

April 7, 2010

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

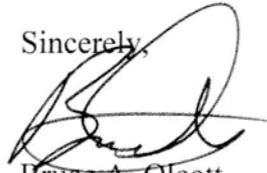
**Re: Federal-State Joint Board on Universal Service, High-Cost Universal Service Support
CC Docket No. 96-45 and WC Docket No. 05-337**

Dear Ms. Dortch:

On April 6, 2010, Herbert E. Marks and the undersigned, on behalf of the State of Hawaii, met in separate meetings with Angela Kronenberg, Legal Advisor to Commissioner Clyburn, Christine Kurth, Legal Advisor to Commissioner McDowell, Jennifer Schneider, Legal Advisor to Commissioner Copps, and Millie Kerr, Confidential Assistant and Staff Attorney for Commissioner Baker.

The points discussed during the meetings are outlined in the attached talking points, which were distributed during the meetings. Please let us know if you have any questions.

Sincerely,



Bruce A. Olcott
Counsel to The State of Hawaii

THE STATE OF HAWAII
Insular Universal Service Support
WC Docket No. 05-337 & CC Docket No. 96-45
April 6, 2010

- Section 254(b)(3) mandates that consumers in all regions of the nation, including “insular” areas, have access to reasonably comparable telecommunications and information services.
 - The Commission’s 1999 *Unserved Areas NPRM* openly acknowledges that “in common usage, the term insular area means ‘of, or having the form of an island.’”
 - Since no ambiguity exists, the *NPRM* inquiry should have ended there, defining insular as all islands that are U.S. territories, possessions or states.
 - Such an approach would be consistent with the realities of providing telecommunications and information services to island-based communities.
 - Hawaii is located about 2500 miles from the mainland, with its citizens spread across six major and other smaller islands.
 - Carriers operating in the state must contend with salt erosion, rough terrain, rocky subsoil, tropical storms, high transportation costs, diverse cultures and the need for inter-island distribution facilities.
 - The 1999 *NPRM* inappropriately attempted to look behind the plain meaning of the statute, suggesting that other statutes have defined insular to exclude states.
 - At least one other federal statute (addressing Regional Marine Research Boards) defines insular to include Hawaii.
 - Other federal statutes (including many cited in the 1999 *NPRM*) define insular to exclude Puerto Rico.
 - The *NPRM*’s inquiry shows only that technical terms, such as insular, must be defined based on the history and purpose of the applicable federal statute.
 - As noted above, carriers in Hawaii have long faced all the same challenges that are experienced in other insular areas such as Puerto Rico.
 - The history and purpose of the Act therefore provides no support for treating territories and states any differently for purposes of Section 254(b)(3).
 - The Act further suggests that Congress intended to treat states and territories the same, defining state to include United States “territories and possessions.” (153(40))
 - Consistent with this definition, the Commission has concluded that other Section 254 universal service provisions apply equally to states and territories.