

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)  
HAWAIIAN TELCOM, INC. )  
For Approval of Amendment No. 2 to )  
the Interconnection Agreement )  
between T-Mobile USA, Inc. and )  
Hawaiian Telcom, Inc. )

DOCKET NO. 2006-0091

DECISION AND ORDER NO. 22885

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

2006 SEP 22 A 8:43

RECEIVED

Filed Sept. 21, 2006  
At 2 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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Docket No. 2006-0091  
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DECISION AND ORDER

By this Decision and Order, the commission orders that Amendment No. 2 to the Interconnection Agreement ("Agreement") between T-MOBILE USA, INC., fka Voicestream Wireless Corp., fka Western Wireless Corporation ("T-Mobile")<sup>1</sup> and HAWAIIAN TELCOM, INC., fka Verizon Hawaii Inc. ("Hawaiian Telcom")<sup>2</sup> (collectively, "Parties") is deemed approved effective July 16, 2006.

I.

Application

On April 17, 2006, Hawaiian Telcom filed a request for commission approval of Amendment No. 2 to the Agreement between

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<sup>1</sup>T-Mobile has its principal place of business in Bellevue, Washington.

<sup>2</sup>Hawaiian Telcom is a corporation duly organized and existing under and by virtue of the laws of the State of Hawaii ("State"), with its principal place of business in Honolulu, Hawaii.

the Parties ("Application").<sup>3</sup> Amendment No. 2 was filed pursuant to section 252(e)(1) of the federal Telecommunications Act of 1996 ("Act")<sup>4</sup> and Hawaii Administrative Rules ("HAR") § 6-80-54.

Hawaiian Telcom served a copy of the Application upon the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"). By its statement of position ("Statement of Position") filed on May 15, 2006, the Consumer Advocate informed the commission that it does not object to the commission's approval of Amendment No. 2.

By letter dated July 10, 2006, the commission notified the Parties and the Consumer Advocate of the disqualification of Commissioner John E. Cole. The commission received letters waiving Commissioner Cole's disqualification from Hawaiian Telcom on July 12, 2006, from the Consumer Advocate on July 20, 2006, and from T-Mobile on July 24, 2006.

## II.

### Amendment No. 2

Amendment No. 2 amends the Agreement by replacing existing Article V, Section 2, with Attachment A to the Application, entitled 911 Wireless Attachment, and Attachment B to the Application, entitled 911 Wireless Pricing Attachment

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<sup>3</sup>The original Agreement (then between Western Wireless Corporation and Verizon Hawaii) was filed with the commission on April 7, 1997, in accordance with Order No. 15475, in Docket No. 96-0352. The commission approved Amendment No. 1 in Decision and Order No. 19243, filed on March 12, 2003, in Docket No. 01-0472.

<sup>4</sup>The Act amended title 47 of the United States Code ("U.S.C.").

(including Appendix A).<sup>5</sup> Attachments A and B in Amendment No. 2 include terms and conditions that will allow T-Mobile to access Hawaiian Telcom's E911 network systems and databases to enable T-Mobile to provide E911 services to its end user customers.<sup>6</sup>

### III.

#### Consumer Advocate

The Consumer Advocate analyzed Amendment No. 2 pursuant to 47 U.S.C. § 252(e) and HAR § 6-80-54(b). The Consumer Advocate stated that Amendment No. 2 is consistent with Federal Communications Commission ("FCC") rulings regarding encouraging incumbent local exchange carriers to work with wireless carriers to facilitate the implementation of wireless E911 commercial mobile radio service ("CMRS").<sup>7</sup> The Consumer Advocate also stated that it appears that the terms and conditions of Attachments A and B are similar in nature to other amendments approved by the commission in Decision and Order No. 19672, filed on September 23, 2002, in Docket No. 02-0167 (Sprint PCS Amendment No. 2); Decision and Order No. 21353, filed on September 20, 2004, in Docket No. 04-0160 (AT&T Wireless Services, Inc. Amendment No. 3); Decision and Order No. 21942, filed on July 22, 2006, in Docket No. 05-0111 (NPCR, dba Nextel Partners Amendment No. 2).<sup>8</sup>

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<sup>5</sup>Amendment No. 2, attached to the Application, at 1.

<sup>6</sup>Amendment No. 2, at 1.

<sup>7</sup>Statement of Position at 3.

<sup>8</sup>Statement of Position at 3 and n.3.

Accordingly, the Consumer Advocate concluded that "there does not appear to be any discrimination against a carrier not a party to the amendment."<sup>9</sup>

The Consumer Advocate also stated that Amendment No. 2 appears to be consistent with the public interest, convenience and necessity objectives of promoting competition in the telecommunications industry.<sup>10</sup> The Consumer Advocate noted that Amendment No. 2 will allow T-Mobile to implement wireless E911 CMRS as set forth by the FCC.<sup>11</sup> The Consumer Advocate explained that wireless E911 is a vital and essential service that provides lifesaving technology and emergency benefits to the general cellular population.<sup>12</sup> As such, the Consumer Advocate "continues to support this implementation and encourages all parties to work together to minimize any delay of its implementation."<sup>13</sup>

#### IV.

##### Findings and Conclusions

Pursuant to 47 U.S.C. § 252(e)(4) and HAR § 6-80-54(c), if a state commission does not act to approve or reject a negotiated interconnection agreement within 90 days after the agreement is submitted to the commission, the agreement shall be "deemed approved." The present Application was filed

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<sup>9</sup>Statement of Position at 4.

<sup>10</sup>Statement of Position at 4.

<sup>11</sup>Statement of Position at 4.

<sup>12</sup>Statement of Position at 4.

<sup>13</sup>Statement of Position at 4.

on April 17, 2006. Therefore, the commission finds that Amendment No. 2 was deemed approved on July 16, 2006.

Also, pursuant to 47 U.S.C. § 252(e) and HAR § 6-80-54, the commission may reject a negotiated agreement only 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.

Our review indicates that Amendment No. 2 does not discriminate against other telecommunications carriers and that the implementation of Amendment No. 2 is consistent with the public interest, convenience, and necessity, and therefore, the commission would have had no basis for rejecting Amendment No. 2.

V.


Orders

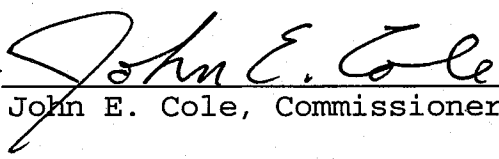
THE COMMISSION ORDERS:

1. Amendment No. 2 to the Agreement between the Parties, submitted on April 17, 2006, is deemed approved on July 16, 2006, by virtue of 47 U.S.C. § 252(e)(4) and HAR § 6-80-54(c).
2. This docket is closed.

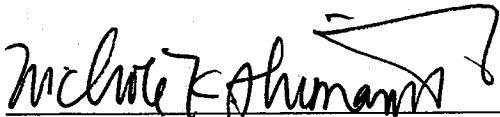
DONE at Honolulu, Hawaii SEP 21 2006.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
John E. Cole, Commissioner

APPROVED AS TO FORM:

  
Nichole K. Shimamoto  
Commission Counsel

2006-0091.oh

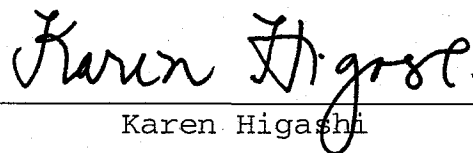
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 22885 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  
HAWAIIAN TELCOM, INC.  
P.O. Box 2200  
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SHANNON REILLY KRAUS, ESQ.  
T-MOBILE  
12920 SE 38<sup>th</sup> Street  
Bellevue, WA 98006

  
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Karen Higashi

DATED: SEP 21 2006