

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

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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)

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§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)

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(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:

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- (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;

- (7) Protection of the public interest; and
- (8) Any other factors deemed relevant by the commission.

The commission may, as it deems appropriate and in the public interest, reject all bids, redraft the specifications, and re-start the bidding process.

(c) Every carrier (including the incumbent carrier providing basic exchange service in the area) submitting a bid shall include in its projected cost the undepreciated balance of the facilities of the incumbent carrier then being used to provide basic exchange service in the area. The undepreciated balance is the undepreciated value of the facilities as carried on the books of the incumbent carrier. The commission shall establish a procedural schedule for the incumbent carrier to present its claim of the cost of the undepreciated balance of the facilities, for comments to be made by the consumer advocate and other carriers, and for adjudication of this matter by the commission in advance of the submission of bids.

[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)

§6-81-56 Distribution of universal service fund to the carrier of last resort. (a) Except as otherwise provided by the commission, a carrier of last resort may apply for subsidies from the universal service fund to recover the amount required by its bid.

(b) Upon the receipt of an application for universal service fund subsidies, the administrator of the universal service fund shall pay the subsidies to the carrier of last resort, on 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)

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§6-81-57 Adjustment of subsidy amount. The commission may, on its own motion or on the motion of the carrier of last resort, readjust the subsidy amount that the carrier may receive from the universal service fund if, during the course of the carrier's contract period, the definition of universal service is expanded or contracted by State or federal law or by commission order. [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)

§§6-81-58 to 62 (Reserved)

#### SUBCHAPTER 7

#### SUBSIDIES FOR SPECIALIZED TELECOMMUNICATIONS SERVICES AND SERVICES TO PUBLIC INSTITUTIONS

§6-81-63 Specialized telecommunications services. Services included in basic exchange service that are, for technical, physical, or practical purposes, provided by a single telecommunications carrier, such as the relay services for the deaf, hearing-impaired, and speech-impaired under §269-16.6, HRS, may be subsidized by payment from the universal service fund directly to the carrier providing that service. The amount of the subsidy is limited to the cost of providing the specialized service. [Eff \_\_\_\_\_] (Auth: HRS §§269-6, 269-35, 269-38, 269-41 to 43) (Imp: HRS §§269-16.6, 269-35, 269-38, 269-41 to 43)

§6-81-64 Distribution of universal service fund to providers of specialized services and providers of

services to public institutions. A telecommunications carrier seeking a subsidy for providing a specialized service described in §6-81-63 and service to a public institution described in this subchapter must apply for the subsidy. Upon receipt of an application for a subsidy, the administrator of the universal service fund shall review the application and, if appropriate, pay the requested subsidy to the carrier on 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)

§6-81-65 Telecommunications services to health care providers - general. (a) Upon the receipt of a bona fide request, a telecommunications carrier shall provide telecommunications services that are necessary for the provision of health care services, including instruction relating to such services, to any public or nonprofit health care provider, that serves persons who reside in a high cost area, at rates that are reasonably comparable to the rates charged for similar services in the urban areas in the State. For purposes of this section, the following areas in the State are deemed urban areas:

- (1) The entire island of Oahu; and
- (2) Areas on the neighbor islands where the rates charged health care providers are no greater than the rates charged ordinary businesses on the island of Oahu.

(b) The rates to be charged a health care provider under subsection (a) shall be tariffed. The tariff, when filed with the commission, is subject to protest, in which event, the provisions of §6-80-40(c) apply. The tariff is also subject to commission review. Upon review, the commission may:

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

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(c) A carrier providing service to a health care provider in a high cost area at rates prescribed in subsection (a) may secure a subsidy from the universal service fund for any difference between the carrier's rates and the rates for similar services provided to customers in other high cost areas in the State. The amount of this subsidy is exclusive of the costs for basic service subsidized pursuant to this chapter. [Eff ] (Auth: HRS §269-6) (Imp: 47 U.S.C. §254)

§6-81-66 Basic telecommunications services and service drops to schools and libraries. Upon receipt of a bona fide request, a telecommunications carrier shall provide basic telecommunications service and service drops to elementary schools, secondary schools, and libraries situated in the carrier's geographical area for educational purposes at rates less than the amounts charged for similar services to other parties. The amount of the discount may not exceed fifty per cent. The carrier may secure a subsidy from the universal service fund for the difference between the discounted rates and the rates charged for similar services to other parties. "Service drop," as used in this section, means the wire or cable from the carrier's service pole or terminal located outside a school or library premises to the demarcation point on the school or library premises. [Eff ] (Auth: HRS §269-6) (Imp: 47 U.S.C. §254)

§6-81-67 Advanced telecommunications services to public institutions. Upon establishment of FCC regulations pursuant to 47 U.S.C. §254(h)(2), a telecommunications carrier shall, to the extent technically feasible and economically reasonable and in conformance with FCC regulations, offer to all public and non-profit elementary and secondary school

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classrooms, health care providers, and libraries situated in the carrier's service area, access to advanced telecommunications and information services. [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, 706)

§§6-81-68 to 72 (Reserved)

DEPARTMENT OF BUDGET AND FINANCE

Chapter 6-81, 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 6-81 shall take effect ten days after filing with the Office of the Lieutenant Governor.

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



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Yukio Naito  
Chairman  
Public Utilities Commission

APPROVED:

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Benjamin J. Cayetano  
Governor  
State of Hawaii

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

*Debra C. Jackson*  
Deputy Attorney General

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Filed

## CERTIFICATE OF SERVICE

I, Marc Berejka, do hereby certify that on this 9th day of October, 1996, I have caused a copy of the foregoing Ex Parte Statement of the State of Hawaii Division of Consumer Advocacy to be served via first class United States Mail, postage pre-paid, upon the persons listed below.

  
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