

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 ("COA") to provide intrastate wire-line telecommunications services in the State on a resold basis;³ 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 March 2, 2006, Hawaiian Telcom provided the commission with a letter dated February 10, 2006 ("Adoption Letter"), signed by representatives of Hawaiian Telcom and HT Services (collectively, the "Parties")⁵

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.

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

evidencing HT Services' adoption of the negotiated interconnection agreement between Hawaiian Telcom and Hello Depot ("Underlying Agreement") and Amendment No. 1 to the Underlying Agreement ("Amendment No. 1")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.⁷ The commission construes Hawaiian Telcom's Petition as a request for commission approval of HT Services' adoption of the Interconnection Agreement.⁸

B.

Interconnection Agreement

The Interconnection Agreement was approved by the commission in Decision and Order No. 21126. Specifically, 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

Revised Statutes § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62.

⁶The commission approved both the Underlying Agreement and Amendment No. 1 in Docket No. 04-0121, Decision and Order No. 21126, filed on July 19, 2004 ("Decision and Order No. 21126").

⁷The signature page of the Adoption Letter indicates that HT Services reviewed and countersigned as to points A, B, C, D, E, and F of paragraph 1 of the Adoption Letter.

⁸No person moved to intervene or participate in this docket.

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.

C.

Consumer Advocate's Position

On March 16, 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 appears to be consistent with the public interest, convenience, and necessity objectives of promoting competition in the

⁹See Decision and Order No. 21126, at 4.

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 COA and COR.

II.

Discussion

HT Services' adoption of Hello Depot's 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.

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 Hello Depot 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).

¹⁰See CA Statement of Position, at 4.

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 the commission's conclusions in Docket No. 04-0121, 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 Hello Depot's Interconnection Agreement allows HT Services to provide telecommunications services in the State as authorized under its COA and 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 Hello Depot 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 APR 19 2006.

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:


Kaiulani E.S. Kidani
Commission Counsel

04-0342.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 22401 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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Karen Higashi

DATED: APR 19 2006