

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
HAWAIIAN TELCOM, INC.)
)
For Approval of Hawaiian Telcom)
Services Company, Inc.'s)
Adoption of the Interconnection)
Agreement and Amendment No. 2)
Between Cellco Partnership, dba)
Verizon Wireless and Hawaiian)
Telcom, Inc.)
_____)

Docket No. 05-0316

Decision and Order No. 22292

DECISION AND ORDER

By this Decision and Order, the commission approves HAWAIIAN TELCOM SERVICES COMPANY, INC.'s ("HT Services") adoption of the negotiated interconnection agreement and Amendment No. 2 to the agreement, between HAWAIIAN TELCOM, INC. ("Hawaiian Telcom")¹ and Cellco Partnership, dba Verizon Wireless ("Verizon Wireless"), as further described herein.

I.

Background

Hawaiian Telcom is a Hawaii corporation engaged in the provision of varied telecommunications services to its customers and the general public within the State of Hawaii ("State"). Hawaiian Telcom is an incumbent local exchange carrier, as

¹Hawaiian Telcom was formerly known as Verizon Hawaii Inc., which in turn was formerly known as GTE Hawaiian Telephone Company Incorporated.

contemplated by Section 252 of the federal Telecommunications Act of 1996 (the "Act").²

HT Services is a Delaware corporation with its principal place of business in Honolulu, Hawaii. It is a wholly owned subsidiary of Hawaiian Telcom Communications, Inc. and an affiliate of Hawaiian Telcom. HT Services holds: (1) a certificate of authority to provide intrastate wire-line telecommunications services in the State on a resold basis³; and (2) a certificate of registration ("COR") to provide intrastate wireless telecommunications services (also referred to as commercial mobile radio services ("CMRS")) on a resold basis in the State.⁴

A.

The Petition

By letter dated and filed on December 13, 2005, Hawaiian Telcom provided the commission with a letter dated November 18, 2005 ("Adoption Letter"), signed by representatives

²The Act amended Title 47 of the United States Code ("U.S.C."). Section references in this Decision and Order are, thus, to those in 47 U.S.C., as amended by the Act.

³See Docket No. 04-0140, Decision and Order No. 21696, filed on March 16, 2005.

⁴See Docket No. 05-0097, Decision and Order No. 21892, filed on June 24, 2005.

of Hawaiian Telcom and HT Services (collectively, the "Parties")⁵ evidencing HT Services' adoption of the negotiated interconnection agreement between Hawaiian Telcom and Verizon Wireless ("Underlying Agreement") and Amendment No. 2 to the Underlying Agreement ("Amendment No. 2")⁶ (collectively, the "Interconnection Agreement"), pursuant to Section 252(i) of the Act and HAR § 6-80-54 ("Petition"). As set forth in the Petition, HT Services' adoption of the Interconnection Agreement is subject to the conditions set forth in the Adoption Letter. The commission construes Hawaiian Telcom's Petition as a request for commission approval of HT Services' adoption of the Interconnection Agreement.⁷

⁵A copy of Hawaiian Telcom's Petition, with its various attachments, was served on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an *ex officio* party to this docket pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62.

⁶Amendment No. 1 to the Underlying Agreement was filed with the commission on August 14, 2002, in Docket No. 02-0213. By Order No. 19778, filed on November 18, 2002, in Docket No. 02-0213, the commission approved Hawaiian Telcom's withdrawal of Amendment No. 1, filed on November 7, 2005, and closed the docket.

⁷No person moved to intervene or participate in this docket.

B.

Interconnection Agreement

The Interconnection Agreement was approved by the commission in Docket Nos. 97-0195 and 02-0367.⁸ In these dockets, the commission found that the terms and conditions of the Interconnection Agreement do not discriminate against other telecommunications carriers and that the implementation of the Interconnection Agreement is consistent with the public interest, convenience, and necessity.⁹

The Adoption Letter sets forth, among other things, HT Services' adoption of the terms of the Interconnection Agreement, clarifies Hawaiian Telcom's position on various matters regarding the applicability of the Interconnection Agreement to the Parties, and indicates HT Services' acceptance of Hawaiian Telcom's various enumerated positions. Moreover, the Adoption Letter: (1) sets forth the terms that only apply to the Parties, including Hawaiian Telcom's standard pricing schedule for interconnection agreements in the State, attached as Hawaii Appendix A; and (2) makes clear that the adoption of the Interconnection Agreement is only for services in Hawaii.

⁸The commission approved the Underlying Agreement in Docket No. 97-0195, Decision and Order No. 15715, filed on July 11, 1997 ("Decision and Order No. 15715"), while Amendment No. 2 was approved in Docket No. 02-0367, Decision and Order No. 19931, filed on December 23, 2002 ("Decision and Order No. 19931").

⁹See Decision and Order No. 15715 at 2; Decision and Order No. 19931 at 4.

C.

Consumer Advocate's Position

On January 12, 2006, the Consumer Advocate filed its Statement of Position informing the commission that it does not object to approval of HT Services' adoption of the Interconnection Agreement ("CA Statement of Position"). The Consumer Advocate states that the adoption of the terms of the Interconnection Agreement and "acceptance of the rates and charges in Hawaii Appendix A of the Letter of Adoption appear to be consistent with the public interest, convenience, and necessity objectives of promoting competition in the telecommunications industry."¹⁰ Moreover, the Consumer Advocate acknowledges that approval of the adoption will allow HT Services to continue to provide telecommunications services in the State under its COR.

II.

Discussion

HT Services' adoption of Verizon Wireless' Interconnection Agreement with Hawaiian Telcom is permitted under Section 252(i) of the Act, which states that:

A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

¹⁰See CA Statement of Position at 5.

HAR § 6-80-54 requires all agreements regarding access, interconnection, unbundling, and network termination adopted by negotiation or arbitration be submitted to the commission for review and approval. The Interconnection Agreement is not an arbitrated agreement, but one that was negotiated and consummated by Verizon Wireless and Hawaiian Telcom. The Adoption Letter, signed by the Parties, is a negotiated contract between HT Services and Hawaiian Telcom. Accordingly, the commission considers the Interconnection Agreement a negotiated interconnection agreement between the Parties and conducts its review of the Interconnection Agreement under HAR § 6-80-54(b).

HAR § 6-80-54(b) states that the commission may reject a negotiated interconnection agreement if:

- (1) The agreement, or any portion of the agreement, discriminates against a telecommunications carrier not a party to the agreement; or
- (2) The implementation of the agreement, or any portion of the agreement, is not consistent with the public interest, convenience, and necessity.

Here, consistent with our conclusions in Docket Nos. 97-0195 and 02-0367, the commission finds that the Interconnection Agreement does not discriminate against other telecommunications carriers and that implementation of the Interconnection Agreement is consistent with the public interest, convenience, and necessity. Additionally, the commission finds that approval of HT Services' adoption of the Interconnection Agreement is consistent with federal requirements. The commission, moreover, recognizes that approval of the adoption of Verizon Wireless' Interconnection Agreement allows HT Services to

provide CMRS in the State as authorized under its COR; thus, increasing competition in the State's telecommunications market.

Based on the foregoing, the commission concludes that Hawaiian Telcom's Petition for commission approval of HT Services' adoption of the Interconnection Agreement, subject to the conditions set forth in the Adoption Letter, should be granted.

III.

Orders

THE COMMISSION ORDERS:

1. HT Services' adoption of the Interconnection Agreement between Verizon Wireless and Hawaiian Telcom, subject to the conditions set forth in the Adoption Letter, is approved under HAR § 6-80-54(b).

2. This docket is closed unless otherwise ordered by the commission.

DONE at Honolulu, Hawaii FEB 21 2006.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By (EXCUSED)
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:


Ji Sook Kim
Commission Counsel
05-0316.sl

By 
Janet E. Kawelo, Commissioner

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 22292 upon the following Petitioners, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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Karen Higashi

DATED: FEB 21 2006