BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Application of COGNIGEN NETWORKS, INC. For a Certificate of Authority to Provide Intrastate Telecommunications Services Within the State of Hawaii and for Approval of its Initial Tariff.	DOCKET NO. 04-0114

DECISION AND ORDER NO. 21106

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

Filed July 8, 2004

At 8:00 o'clock A .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 Application of COGNIGEN NETWORKS, INC. For a Certificate of Authority to Provide Intrastate Telecommunications Services Within the State of Hawaii and for Approval of its Initial Tariff.	Docket No. 04-0114 Decision and Order No. 21106

DECISION AND ORDER

I.

Introduction

COGNIGEN NETWORKS, INC. ("Applicant") requests a certificate of authority ("COA") to provide intrastate telecommunications services within the State of Hawaii (the "State") as a reseller.[1] Applicant makes its request pursuant to Hawaii Revised Statutes ("HRS") §§ 269-7.5 and 269-16, and Hawaii Administrative Rules ("HAR") § 6-80-17.

Applicant served two (2) copies of its application to the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"). On May 27, 2004, the Consumer Advocate filed its statement of position ("SOP") informing the commission that it does not object to approval of the application, provided that Applicant be required to file its

[1]Applicant's application, filed on May 19, 2004.

current financial statements with the commission and the Consumer Advocate.[2]

II.

Description of Applicant and its Proposed Services

Applicant is Colorado corporation authorized to do business in the State as a foreign corporation. Its principal place of business is in Seattle, Washington.

Applicant intends to provide intrastate telecommunications services within the State as a reseller. Applicant intends to offer a full range of "1+" telecommunications services. Specifically, it intends to provide MTS, out-WATS, in-WATS, and Calling Card services.

III.

Discussion

A.

COA and Proposed Tariff

Upon review of the application, the commission makes the following findings pursuant to HAR § 6-80-18(a):

1. Applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the proposed services;

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[2]On June 23, 2004, Applicant submitted updated financial statements in response to the Consumer Advocate's May 27, 2004 recommendation and pursuant to the commission's June 1, 2004 directive. Thus, Applicant appears to have satisfactorily met the requirements of HAR § 6-80-17(c)(1)(E).

2. Applicant is fit, willing, and able to properly perform the telecommunications services and to conform to the terms, conditions, and rules prescribed or adopted by the commission; and

3. Applicant's proposed telecommunications services are in the public interest.

Accordingly, the commission concludes that Applicant should be granted a COA to provide intrastate telecommunications services as a reseller.

B.

Request Concerning Applicant's Books and Records

HRS § 269-8.2 requires that Applicant's books and records be kept and maintained within the State. However, Applicant requests that its books and records be kept and maintained in the State of Washington and assures the commission that such information will be made available to the commission. This request is consistent with the standard list of waivers set forth under HAR § 6-80-136. Thus, the commission's approval of this request is not necessary.

IV.

Orders

THE COMMISSION ORDERS:

1. Applicant is granted a COA to provide intrastate telecommunications services in the State as a reseller.

2. As the holder of a COA, Applicant shall be subject to all applicable provisions of HRS chapter 269, HAR chapters 6-80 and 6-81, any other applicable State laws and commission rules, and any orders that the commission may issue from time to time.

3. Applicant shall file its tariffs in accordance with HAR §§ 6-80-39 and 6-80-40. Applicant's tariffs shall comply with the provisions of HAR chapter 6-80. In the event of a conflict between any tariff provision and State law, State law shall prevail.

4. Applicant shall conform its initial tariff to the applicable provisions of HAR chapter 6-80. An original and eight (8) copies of the initial tariff shall be filed with the commission, and two (2) additional copies shall be served on the Consumer Advocate. Applicant shall ensure that the appropriate issued and effective dates are reflected in its tariffs.

5. Within thirty (30) days from the date of this decision and order, Applicant shall pay a public utility fee of $60, pursuant to HRS § 269-30. The business check shall be made payable to the Hawaii Public Utilities Commission, and sent to the commission's office at 465 S. King Street #103, Honolulu, HI, 96813.

6. Within thirty (30) days from the date of this decision and order, Applicant shall also pay a telecommunications relay service ("TRS") contribution of $10.00, established pursuant to: (A) Act 50, adopted on May 7, 2003 (codified at HRS § 269-16.6); and (B) Order No. 21049, filed on June 10, 2004, in

Docket No. 04-0070. (A copy of Order No. 21049 is attached hereto as Exhibit 1.) The business check shall be made payable to "Hawaii TRS", and sent to the Hawaii TRS Administrator, NECA Services, Inc., 80 S. Jefferson Road, Whippany, NJ 07981. Written proof of payment shall be sent to the commission.

7. Failure to promptly comply with the requirements set forth in paragraphs 3 to 6 may constitute cause to void this decision and order, and may result in further regulatory action, as authorized by law.

DONE at Honolulu, Hawaii this 8th day of July 2004.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By _____
Carlito P. Caliboso, Chairman

By _____
Wayne H. Kimura, Commissioner

By _____
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

_____
Kris N. Nakagawa
Commission Counsel

04-0114.eh

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

----- In the Matter of -----)) PUBLIC UTILITIES COMMISSION)) Instituting an Investigation) into the Carrier Contribution) Factor and Telecommunications) Relay Services Fund Size for) the period of July 1, 2004) through June 30, 2005.))	DOCKET NO. 04-0070

ORDER NO. 21049

Filed June 10, 2004

At 2:01 o'clock P .M.

Brooke Kane

for Chief Clerk of the Commission

Exhibit 1

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

----- In the Matter of -----)) PUBLIC UTILITIES COMMISSION)) Instituting an Investigation) into the Carrier Contribution) Factor and Telecommunications) Relay Services Fund Size for) the period of July 1, 2004) through June 30, 2005.))	Docket No. 04-0070 Decision and Order No. 21049

DECISION AND ORDER

I.

Background

By Order No. 20904, filed on April 15, 2004, the commission initiated the instant proceeding to examine whether to modify the Telecommunications Relay Services ("TRS") carrier contribution factor and fund size for the period July 1, 2004 to June 30, 2005, established in accordance with Order No. 20193, filed on May 23, 2003, in Docket No. 03-0058 ("Order No. 20193").[1] Specifically, the commission proposes to modify the carrier contribution factor from 0.00375 to 0.0010 effective on July 1, 2004 ("Proposed Carrier Contribution Factor"). The proposed carrier contribution factor of 0.0010 is expected to remain in effect through June 30, 2005.

[1]In Docket No. 03-0058, the commission selected SPRINT COMMUNICATIONS CO., LP. ("Sprint") as the exclusive provider of intrastate TRS within the State of Hawaii ("State of Hawaii") from July 1, 2003 to June 30, 2006. See Decision and Order No. 20163, filed on April 30 2003. Order No. 20193, filed on May 23, 2003, in Docket No. 03-0058.

The commission also proposes to keep the projected TRS fund size, as of July 1, 2004, at $680,000 ("Proposed TRS Fund Size").

The commission served copies of Order No. 20904 on The Division of Consumer Advocacy, Department of Commerce and Consumer Affairs ("Consumer Advocate") and Sprint, the parties to this proceeding, and mailed copies of Order No. 20904 to all chartered, certificated and registered telecommunications carriers, except payphone providers, at their mailing addresses on file with the commission. Written comments to the proposals were accepted until May 14, 2004. As of the date of this order, only the Consumer Advocate filed written comments on the commission's proposals.[2]

II.

Background

On May 23, 2003, the commission issued Order No. 20193, in Docket No. 03-0058 which, among other things, ordered: (1) every telecommunications carrier providing intrastate telecommunications service in the State of Hawaii to 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,

[2]Consumer Advocate's Statement of Position, filed on May 7, 2004.

consistent with the terms of Order No. 20193[3]; (3) contributors' contribution to the TRS fund shall be the product of their gross operating revenue 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 Order No. 20193; and (4) the annual TRS funding period commences July 1 and ends June 30 of each year.

III.

Discussion

A.

Consumer Advocate's Statement of Position

The Consumer Advocate states that it has no objections to the Commission's proposed carrier contribution factor and the fund size. However, in order to monitor the sufficiency of the fund size and protect against degradation of service, the Consumer Advocate recommends that Sprint should be required to provide TRS reports on a quarterly basis so that the commission may be better and more quickly able to determine whether changes to the contribution factor are warranted. Specifically, the Consumer Advocate recommends that the reports contain: (1) actual number of TRS calls offered by month; (2) actual number of abandoned calls by month; (3) average speed of answer

[3]The commission specifically excluded payphone providers from contributing to the TRS fund.

in seconds of TRS calls by month; (4) average work time in seconds by month; (5) number of TRS complaints filed either verbally or in writing by month; and (6) detailed data on actual revenues, expenses and investments for TRS services in Hawaii.

B.

Reporting Requirements

Upon review, the commission declines to adopt the Consumer Advocate's recommendation relating to additional reporting requirements primarily because we find these requirements are unnecessary and redundant.

Pursuant to the terms and conditions of the Request for Service ("RFS") in Docket No. 03-0058, which governs the commission's arrangement with Sprint for the provisioning of TRS, Sprint is required to submit the following reports:

a. Section 4.5 (Payment): "No more than fifteen days after the close of each month, the service provider will submit a report [i.e., billing statement] to the Commission detailing the previous month's work. Then, the Commission, within thirty (30) days of receipt of said report, will authorize or determine a date the provider is authorized to withdraw payment from the TRS account or fund. Total reimbursement shall not exceed the total fixed bid per minute price."

b. Section 4.13 (Reports): "[A] monthly report with the monthly billing statement which will enable the Commission to monitor whether the Relay service is meeting each of the FCC and State performance standards. The report shall also include summary information on complaints, when appropriate. When applicable, the monthly report should include information on any hardware procedural or service enhancements made to the Relay service. After receiving authorization from the Commission, the selected service provider may request designation of certain written reports as proprietary, consistent with the Commission's practice and procedures."

In compliance with Section 4.5 of the RFS, NECA Services, Inc. ("NECA") files on a monthly basis: (1) a Statement of Fund Performance; and (2) a Delinquent Report. The information includes total fund revenues collected from telecommunications carriers, disbursements to Sprint as authorized by the commission, fund balance as of the end of the previous month, and delinquent carriers that have not paid their TRS fund contributions.

Furthermore, in compliance with Section 4.13 of the RFS, Sprint provides comprehensive, detailed information on minutes of use; traffic reporting statistics, including number of calls offered and abandoned, average speed of answer, and average work time; speech-to-speech statistics; and CapTel results. The billing statement also includes summary reporting of customer complaints and outreach efforts.

The commission notes that the Consumer Advocate has not been copied on any of these reports previously filed with the commission and we hereinafter will require Sprint to copy the Consumer Advocate on these reports going forward. Sprint's existing reports contain much of the information the Consumer Advocate appears to be seeking. The only type of information not included in Sprint's reports is specific investment information, however, we do not believe that that information needs to be included in the compliance reports.[4]

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[4]As Sprint has already been doing, it should continue to keep the commission informed, and seek our approval as appropriate, on new investments it plans to make to its network or operations that are expected to impact TRS in Hawaii. Sprint should also keep the Consumer Advocate informed of these new investments.

C.

Carrier Contribution Factor and Fund Size

Upon further review, the commission finds it reasonable to adopt the commission's proposals to modify the existing carrier contribution factor and fund size in their entirety as stated in Order No. 20904. In particular, the carrier contribution factor for the period July 1, 2004 to June 30, 2005 is 0.0010 and the projected TRS fund size as of July 1, 2004 will be established at $680,000.

III.

Orders

THE COMMISSION ORDERS:

1. The commission's proposed modifications to the existing contribution factors and fund size, as stated in Order No. 20904, is adopted in their entirety.

2. The contribution factor for the period July 1, 2004 to June 30, 2005 is 0.0010. The projected TRS fund size as of July 1, 2004 is $680,000.

3. Each carrier shall complete and submit a TRS Reporting Worksheet, attached to this Order as Exhibit "A".

4. Annual contributions are due July 26th; carriers who owe contributions $1,200 or more may pay in twelve equal monthly installments, due on the 26th of each month, provided that they submit their TRS Reporting Worksheet by July 26th.

5. For carriers reporting $10,000 or less in gross intrastate retail revenues, they shall contribute at least $10.00 for the period July 1, 2004 to June 30, 2005.

6. Every carrier, except Commercial Mobile Radio Service ("CMRS") providers, shall comply with the 30-day notice requirement of HRS § 269-16(b) and HAR § 6-80-40(b) for any TRS surcharge imposed on its customers, both residential and business, to recover the amount of its contribution. CMRS providers shall place information on their TRS surcharges on their websites, consistent with Decision and Order No. 20890, filed on April 7, 2004, in Docket No. 02-0186.

7. Sprint shall copy the Consumer Advocate on the following reports to the commission: (1) Statement of Fund Performance; (2) Delinquent Report; and (3) TRS Performance Information and Statistics.

8. Order No. 20193, filed on May 23, 2003, in Docket No. 03-0058, is amended consistent with the terms and conditions of this decision and order. In all other respects, Order No. 20193 remains unchanged.

DONE at Honolulu, Hawaii this 10th day of June, 2004.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By _____
Carlito P. Caliboso, Chairman

By _____(EXCUSED)_____
Wayne H. Kimura, Commissioner

By _____
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

_____
Kevin M. Katsura
Commission Counsel

04-0070.eh

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

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

SECTION B	REMITTANCE CALCULATION
1. Gross Revenues (Prior Calendar Year) (e.g., Current year is 2004; Report revenues from 2003) (Amount should match gross revenues reported for Hawaii PUC Fee purposes, HRS § 269-30)	
2. Less: Revenue Adjustments (describe, see Section E)	< >
3. Gross Intrastate Retail Revenues	
4. Hawaii TRS Contribution Factor	.001
5. Gross Hawaii TRS Assessment (line 3 x line 4)	
6. Greater of line 5 or $10.00 (minimum due)	

If Line 6 is less than $1,200, this is your annual contribution to the TRS Fund for the period beginning July 1st of the current year to June 30th of the following year. Please pay the amount on line 6, in full, by July 26th of the current year. Send your remittance with a copy of this worksheet to the address listed below.

If Line 6 is $1,200 or more, continue to line 7 below.

SECTION C	MONTHLY CONTRIBUTION
7. Divide line 6 by 12	

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

SECTION D — CERTIFICATION

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.

Date	Officer Name	Officer Signature	Officer Title
Date	Contact Name	Contact Phone	Contact Title

Questions???	Make checks payable to
Hawaii TRS Administrator NECA Services, Inc. 80 S. Jefferson Road Whippany, NJ 07981 Phone (973) 884-8011 Fax (973) 599-6504	**"Hawaii TRS"** **and send with worksheet to:** Attn: Hawaii TRS Administrator NECA Services, Inc. 80 S. Jefferson Road Whippany, NJ 07981

ECTION E DETAILS CONCERNING REVENUE ADJUSTMENT(S)

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

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

EXHIBIT "A"
(2 of 2)

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 21049 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

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

Elnosi Higa
for Karen Higashi

DATED: June 10, 2004

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21106 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

PATRICK D. CROCKER, ESQ.
EARLY, LENNON, CROCKER & BARTOSIEWICZ, P.L.C.
900 Comerica Building
Kalamazoo, MI 49007-4752

Karen Higashi

Karen Higashi

DATED: July 8, 2004