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September 6, 2002

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-A325
Washington, DC 20554

Re: Permitted Oral Ex Parte Presentation
CC Docket No. 96-45

Dear Secretary Dortch:

On Thursday, September 5, 2002, Herbert E. Marks and Bruce A. Olcott of Squire Sanders & Dempsey, L.L.P., as counsel for the State of Hawaii, met with William Maher, Chief, Wireline Competition Bureau ("WCB"), Jeffrey Carlisle, WCB Senior Deputy Chief, Tamara Preiss, Chief, WCB Pricing Policy Division, and Jessica Rosenworcel, Legal Counsel, WCB.

The meeting was held to discuss the importance for the Commission of refraining from taking any action that tends to undermine the requirements of Section 254(g) of the Communications Act, which were implemented by the Commission in Section 64.1801 of the Commission's Rules. The State indicated that a number of recent attempts have been made by various parties to interject Section 254(g) into WCB proceedings that are unrelated to the geographic averaging and rate integration requirements. The State urged the Commission to avoid involving Section 254(g) in proceedings where the statutory requirements are not relevant.

The attached handout was distributed during the meeting. Please contact the undersigned if you have any questions.

Sincerely,

Bruce A. Olcott

Cc: William Maher, Chief, Wireline Competition Bureau
Jeffrey Carlisle, WCB Senior Deputy Chief
Tamara Preiss, Chief, WCB Pricing Policy Division
Jessica Rosenworcel, Legal Counsel, WCB

State of Hawaii
Ex Parte Presentation to
William Maher, Chief of the Wireline Competition Bureau

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- The Commission adopted rate integration and geographic averaging policies to ensure that "off shore points" – Alaska, Hawaii, and Puerto Rico/Virgin Islands – were integrated into the telecommunications rate and services structure prevailing in the Mainland States.

- Congress expanded these policies and codified them in Section 254(g) of the 1996 Telecommunications Act. Congress took this action even though the interexchange market was deemed "competitive."

- The intent was to assure that <u>all</u> Americans, even those in remote areas, received the benefits of competition. Section 254(g) directs the FCC to:

  - mandate geographic rate averaging by requiring interexchange carriers ("IXCs") to charge rates in rural areas that are no higher than the rates they charge in urban areas.

  - enforce rate integration by requiring IXCs to provide services to subscribers in each State at rates no higher than the rates charged to subscribers in any other State.

- This provision and the underlying policies are very important to the State. It facilitates Hawaii's economic and social integration with the rest of the country.

- The Commission continues to recognize the significance of Section 254(g)'s requirements. For example, the Commission recently affirmed the application of Section 254(g) to optional calling plans as a part of its MAG Order (FCC 01-304), released Nov. 8, 2001.

- References to Section 254(g) are appearing in Commission proceedings with increasing frequency.

  - In many instances, Section 254(g) is not directly put "in play", but, rather it or its underlying policies are claimed to justify one result or another.

  - The State of Hawaii has intervened only when significant questions about the interpretation of the Section are apparent.

- The State of Hawaii is concerned about any suggested departures from Section 254(g) because the State has been historically been subject to discrimination in telecommunications rates and services, and providers have continually tried to avoid its mandates.

- The provisions of Section 254(g) must be preserved because they help to ensure that discriminatory treatment does not return and impair access to competitive telecommunications services for the residents of Hawaii.

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