

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
HAWAIIAN TELCOM, INC. and HAWAIIAN )  
TELCOM SERVICES COMPANY, INC. )  
For Approval of a Joint Marketing )  
Agreement to Provide Two Months of )  
Free Monthly Recurring Charges for )  
Select myChoice<sup>SM</sup> Bundled Service )  
Plans. )  
\_\_\_\_\_ )

DOCKET NO. 2009-0070

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. and HAWAIIAN ) Docket No. 2009-0070  
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Select myChoice<sup>SM</sup> Bundled Service )  
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\_\_\_\_\_ )

DECISION AND ORDER

By this Decision and Order, the commission approves HAWAIIAN TELCOM, INC. ("HTI") and HAWAIIAN TELCOM SERVICES COMPANY, INC.'s ("HTSC")<sup>1</sup> application, filed on March 25, 2009, for approval of their proposed new joint marketing agreement to provide two months of free monthly recurring charges for selected myChoice<sup>SM</sup> bundled service plans, under their alternative proposal.

I.

Application

On March 25, 2009, Applicants filed an application ("Application")<sup>2</sup> seeking commission approval to market Applicants'

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<sup>1</sup>HTI and HTSC are hereafter collectively referred to as "Applicants."

<sup>2</sup>Applicants served copies of the Application on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party to all proceedings

proposed new promotional offering under which new residential local service customers, returning residential customers, and existing residential customers who have called to disconnect service will receive two months of free monthly recurring charges upon agreeing to subscribe to HTI's Go Local Plus<sup>SM</sup> service as part of a qualifying myChoice Plus<sup>SM</sup> or myChoice Basic Plus<sup>SM</sup> bundled service offering ("Promotional Offering"). The terms of Applicants' Promotional Offering are described in their proposed tariffs, attached as Exhibit A to the Application.

Applicants state that their proposed Promotional Offering will be offered to qualifying customers who subscribe to any of the service plans under the myChoice Plus<sup>SM</sup> or myChoice Basic Plus<sup>SM</sup> plans<sup>3</sup> between May 1, 2009, through and including September 30, 2009 ("Offer Period"). According to Applicants, the Promotional Offering will only be available to residential customers who have not previously subscribed to this particular

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before the commission. See Hawaii Revised Statutes ("HRS") § 269-51; Hawaii Administrative Rules ("HAR") § 6-61-62.

<sup>3</sup>According to Applicants, myChoice Plus<sup>SM</sup> bundled service is comprised of: (1) local residential telephone service (HTI's Go Local Plus<sup>SM</sup>, offered under HTI's PUC Tariff No. 20, Section 5.12.19 and Supplement No. 4); (2) intrastate long distance service (HTSC's Call More<sup>SM</sup> Bundled Service Option II offered under HTSC's PUC Tariff No. 1, Section 3.6.14); (3) interstate long distance service (HTSC's Call More<sup>SM</sup> Bundled Service Option II offered under HTSC's interstate Rates, Terms, and Conditions No. 1); and (4) high speed internet service offered by HTSC on a non-regulated basis. In contrast, myChoice Basic Plus<sup>SM</sup> is comprised of HTI's Go Local Plus<sup>SM</sup> service, HTSC's Call More<sup>SM</sup> Bundled Service Option (pursuant to HTSC's PUC Tariff No. 1, Section 3.6.13 and its associated interstate Rates, Terms, and Conditions No. 1), but does not include high speed internet service.

promotion during the Offer Period, and customers who qualify for the Promotional Offering will not be required to sign any contracts.

Applicants represent that the two months of free service being provided to subscribers of myChoice Plus<sup>SM</sup> or myChoice Basic Plus<sup>SM</sup> bundled plans will be borne by Applicants based on the respective underlying cost of each of the bundle components they are providing. Applicants state that the costs associated with the discount will be recorded on the respective separately maintained books and accounting records of Applicants. Applicants request approval of the Promotional Offering, as described above, under HRS § 269-16 and HAR §§ 6-61-111, 6-80-35(e) and 6-80-39(d).

In the alternative, if the commission is not inclined to allow Applicants to capture their own costs for the Promotional Offering, Applicants state that HTSC will absorb the entire cost of the service discounts provided under the joint promotion, including the Go Local Plus<sup>SM</sup> portion (the "Alternative Proposal"). Applicants request approval of their Promotional Offering under the Alternative Proposal pursuant to the process approved by the commission in Decision and Order No. 23443, filed on May 17, 2007, in Docket No. 2007-0062 ("Decision and Order No. 23443").

Applicants represent that the Promotional Offering is necessitated, in part, by the impact of competition and the resulting access line losses by HTI.<sup>4</sup> Applicants state that their Promotional Offering will allow them to better compete in the telecommunications market place. Applicants contend that the Promotional Offering stratifies the requirements of HAR § 6-80-35(e). They assert that the proposed Promotional Offering will not result in cross-subsidization of HTSC's competitive services by HTI's non-competitive local service.

Applicants request that their Promotional Offering be allowed to take effect on May 1, 2009. However, to allow Applicants sufficient time to properly train their employees and to prepare necessary measures to launch the offering, Applicants request that the commission issue its decision approving their Promotional Offering by April 24, 2009.

On April 7, 2009, the Consumer Advocate submitted its Statement of Position informing the commission that it will not be participating in this proceeding.<sup>5</sup>

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<sup>4</sup>Applicants contend that changes in technology and the telecommunications industry have resulted in significant competition to HTI's basic telephone service from wireless, internet phone, and other wireline providers.

<sup>5</sup>The Consumer Advocate notes in its statement that its position to not participate in this docket should not be construed as either accepting, supporting, or adopting any of the positions proposed, justifications offered, or requested relief articulated in the Application.

II.

Discussion

In Decision and Order No. 23443, the commission established a streamlined, modified process for reviewing bundled service offerings for HTI and HTSC as follows:<sup>6</sup>

1. Requests for approval of Bundled Services offerings shall be filed via application to the commission. The application must contain information sufficient to determine whether each Bundled Services offering complies with the specific criteria that the commission has identified and utilized in its prior approvals of bundled services, or any additional criteria that may be applicable to demonstrate that the non-competitive services are not subsidizing the competitive services.
2. Such applications before the commission will take effect thirty days from filing of the application, unless suspended by the commission for further review.

At this juncture, the commission finds it reasonable to review Applicants' proposed Promotional Offering under Decision and Order No. 23443 (i.e., Applicants' Alternative Proposal). It would not be appropriate for the commission to approve Applicants' Promotional Offering as initially proposed without sufficient support for all of the relevant contentions made by Applicants in the Application. In addition, Applicants' request for approval of the Promotional Offering by April 24, 2009, with

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<sup>6</sup>See Decision and Order No. 23443 at 13 (footnote omitted).

an effective date of May 1, 2009, hinders further review of the Promotional Offering as initially proposed.<sup>7</sup>

Applicants' Alternative Proposal, moreover, conforms to the streamlined, modified process instituted by the commission for reviewing Applicants' bundled service offerings. Under Applicants' Alternative Proposal, cross-subsidization of HTSC's competitive services by HTI's non-competitive services should not occur since HTSC will be absorbing the entire cost of the service discounts provided under the joint promotion. Therefore, upon review of the Application,<sup>8</sup> the commission finds that it meets the requirements of Decision and Order No. 23443. Accordingly, the commission concludes that HTI and HTSC's Alternative Proposal for approval of their Promotional Offering and related proposed tariffs should be approved.

### III.

#### Orders

##### THE COMMISSION ORDERS:

1. Applicants' Alternative Proposal of its Promotional Offering, as described in the Application and set forth in their proposed tariffs, attached as Exhibit A to the Application, is approved.

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<sup>7</sup>On or about April 9, 2009, a representative of HTI and HTSC informed commission staff that a decision regarding Applicants' Promotional Offering by April 24, 2009, with an effective date of May 1, 2009, was paramount over other matters of the Application.

<sup>8</sup>No person filed an objection to the Application. See HAR § 6-61-61.

2. Applicants' request that their Promotional Offering be allowed to take effect on May 1, 2009, is granted.

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

DONE at Honolulu, Hawaii APR 24 2009.

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:

  
Ji Sook Kim  
Commission Counsel

2009-0070.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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