

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
FIRST COMMUNICATIONS, LLC and) Docket No. 2008-0185
GLOBALCOM, INC. and RENAISSANCE)
ACQUISITION CORP.)
For Approval of Transfer of Control))

DECISION AND ORDER

By this Decision and Order, the commission waives the requirements of Hawaii Revised Statutes ("HRS") §§ 269-7(a) and 269-19 and Hawaii Administrative Rules ("HAR") §§ 6-61-101 and 6-61-105, to the extent applicable, with respect to FIRST COMMUNICATIONS, LLC ("FCL")¹; GLOBALCOM, INC. ("Globalcom")² and RENAISSANCE ACQUISITION CORP.'s ("RAC") (collectively, "Applicants") request to approve a transaction that will result in the transfer of control of FCL and Globalcom to RAC ("Proposed Transaction").

¹FCL, a wholly owned subsidiary of First Communications, Inc. ("FCI"), is authorized by the commission to provide intrastate telecommunications services in the State of Hawaii ("State") as a reseller. See Decision and Order No. 23499, filed on June 20, 2007, in Docket No. 2006-0471.

²Globalcom is authorized by the commission to provide resold intrastate telecommunications services in the State. See Decision and Order No. 17852, filed on July 24, 2000, in Docket No. 00-0183. Recently, by Decision and Order, filed on September 24, 2008, in Docket No. 2008-0147, the commission waived the requirements of HRS §§ 269-7(a) and 269-19 with respect to the indirect transfer of control of Globalcom to FCI. Globalcom became a subsidiary of FCI.

I.

Background

A.

Application

On September 16, 2008, Applicants filed an application for commission approval of the Proposed Transaction, pursuant to HRS § 269-19 ("Application").³ According to Applicants, they seek approval to consummate a transaction that will result in the transfer of control of FCL and Globalcom to RAC.⁴ Upon consummation of the Proposed Transaction, RAC intends to change its name to "First Communications, Inc." Applicants represent that although the Proposed Transaction will conclude with a change in the ultimate ownership of FCL and Globalcom, no transfer of certificates, assets or customers will occur as a consequence of the transaction.

Applicants state that the Proposed Transaction will enable FCL and Globalcom to obtain access to additional financial and operational resources from its new publicly-traded parent company, RAC. Further, Applicants assert that the Proposed Transaction will be seamless and virtually transparent to the customers of FCL and Globalcom and in no event will it result in the discontinuance, reduction, loss, or impairment of service to customers.

³Applicants 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 proceeding.

⁴See Application at 5.

B.

Consumer Advocate's Statement of Position

On October 16, 2008, the Consumer Advocate filed its Statement of Position in which it states that it does not object to 1) waiver of the commission's investigatory authority to review the Proposed Transaction and any applicable filing requirements, 2) waiver of the commission's approval requirements, or 3) commission approval of the Proposed Transaction.

II.

Discussion

HRS § 269-16.9 allows the commission to waive regulatory requirements applicable to telecommunications providers if it determines that competition will serve the same purpose as public interest regulation. Specifically, HAR § 6-80-135 permits the commission to waive the applicability of any of the provisions of HRS chapter 269 or any rule, upon a determination that a waiver is in the public interest.

In this docket, the commission finds, at this time, that FCL and Globalcom are non-dominant carriers in the State. The commission also finds that the Proposed Transaction is consistent with the public interest, and that competition, in this instance, will serve the same purpose as public interest regulation. Thus, the commission concludes that the requirements

of HRS §§ 269-7(a) and 269-19⁵ should be waived, to the extent applicable, with regards to the matters in this docket, pursuant to HRS § 269-16.9 and HAR § 6-80-135.⁶ Similarly, based on these findings and conclusions stated above, the commission will also waive the provisions of HAR §§ 6-61-101 and 6-61-105, to the extent that the Application fails to meet any of these filing requirements.

III.

Orders

THE COMMISSION ORDERS:

1. The requirements of HRS §§ 269-7(a) and 269-19, to the extent applicable, are waived with respect to the Proposed Transaction, described in the Application filed on September 16, 2008.

2. The filing requirements of HAR §§ 6-61-101 and 6-61-105, to the extent applicable, are also waived.

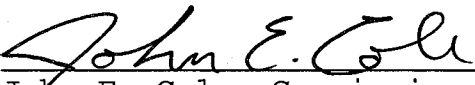
⁵The Consumer Advocate argued in its Statement of Position that HRS § 269-19 was not applicable to the Proposed Transaction. As the commission has found that a waiver is appropriate, it need not determine the applicability of HRS § 269-19.


⁶The commission will continue to examine each application or petition and make determinations on a case-by-case basis as to whether the applicable requirements of HRS §§ 269-7(a) or 269-19 should be waived. Thus, our waiver in this instance should not be construed by any public utility, including Applicants, as a basis for not filing an application or petition regarding similar transactions that fall within the purview of these statutes.

DONE at Honolulu, Hawaii DEC 19 2008.

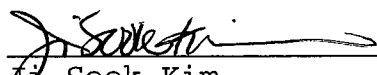
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

By 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Sook Kim
Commission Counsel

2008-0185.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:

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