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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

2003 MAY 23 P 4:03

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

----- In the Matter of ----- )  
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PUBLIC UTILITIES COMMISSION )  
 )  
Instituting an Investigation )  
Into the Availability of )  
Experienced Providers of )  
Quality Telecommunications )  
Relay Services, Pursuant to )  
Section 16.6, Hawaii Revised )  
Statutes. )  
\_\_\_\_\_ )

DOCKET NO. 03-0058

ORDER NO. 20193

Filed May 23, 2003  
At 3:15 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

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OF THE STATE OF HAWAII

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Docket No. 03-0058

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ORDER

I.

Hawaii Revised Statutes (HRS) § 269-16.6 requires the commission to investigate the availability of experienced providers of quality telecommunications relay services (TRS) and select the best qualified provider of such service. Thus, by Order No. 20067, filed on March 7, 2003, the commission instituted a proceeding to investigate the availability of quality TRS providers.<sup>1</sup> By that same order, the commission ordered Verizon Hawaii Inc. and the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs (Consumer Advocate) to be parties to the proceeding.

On March 10, 2003, the commission sent letters to Verizon Hawaii Inc., the Consumer Advocate, Sprint Communications

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<sup>1</sup>On February 24, 2003, the current provider of TRS, Verizon Hawaii Inc., provided its notice to terminate its provision of TRS in Hawaii in July 2003.

Co., LP (Sprint), AT&T, Hamilton Relay Service, MCI Global Relay, CSD, SBC Southwest, and Vista Information Technologies, seeking comments and suggestions on the commission's draft request for services (RFS) by March 27, 2003.

On March 27, 2003, Sprint and Verizon Hawaii Inc. filed their comments on the draft RFS. On March 31, 2003, Hamilton Telecommunications submitted its comments on the draft RFS (e-mailed to the commission on March 27, 2003). On April 1, 2003, the State of Hawaii Disability and Communication Access Board submitted its comments on the draft RFS.

By Order No. 20111, filed on April 4, 2003, the commission: (1) adopted and made part of the order the final RFS dated April 4, 2003; and (2) ordered the Consumer Advocate to designate a representative to be a member of the evaluation committee by April 23, 2003. On April 23, 2003, the Consumer Advocate designated Marcey Chang, Chief Engineer, as the Consumer Advocate's representative on the evaluation committee.

On April 7, 2003, the commission published, state-wide, its public notice for the Invitation of Bids, due on April 23, 2003. That same day, the commission also sent letters and copies of Order No. 20111 and the final RFS soliciting proposals for the provision of TRS in the State of Hawaii to Sprint, AT&T, Hamilton Relay Service, MCI Global Relay, CSD, SBC Southwest, and Vista Information Technologies.

On April 21, 2003, Hamilton Telephone Company, dba Hamilton Telecommunications (Hamilton), filed its proposal.

On April 23, 2003, Sprint filed its proposal. The commission's RFS evaluation committee<sup>2</sup> for TRS reviewed the proposals and issued its recommendation to the commission on April 29, 2003. By Decision and Order No. 20163, filed on April 30, 2003, the commission selected Sprint to be the exclusive provider of intrastate TRS within the State of Hawaii from July 1, 2003 to June 30, 2006.<sup>3</sup>

Thus, by this order, we are providing notice to all telecommunications carriers under our jurisdiction of, among other things, our selection of Sprint as the provider of TRS, the establishment of a new TRS fund, and the imposition of various requirements authorized by the recently-adopted Act 50, Session Laws of Hawaii 2003.

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<sup>2</sup>The members of the evaluation committee are Kevin Katsura - Legal Counsel, Steven Iha - Chief Auditor, Lisa Kikuta - Researcher, Richard VanDrunen - Engineer, Janice Masuda - Engineer, and Marcey Chang - Chief Engineer for the Consumer Advocate.

<sup>3</sup>Decision and Order No. 20163 also: (1) made the contents of Sprint's proposal and the terms of the commission RFS binding on Sprint; (2) required Sprint to file a proposed transition timetable within 14 days of the Decision and Order and to update the commission bi-weekly of its progress in transitioning Hawaii TRS from Verizon Hawaii Inc. to Sprint, until the transition is fully complete; (3) required Sprint to submit to the commission all updates and information needed for the commission's TRS state certification renewal application required by the Federal Communications Commission; and (4) required Sprint to file a proposed tariff for commission review and approval describing the terms and conditions of its TRS.

III.

A.

Establishment of the TRS Fund

Pursuant to the final RFS adopted and made part of Order No. 20111, filed on April 4, 2003, the TRS service provider, Sprint, is required to maintain the TRS fund. The final RFS specifies, in part:

**5.3.2 TRS Account or Fund.** The service provider shall be required to maintain and account for all TRS revenues and expenditures in a separate account. Such accounting shall include separated interstate and intrastate revenues and expenditures in accordance with jurisdictional separation procedures and standards set forth in the Federal Communications Commission's regulations adopted pursuant to section 410 of the Communications Act of 1934, as amended. The service provider shall receive and deposit all payments from all carriers that are required to pay for TRS. The service provider shall provide the commission, at the end of each month, a statement or report of all deposits and withdrawals from this account, including beginning and ending balances. This report is due 15 days after the close of the previous month. Commission approval is required for any withdrawal from this account, as provided in section 4.5.

**5.3.3 Contributions to the Fund.** All telecommunications carriers operating or providing telecommunications service within the State shall contribute to the TRS fund. The commission shall annually, by order, set the amount of the contribution required to be made to the TRS fund by each telecommunications carrier, based upon one of two methods: 1) a surcharge upon each telephone subscriber line provided by each telecommunications carrier in Hawaii or 2) a percentage surcharge upon the gross

intrastate revenues of every telecommunications provider in Hawaii.

Each telecommunications carrier shall pay its contribution directly to the service provider at dates and intervals set by the commission. Any interest charges due to late payment shall be between the service provider and the telecommunications carrier. Any interest earned from contributions to the TRS fund shall become part of the fund and be used to support the provision of current and future TRS.

Any amounts remaining in the TRS fund at the end of the contract period shall remain in the fund. If a new provider is selected, this fund transfers fully to the new provider.

B.

Amount of Contribution

Pursuant to Act 50, Hawaii Session Laws 2003, promulgated on May 7, 2003 (Act 50), attached as Exhibit "A", the commission may require every telecommunications carrier providing intrastate telecommunications services in the State of Hawaii to contract with Sprint for the provision of telecommunications relay service. Accordingly, by this Order, we will require every aforesaid carrier to contract with Sprint for the provision of TRS, for the period beginning July 1, 2003 to June 30, 2006.

Act 50 further authorizes the commission to require every carrier providing intrastate telecommunications service to contribute to the TRS fund maintained by Sprint. In this respect, we will require every carrier to contribute to the TRS fund on the basis of gross operating revenues from the retail provision of intrastate telecommunications services during the

preceding calendar year. Contributions shall be made by every carrier providing intrastate telecommunications services including, but not limited to: (1) the incumbent telecommunications carrier; and (2) all carriers certified by or registered with the commission pursuant to HRS § 269-7.5(b) or Hawaii Administrative Rules (HAR) § 6-80-18(a) and (b). The commission, at this juncture, specifically excludes payphone providers from contributing to the TRS fund.<sup>4</sup>

Contributors' contribution to the TRS fund shall be the product of their gross operating revenues from the retail provision of intrastate telecommunications services during the preceding calendar year, which is subject to investigation by the commission, and a contribution factor determined annually by the commission.<sup>5</sup> Each carrier must contribute at least \$37.50 per year. Carriers whose annual contributions total less than \$1,200 must pay the entire contribution at the beginning of the contribution period. Service providers whose contributions total \$1,200 or more may divide their contributions into equal monthly payments. Carriers shall complete and submit a TRS Reporting Worksheet, attached to this Order as Exhibit "B". The worksheet

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<sup>4</sup>In the Fifth Report and Order, CC Docket No. 90-571, FCC 02-269, the Federal Communications Commission (FCC) requires carriers to continue to provide coin-sent paid local calls free to TRS users.

<sup>5</sup>The commission will adjust its contribution factor annually which will include, without limitations, future growth rates, revenue base, and uncollectible factor; although the commission intends to evaluate and set the contribution factor annually, the commission reserves the right to change the contribution factor at its discretion.

shall be certified to by an officer of the contributor and subject to verification by the commission at the discretion of the commission. This process is a self-reporting process. Each carrier is responsible for reporting and paying its contribution at the dates designated by the commission.

C.

Contribution Factor

The contribution factor for the period July 1, 2003 to June 30, 2004 is .00375. The .00375 represents, among other things, the estimated cost of the TRS service for the period July 1, 2003 to June 30, 2004 - including the projected growth in TRS minutes of use, an uncollectible allowance, and a reserve margin for the start up of the fund.

D.

Payment Remittance

Sprint has contracted with NECA Services, Inc. to administer the TRS fund. Contributions to the TRS fund shall be payable to "Hawaii TRS" and remitted to the Hawaii TRS Administrator at the following address:

Attn: Hawaii TRS Administrator  
NECA Services, Inc.  
80 S. Jefferson Road  
Whippany, NJ 07981  
Phone (973) 884-8011  
Fax: (973) 599-6504

Telecommunications Carriers may contact NECA Services, Inc. to identify their preferred method of payment and for further information.

Annual contributions are due July 26<sup>th</sup>; carriers who owe contributions of \$1,200 or more may pay in twelve equal monthly installments, due on the 26<sup>th</sup> of each month.

E.

Surcharge to Customers

A telecommunications carrier contributing to the TRS fund may impose a surcharge on its customers, both residential and business, to recover the amount of its contribution. The carrier shall separately and clearly identify and explain on its customers' bills the surcharge assessed for the TRS fund. The surcharge shall not be imposed until at least thirty-days' written notice is provided to the commission.<sup>6</sup> The notice must specify the amount of the proposed surcharge and the form in which the surcharge will be designated on customers' bills. The commission, as appropriate, may order modification in the amount of the surcharge or in the form of the designation on the customers' bills.

On its own motion, the commission also finds good cause to waive the 30-day tariff filing requirements of HRS

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<sup>6</sup>The commission will waive the notice requirement for those carriers imposing surcharges on their July 2003 bills; however notice shall be provided at least simultaneously with the imposition of any surcharge.

§ 269-16(b)<sup>7</sup> and HAR § 6-80-40 (b)<sup>8</sup>, for those carriers implementing a surcharge to its customers in the month of July 2003.<sup>9</sup> The commission also recognizes that various telecommunications carriers, who elect to immediately incorporate the surcharges in their July 2003 billing cycles, may not be able to meet the 30-day filing requirements. Accordingly, any tariff filing relating to TRS, implemented in the month of July 2003, shall become effective upon its filing with the commission. However, the commission, as appropriate, may order modification in the amount of the surcharge.

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<sup>7</sup>HRS § 269-16 (b) provides, in relevant part: "[n]o rate, fare, charge, classification, schedule, rule, or practice, shall be established, abandoned, modified, or departed from by any public utility, except after thirty days' notice as prescribed in section 269-12(b) to the commission and prior approval by the commission for any increases in rates, fares, or charges."

<sup>8</sup>HAR § 6-80-40(b) provides, in relevant part: "[a] telecommunications carrier shall file its tariff for any partially competitive service or noncompetitive service at least thirty days before the effective date of the proposed service."

<sup>9</sup>HRS § 269-16 provides, "The commission may, in its discretion and for good cause shown, allow any rate, fare, charge, classification, schedule, rule, or practice to be established, abandoned, modified, or departed from upon notice less than that provided for in section 269-12(b). HAR § 6-80-40(d) provides, "The commission may, in its discretion and for good cause shown, allow any tariff for a partially competitive or noncompetitive service to become effective before the expiration of the thirty-day period provided in subsection (b).

IV.

THE COMMISSION ORDERS:

1. Every telecommunications carrier providing intrastate telecommunications service in the State of Hawaii shall contract with Sprint for the provision of telecommunications relay service, for the period beginning July 1, 2003 to June 30, 2006.

2. Every carrier providing intrastate telecommunications service in Hawaii shall contribute to the TRS fund on the basis of gross operating revenues from the retail provision of intrastate telecommunications services during the preceding calendar year, consistent with the terms of this order; the commission, at this juncture, specifically excludes payphone providers from contributing to the TRS fund.

3. Contributors' contribution to the TRS fund shall be the product of their gross operating revenues from the retail provision of intrastate telecommunications services during the preceding calendar year, which is subject to investigation by the commission, and a contribution factor determined annually by the commission, consistent with the terms of this order.<sup>10</sup>

4. The contribution factor for the period July 1, 2003 to June 30, 2004 is .00375.

5. The annual TRS funding period commences July 1 and ends June 30 of each year.

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<sup>10</sup>Although the commission intends to evaluate and set the contribution factor annually, the commission reserves the right to change the contribution factor at its discretion.

6. Annual contributions are due July 26<sup>th</sup>; carriers who owe contributions of \$1,200 or more may pay in twelve equal monthly installments, due on the 26<sup>th</sup> of each month.

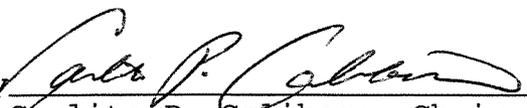
7. Contribution payments shall be made payable to "Hawaii TRS" and sent to the Hawaii TRS Administrator, consistent with the terms of this order.

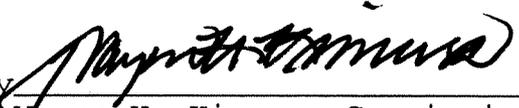
8. The commission waives the 30-day notice requirement of HRS § 269-16(b) and HAR § 6-80-40(b) for any TRS surcharge implemented in the month July 2003; however notice must still be provided at the time the surcharge is assessed, consistent with the terms of this order.

9. Any tariff filing relating to TRS, implemented in the month of July 2003, shall become effective upon its filing with the commission, consistent with the terms of this order.

DONE at Honolulu, Hawaii this 23<sup>rd</sup> day of May, 2003.

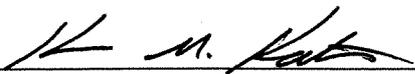
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:

By   
Janet E. Kawelo, Commissioner

  
Kevin M. Katsura  
Commission Counsel

03-0058.eh

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# A BILL FOR AN ACT

RELATING TO TELECOMMUNICATIONS RELAY SERVICES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that telecommunications  
2 relay services (TRS) provide individuals with hearing and speech  
3 disabilities telephone transmission services that enable these  
4 individuals to communicate by wire or radio with other  
5 individuals in a manner that is functionally equivalent to  
6 individuals without such disabilities.

7           The legislature further finds that the means to collect  
8 moneys that are assessed to pay for TRS is important to the  
9 provision and quality of TRS.

10           The purpose of this Act is to provide the state public  
11 utilities commission with greater flexibility in administering  
12 and providing intrastate telecommunications relay services in  
13 the State.

14           SECTION 2. Section 269-16.6, Hawaii Revised Statutes, is  
15 amended to read as follows:

16           "§269-16.6 [Relay] Telecommunications relay services for  
17 the deaf, [~~hearing-impaired, and speech-impaired.~~] persons with  
18 hearing disabilities, and persons with speech disabilities.









1 communicate using wire or radio voice communication services.  
2 "Telecommunications relay services" includes services that  
3 enable two-way communication using text telephones or other  
4 nonvoice terminal devices, speech-to-speech services, video  
5 relay services, and non-English relay services."

6 SECTION 3. Section 269-16.7, Hawaii Revised Statutes, is  
7 repealed.

8 [~~"§269-16.7 Telecommunications, expedition of ratemaking~~  
9 ~~procedures. Whenever a public utility providing local exchange~~  
10 ~~telecommunications services applies for approval of rates,~~  
11 ~~charges, or fees in tariffs for specialized services for the~~  
12 ~~deaf, hearing impaired or speech impaired, the commission shall~~  
13 ~~expedite to the greatest extent possible any necessary~~  
14 ~~ratemaking procedures. Further, the commission shall be~~  
15 ~~authorized to approve interim surcharges imposed on all~~  
16 ~~subscriber lines, in order to permit the recovery of those actual~~  
17 ~~costs incurred from the time of commencement of the specialized~~  
18 ~~services for the deaf, hearing impaired and speech impaired to~~  
19 ~~the time of the next general rate increase." ]~~

20 SECTION 4. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

22 SECTION 5. This Act shall take effect upon its approval.

APPROVED BY THE  
GOVERNOR ON

MAY 07 2005

**State of Hawaii  
Public Utilities Commission  
Telecommunications Relay Services  
Carrier Remittance Worksheet  
For the Period July 1, 20\_\_ - June 30, 20\_\_**

CARRIER IDENTIFICATION	
Date:	
Company Name:	
Mailing Address:	
Email Address:	

REMITTANCE CALCULATION	
1. Gross Revenues (Prior Calendar Year) <small>(e.g., Current year is 2003; Report revenues from 2002) (Amount should match gross revenues reported for Hawaii PUC Fee purposes, HRS § 269-30)</small>	
2. Less: Revenue Adjustments <small>(describe, see back of form)</small>	< >
3. Gross Intrastate Retail Revenues	
4. Hawaii TRS Contribution Factor	<b>.00375</b>
5. Gross Hawaii TRS Assessment <small>(line 3 x line 4)</small>	
6. Greater of line 5 or \$37.50 (minimum due)	
<p>If Line 6 is less than \$1,200, this is your annual contribution to the TRS Fund for the period beginning July 1<sup>st</sup> of the current year to June 30<sup>th</sup> of the following year. Please pay the amount on line 6, in full, by July 26<sup>th</sup> of the current year. Send your remittance with a copy of this worksheet to the address listed below.</p> <p>If Line 6 is \$1,200 or more, continue to line 7 below.</p>	

MONTHLY CONTRIBUTION	
7. Divide line 6 by 12	
<p>Line 7 is your first monthly contribution to the TRS Fund, for the period beginning July 1<sup>st</sup> of the current year to June 30<sup>th</sup> of the following year. Send your 1<sup>st</sup> monthly remittance with a copy of this worksheet to the address listed below. Please pay the amount on line 7 by July 26<sup>th</sup>. NECA Services, Inc. will then send you a bill for the remaining eleven monthly payments.</p>	

CERTIFICATION			
<p>Under penalties as provided by law, I certify that I am duly authorized to verify the foregoing information contained herein and that the information is true and correct to the best of my knowledge and belief.</p>			
Date	Officer Name	Officer Signature	Officer Title
_____	_____	_____	_____
Date	Contact Name	Contact Phone	Contact Title
_____	_____	_____	_____

<p style="text-align: center;"><b>Questions???</b></p> <p style="text-align: center;"><b>Hawaii TRS Administrator</b> NECA Services, Inc. 80 S. Jefferson Road Whippany, NJ 07981 Phone (973) 884-8011 Fax (973) 599-6504</p>	<p style="text-align: center;"><b>Make checks payable to</b> <b>"Hawaii TRS"</b> <b>and send with worksheet to:</b> Attn: Hawaii TRS Administrator NECA Services, Inc. 80 S. Jefferson Road Whippany, NJ 07981</p>
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**DETAILS CONCERNING REVENUE ADJUSTMENT(S)**

If revenue adjustment(s) are not explained here, amounts deducted will be disallowed and proposed assessments may be prepared against you.

Describe amounts deducted from Gross Revenues to obtain Gross Intrastate Retail Revenues (list):	Amount
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
<b>TOTAL</b>	

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20193 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

JOEL K. MATSUNAGA  
VICE PRESIDENT-EXTERNAL AFFAIRS  
VERIZON HAWAII INC.  
P. O. Box 2200, A-17  
Honolulu, HI 96841

MAGGIE SCHOOLAR  
GOVERNMENT ACCOUNT EXECUTIVE  
SPRINT COMMUNICATIONS  
1321 Rutherford Lane, Suite 120  
Austin, TX 78753

  
\_\_\_\_\_  
Karen Higashi

DATED: May 23, 2003