

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
HAWAIIAN TELCOM, INC.)
For Waiver of the Number)
Utilization Threshold Requirements)
In the Neighbor Island Rate Centers)

DOCKET NO. 2008-0158

DECISION AND ORDER

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

PUBLIC UTILITIES
COMMISSION

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FILED

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HAWAIIAN TELCOM, INC.)
For Waiver of the Number)
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In the Neighbor Island Rate Centers)

Docket No. 2008-0158

DECISION AND ORDER

By this Decision and Order, the commission grants HAWAIIAN TELCOM, INC.'s ("Hawaiian Telcom") request for a waiver of the number utilization and months-to-exhaust ("MTE") requirements in the Wailuku, Hilo, Lihue, Kaunakakai, and Lanai City (collectively, "Neighbor Island") rate centers, and overturns the North American Numbering Plan Administration's ("NANPA") denial of Hawaiian Telcom's request for five new NXXs in the Neighbor Island rate centers.

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. It is an incumbent local exchange carrier, as contemplated by Section 252 of the federal Telecommunications Act of 1996.

On May 19, 2008, Hawaiian Telcom filed a request with NANPA for five new NXXs in the Neighbor Island rate centers, which NANPA denied on the ground that Hawaiian Telcom was unable to satisfy the requirement that it have a minimum utilization rate of 75% or have less than a six-month inventory of numbers for the requested rate centers ("Number Utilization Requirements").

A.

Hawaiian Telcom's Request

On August 8, 2008, Hawaiian Telcom filed an application requesting a waiver of the Number Utilization Requirements. According to Hawaiian Telcom, it requires a new NXX in each of the five Neighbor Island rate centers to establish Location Routing Numbers ("LRNs") for a Hawaiian Telcom Internet Protocol ("IP") based switch that will be used to provide new IP based services to Hawaiian Telcom's customers ("Application").¹

B.

Consumer Advocate's Position

On August 29, 2008, the Consumer Advocate filed its Statement of Position informing the commission that it does not object to approval of Hawaiian Telcom's request for waiver of the Number Utilization Requirements ("CA Statement of Position").

¹Hawaiian Telcom 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 HRS § 269-51 and Hawaii Administrative Rules § 6-61-62.

According to the Consumer Advocate, Hawaiian Telcom has demonstrated a need for the new NXXs in that the new NXXs are probably needed to comply with the local number portability ("LNP") requirement of the Telecommunications Act of 1996 and to comply with the Alliance for Telecommunication Industry Solutions Location Routing Number Assignment Practices ATIS-030065 dated December 1, 2006 ("ATIS LRN Document"). The Consumer Advocate asserts that compliance with the LNP requirements would promote competition in the State's telecommunications industry, and would thus be in the public interest. In addition, according to the Consumer Advocate, Hawaiian Telcom is not attempting to abuse the waiver process or hoard numbers; and a commission waiver would be consistent with similar waivers previously granted by the commission on a case-by-case basis. Therefore, the Consumer Advocate does not oppose Hawaiian Telcom's request, provided that "only the one thousandth blocks, where the requested LRNs (ten-digit numbers) are assigned, be retained by [Hawaiian Telcom], and all other numbering resources in the new NXXs be returned by Hawaiian Telcom to the NANPA Administrator."²

II.

Discussion

The Federal Communications Commission has charged state commissions with the authority to affirm or overturn denials of

²CA Statement of Position, at 8.

number resources. Section 52.15(g)(4) of Title 47 of the Code of Federal Regulations states:

The NANPA shall withhold numbering resources from any U.S. carrier that fails to comply with the reporting and numbering resource application requirements established in this part. The NANPA shall not issue numbering resources to a carrier without an Operating Company Number (OCN). The NANPA must notify the carrier in writing of its decision to withhold numbering resources within ten (10) days of receiving a request for numbering resources. The carrier may challenge the NANPA's decision to the appropriate state regulatory commission. The state commission may affirm, or may overturn, the NANPA's decision to withhold numbering resources from the carrier based on its determination that the carrier has complied with the reporting and numbering resource application requirements herein. The state commission also may overturn the NANPA's decision to withhold numbering resources from the carrier based on its determination that the carrier has demonstrated a verifiable need for numbering resources and has exhausted all other available remedies.

47 C.F.R. § 52.15(g)(4) (2005) (emphasis added).

Here, the commission finds that Hawaiian Telcom has sufficiently demonstrated that it has a verifiable need for the numbering resources and that it has exhausted all other remedies. Hawaiian Telcom requires new NXXs to establish LRNs for a new Hawaiian Telcom IP based switch that will be used to provide new IP based services to Hawaiian Telcom's customers. According to the Consumer Advocate, Hawaiian Telcom requires the new NXXs to comply with the LNP requirements of the Telecommunications Act of 1996, and to comply with the ATIS LRN Document. In addition, all other NXXs previously assigned to Hawaiian Telecom are currently in use, i.e., numbers from those NXXs have been assigned to customers.

And, given the NANPA Administrator's denial of Hawaiian Telcom's request for numbering resources, Hawaiian Telcom's request for commission review and reversal of the NANPA Administrator's decision is its only recourse.

Based on the foregoing, the commission concludes that Hawaiian Telcom's request for a waiver of the Number Utilization Requirements for the Neighbor Island rate centers, as proposed in its Application, should be granted. As such, the NANPA Administrator's denial of Hawaiian Telcom's request for NXXs in the Neighbor Island rate centers should be overturned; provided that only the one thousandth blocks, where the requested LRNs are assigned, be retained by Hawaiian Telcom, and all other numbering resources in the new NXXs are returned by Hawaiian Telcom to the NANPA Administrator.

III.

Orders

THE COMMISSION ORDERS:

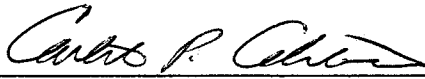
1. Hawaiian Telcom's request for a waiver of the Number Utilization Requirements is granted.

2. The NANPA Administrator's denial of Hawaiian Telcom's May 19, 2008 request for new NXXs in the Neighbor Island rate centers is overturned; provided that only the one thousandth blocks, where the requested LRNs are assigned, are retained by Hawaiian Telcom, and all other numbering resources in the new NXXs are returned by Hawaiian Telcom to the NANPA Administrator.


3. This docket is closed, unless otherwise ordered by the commission.

DONE at Honolulu, Hawaii SEP 18 2008.


PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

By 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Stacey Kawasaki Djou
Commission Counsel

2008-0158.laa

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

CATHERINE P. AWAKUNI
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