

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
800 RESPONSE INFORMATION)
SERVICES LLC)
For a Certificate of Authority.)

DOCKET NO. 2006-0081

DECISION AND ORDER NO. 23680

Filed Sept. 25, 2007
At 11 o'clock A.M.

Karen Higashi
Chief Clerk of the Commission

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

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

Karen Higashi

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800 RESPONSE INFORMATION)
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Docket No. 2006-0081
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DECISION AND ORDER

By this Decision and Order, the commission grants 800 RESPONSE INFORMATION SERVICES LLC ("Applicant") a certificate of authority ("COA") to provide resold interexchange intrastate telecommunications services to non-residential subscribers in the State of Hawaii ("State").

I.

Background

Applicant is a Vermont limited liability company authorized by the Department of Commerce and Consumer Affairs to transact business in the State as a foreign limited liability company effective March 13, 2006.

A.

Applicant's Request

On April 6, 2006, Applicant filed its application for a COA to provide resold interexchange intrastate telecommunications services (specifically, resold inbound toll-free "800"

interexchange services, with enhanced services such as real-time call reporting on the internet) to non-residential subscribers in the State ("Application").¹ Applicant also filed copies of its Certificate of Authority to transact business in the State as a foreign limited liability company (Exhibit 1), proposed tariff (Exhibit 2), Resumes of Key Employees (Exhibit 3), and financial statements (Exhibit 4) submitted as attachments to the Application.

B.

Consumer Advocate's Position

On June 21, 2006, the Consumer Advocate filed its Statement of Position ("SOP") informing the commission that it does not object to the commission's issuance of a COA, provided that Applicant modifies its tariff in accordance with the amendments recommended by the Consumer Advocate.

C.

Applicant's Revised Tariff

On August 7, 2006, Applicant filed a revised tariff in response to the Consumer Advocate's SOP. The revised tariff includes all of the amendments recommended by the Consumer Advocate.

¹Applicant served copies of the Application 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 ("HRS") § 269-51 and HAR § 6-61-62.

II.

Discussion

A.

COA to Provide the Proposed Services

HRS § 269-7.5 prohibits a public utility from commencing business in the State without first obtaining a certificate of public convenience and necessity ("CPCN") from the commission.²

In addition, HAR § 6-80-17(c) states that "[a]ny person, other than the incumbent telecommunications carrier, seeking to offer, initiate, or provide intrastate telecommunications service must apply in writing to the commission for a [COA]," and sets forth the requirements for such application.

Finally, HAR § 6-80-18(a) states that:

The commission shall issue a [COA] to any qualified applicant, authorizing the whole or any part of the telecommunications service covered by the application, if it finds that:

- (1) The applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the proposed telecommunications service in the State;
- (2) The applicant is fit, willing, and able to properly perform the proposed telecommunications service and to conform to the terms, conditions, and rules prescribed or adopted by the commission; and

²On June 3, 1996, HAR ch. 6-80 took effect. HAR ch. 6-80, among other things, replaces the CPCN with a COA for telecommunications carriers, and establishes procedures for requesting and issuing a COA.

(3) The proposed telecommunications service is, or will be, in the public interest.

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, as evidenced by the Resumes of Key Employees and financial statements submitted in support of the Application. With respect to Applicant's December 31, 2005 unaudited financial statements, HAR § 6-80-17(c)(1)(E) states that an applicant must submit "a copy of the most recent audited financial statement and, if more than three months have elapsed since the date of the most recent audited financial statement, a current, unaudited financial statement[.]" However, Applicant explains that it does not have audited financial statements because "Applicant is privately held, with working capital provided by its equity holders."³

In its SOP, the Consumer Advocate "chooses to not make a recommendation on financial fitness based on the information contained in the December 31, 2005 unaudited financial statements."⁴ However, the Consumer Advocate "recommends that the [c]ommission waive, by its own motion, the requirements of HAR § 6-80-17(c)(1)(E) in the instant proceeding as audited financial statements are not available."⁵

³Application at 5.

⁴Consumer Advocate SOP at 3-4.

⁵Consumer Advocate SOP at 4.

Based on the foregoing, the commission finds that Applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the proposed services. Further, the commission waives, by its own motion, the requirement of HAR § 6-80-17(c)(1)(E) that an applicant submit audited financial statements at this time. However, the commission reserves the right to require audited financial statements or other support of financial fitness at its discretion at a later date.

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, as evidenced by Applicant's representations in its Application. Moreover, the commission's grant of a COA to Applicant to provide the proposed services will be conditioned upon Applicant's conformity to the terms, conditions, and rules prescribed or adopted by the commission as discussed below.

3. Applicant's proposed telecommunications services are in the public interest. The commission recognizes that additional service providers in the industry increase competition and provide the consumer with options in Hawaii's telecommunications market. As noted by the Consumer Advocate, Applicant's proposed services are in the public interest as "the presence of effective competition in the telecommunications

industry is desirable to achieve certain benefits that would not be present in a monopolistic environment."⁶

Accordingly, the commission concludes that Applicant should be granted a COA to provide resold interexchange intrastate telecommunications services to non-residential subscribers in the State.

B.

Proposed Tariff Terms and Regulations

The commission finds that Applicant's proposed revised tariff, which includes the amendments recommended by the Consumer Advocate, is reasonable.

III.

Orders

1. Applicant is granted a COA to provide resold interexchange intrastate telecommunications services to non-residential subscribers in the State.

2. As a holder of a COA, Applicant shall be subject to all applicable provisions of HRS ch. 269; HAR chs. 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's proposed tariff, as revised, is approved. Applicant shall ensure that the appropriate issue and effective dates are reflected in the tariff. An original and

⁶Consumer Advocate SOP at 4.

eight (8) copies of the tariff shall be filed with the commission, and two (2) additional copies shall be served on the Consumer Advocate.

4. 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, Room #103, Honolulu, HI, 96813.

5. Within thirty (30) days from the date of this Decision and Order, Applicant shall also pay a telecommunications relay service ("TRS") contribution of \$8.00, established pursuant to: (A) HRS § 269-16.6; and (B) Decision and Order No. 23481, filed on June 7, 2007, in Docket No. 2007-0113. The business check shall be made payable to "Hawaii TRS," and sent to the Hawaii TRS Administrator, Solix, Inc.,⁷ 80 S. Jefferson Road, Whippany, NJ 07981. Written proof of payment shall be sent to the commission.

6. If Applicant will own, operate, or maintain any subsurface installation as defined by HRS § 269E-2, it shall register as an operator and pay to the commission a one-time registration fee of \$350 for the administration and operation of the Hawaii One Call Center,⁸ pursuant to

⁷Solix, Inc. was formerly known as NECA Services, Inc.

⁸The Hawaii One Call Center may be contacted by telephone at (877) 668-4001.

Decision and Order No. 23086, filed on November 28, 2006, in Docket No. 05-0195.

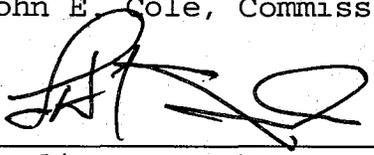
7. Applicant shall promptly comply with the requirements set forth above. Failure to promptly comply with these requirements may constitute cause to void this Decision and Order, and may result in further regulatory action, as authorized by law.

DONE at Honolulu, Hawaii SEP 25 2007.

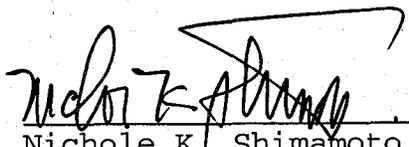
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By (EXCUSED)
John E. Cole, Commissioner

By 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Nichole K. Shimamoto
Commission Counsel

2006-0081.eh

CERTIFICATE OF SERVICE

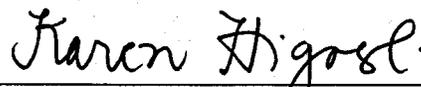
I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 23680 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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Counsel for Applicant



Karen Higashi

DATED: SEP 25 2007