on a case-by-case basis. In determining whether an area should be deemed a high cost area, the commission shall consider the following factors:

(1) The cost of providing basic exchange service per access line in the area by the current provider of the service;
(2) The statewide weighted average cost of providing basic service per access line;
(3) The presence or absence of effective competition in the area for the provision of basic service;
(4) The area's remoteness and rural quality;
(5) The area's topography and geographic size;
(6) The number of residences or households and businesses in the area;
(7) The number of residences or households in the area that do not subscribe to exchange service;
(8) Benefits to the public interest; and
(9) Any other factors deemed relevant by the commission.

An area is not a high cost area unless the cost of providing basic service per access line in the area is more than one hundred twenty per cent of the statewide weighted average cost of providing basic service per access line.

(c) In delineating the boundaries of a proposed high cost area, the commission shall consider:

(1) The current exchange boundaries;
(2) Maintenance of the integrity of areas served by common switching equipment and associated engineering functions;
(3) The inclusion of adjacent areas, comprised of low cost or profitable customers, that may be appropriately served by the same switching equipment; and
(4) Any other factors deemed relevant by the commission. [Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43)

(Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§6-81-53 Proceeding to determine an area as a high cost area. (a) Any petition to have an area declared a high cost area must:

(1) Address the factors set forth in §6-81-52(b); and

(2) Describe the boundaries of the proposed high cost area, taking into account the factors set forth in §6-81-52(c), and include any maps.

(b) A copy of any petition or commission order to determine whether an area should be declared a high cost area shall be served on:

(1) The administrator of the universal service fund; and

(2) The consumer advocate.

The administrator of the universal service fund shall notify all contributors to the universal service fund in writing of the petition or order. The commission shall cause to be published a written notice of the petition or order in a newspaper of general circulation in the State and in a newspaper published and generally circulated in the county in which the proposed high cost area is situated.

(c) The commission may conduct a public hearing or hearings in the area affected by the petition or order. It may also hold an evidentiary hearing. In any evidentiary hearing, the following persons shall be parties:

(1) The current telecommunications provider of basic exchange service in the area;

(2) The consumer advocate;

(3) The administrator of the universal service fund; and

(4) Any other persons allowed by the commission to intervene as parties or to participate.

(d) Upon review, the commission may declare the whole or a part of the area as a high cost area, or it may determine that no part of the area should be declared a high cost area. [Eff]
(Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43)
(Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §254)

§6-81-54 Carrier of last resort - general.
(a) The commission shall designate a single telecommunications carrier as the carrier of last resort for a high cost area. Such carrier is the ultimate carrier responsible for ensuring that all persons in the high cost area are provided with basic service. It shall provide such service either using its own facilities or a combination of its own facilities and resale of another carrier's service, including the service offered by another telecommunications carrier authorized to provide basic service in the high cost area. The carrier of last resort is also the only carrier eligible for subsidies or disbursements from the State universal service fund for the provision of basic service in the high cost area.

(b) Nothing in subsection (a) precludes any other telecommunications carrier, designated by the commission pursuant to 47 U.S.C. §214 and §6-81-9, from providing basic service in the high cost area through the support mechanisms of the federal universal service fund.

(c) The carrier of last resort is subject to the applicable requirements of chapter 6-80, including the provisions on access, interconnection, resale, unbundling, and network termination and the provisions on access to poles, ducts, conduits, and rights-of-way, unless otherwise provided in this chapter or ordered by the commission.

(d) The commission, from time to time, shall:

(1) Review the carrier of last resort's provision of basic service to the designated high cost area; and
(2) Review and determine the continuing necessity for designating the area as a high cost area and for designating a carrier of last resort.
[Eff] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-35, 269-38, 269-41 to 43, 47 U.S.C. §§214, 254)

§6-81-55 Carrier of last resort - selection. (a) The commission shall select the carrier of last resort for a high cost area through a bidding process. The commission shall formulate specifications for providing basic exchange service in the high cost area and prepare a solicitation for bids. The commission shall cause a notice of the bid solicitation to be published, at least once, in a newspaper of general circulation in the State and in a newspaper published and generally circulated in the county where the high cost area is situated. Any telecommunications carrier certified or authorized to provide telecommunications services in the State, including any carrier temporarily certified to participate in the bidding process, may submit a bid. The successful bidder shall provide basic exchange service in the high cost area in accordance with the terms and conditions set forth in the specifications and as otherwise required by the commission.

(b) The commission shall consider the following factors in determining the successful bidder:
(1) Ability to adhere to the requirements of the specifications;
(2) Quality and level of service to be provided;
(3) Investment commitment;
(4) Qualifications of the bidder;
(5) Cost to the customers in the area;
(6) The amount of the subsidies required;