

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
ITC^DELTACOM COMMUNICATIONS, INC.)
And ITC^DELTACOM, INC.)
(DEBTOR-IN-POSSESSION))
)
For approval of the transfer of)
Indirect control of ITC^DeltaCom)
Communications, Inc.)
_____)

DOCKET NO. 02-0345

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2002 DEC 13 P 4: 24

DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

DECISION AND ORDER NO. 19874

Filed Dec. 13, 2002

At 2:30 o'clock P .M.

Karen Higashi
Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	
ITC^DELTA COM COMMUNICATIONS, INC.)	Docket No. 02-0345
And ITC^DELTA COM, INC.)	
(DEBTOR-IN-POSSESSION))	Decision and Order No. 19874
For approval of the transfer of)	
Indirect control of ITC^DeltaCom)	
Communications, Inc.)	
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DECISION AND ORDER

I.

By a Petition filed on September 16, 2002, ITC^DELTA COM COMMUNICATIONS, INC., dba ITC^DELTA COM (DeltaCom)¹ and its parent corporation, ITC^DELTA COM, INC. (ITCD) (collectively referred to as Petitioners) request commission approval for the transfer of indirect control of DeltaCom from ITC^DeltaCom, Inc. as Debtor-in-Possession (ITC/DIP or Old ITC) to ITC^DeltaCom, Inc. (New ITC). This Petition is made pursuant to Hawaii Revised Statutes (HRS) § 269-7.

Copies of the Petition were served on the Division of Consumer Advocacy of the Department of Commerce and

¹By Decision and Order No. 16921, filed on April 6, 1999, in Docket No. 98-0408, DeltaCom was authorized to provide intrastate telecommunications services in the State of Hawaii on a resold basis. As of the filing of the Petition, DeltaCom has less than 52 long distance customers in Hawaii.

Consumer Affairs (Consumer Advocate). On October 24, 2002, the Consumer Advocate filed its statement of position indicating that it does not oppose the commission approving the instant Petition.

II.

On June 25, 2002, ITC/DIP filed a voluntary petition under Chapter 11 of the U.S. Bankruptcy Code in the U.S. Bankruptcy Court of the District of Delaware. The proposed indirect transfer of control is part of a plan of reorganization (POR) before the Bankruptcy Court of the District of Delaware, Case No. 02-11848(MFW)).²

Pursuant to the POR, ITC/DIP will emerge from bankruptcy with a revised ownership structure as New ITC. It will remain the same corporate entity, but it will no longer be a debtor-in-possession, and it will have a new corporate charter. The POR provides for cancellation of the existing common stock and preferred stock of Old ITC. The POR also provides that New ITC will issue new common stock. More than 85% of the new common stock will be distributed to the holders of senior and subordinated convertible notes of OLD ITC

²By letter filed on November 1, 2002, ITC/DIP informed the commission that the Bankruptcy Court of the District of Delaware approved the POR, and on October 29, 2002, and ITC/DIP emerged from Chapter 11. Thus, we will treat the instant Petition as a request for commission approval nunc pro tunc.

(the Noteholders). Campbell B. Lanier, III, a director and current stockholder of Old ITC, and SCANA Corporation (SCANA), a current stockholder of Old ITC, each have agreed to purchase up to \$15 million of new issue of Series A convertible preferred stock of New ITC. Mr. Lanier and SCANA will also receive common stock of New ITC and warrants to purchase additional common stock of New ITC. Other existing preferred and common stockholders will also be entitled to purchase on a pro rata basis, up to a specified amount, the convertible preferred stock and warrant that Mr. Lanier and SCANA have agreed to purchase. No single shareholder will own a controlling interest in New ITC.

The initial board of directors of New ITC will consist of seven members. Larry F. Williams will continue to serve on the Board. The Noteholders will be entitled to designate a total of four board members, two of whom will be independent directors. Holders of the new Series A convertible preferred stock will be entitled to designate the remaining two board members. The existing senior management team of ITC/DIP will remain in place, led by Chief Executive Officer Larry F. Williams.

Interstate FiberNet, Inc. (FiberNet) is a wholly owned subsidiary of Old ITC, and DeltaCom is a wholly-owned direct subsidiary of Interstate FiberNet. Neither FiberNet nor

Delta Com is undergoing reorganization. Each company will continue to operate subsequent to implementation of the POR, as a subsidiary of New ITC. The ultimate ownership of FiberNet and DeltaCom will change due to the ownership changes occurring as part of the reorganization of Old ITC.

III.

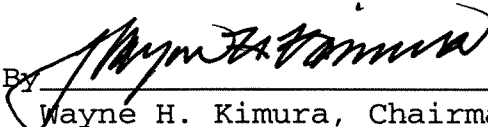
The commission has jurisdiction to review stock issuances and all similar corporate transactions of the parent entity of a regulated public utility under HRS § 269-7. Under HRS § 269-7, the commission will approve the transaction if it is reasonable and consistent with the public interest. We find that the transfer of control of DeltaCom from Old ITC to New ITC, as described in the Petition is reasonable and in the public interest in that it appears that this transfer will not affect DeltaCom's fitness, willingness, and ability to provide intrastate telecommunication services in Hawaii, and will not have any adverse impact on DeltaCom's Hawaii customers. Thus, we conclude that Petitioner's request to approve the transfer of indirect control of DeltaCom from Old ITC to New ITC, is granted nunc pro tunc.

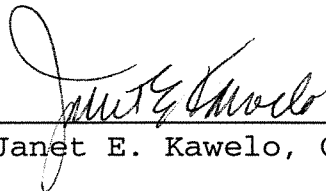
IV.

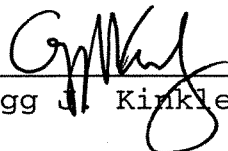
THE COMMISSION ORDERS that Petitioners' request to approve the indirect transfer control of DeltaCom from Old ITC to New ITC, is granted nunc pro tunc.

DONE at Honolulu, Hawaii this 13th day of December, 2002.

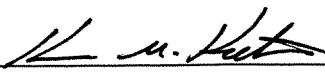
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Wayne H. Kimura, Chairman

By 
Janet E. Kawelo, Commissioner

By 
Gregg J. Kinkley, Commissioner

APPROVED AS TO FORM:


Kevin M. Katsura
Commission Counsel

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No.19874 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

NANETTE S. EDWARDS, DIRECTOR-REGULATORY
ITC^TELECOM COMMUNICATIONS, INC.
4092 S. Memorial Parkway
Huntsville, AL 35802



Karen Higashi

DATED: December 13, 2002