

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
iNETWORKS GROUP, INC.)
For a Certificate of Public)
Convenience and Necessity to)
Provide Resold Local Exchange and)
Interexchange Telecommunications)
Services in the State of Hawaii.)

DOCKET NO. 2009-0025

DECISION AND ORDER

FILED
2009 SEP -4 P 1:31
PUBLIC UTILITIES
COMMISSION

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Docket No. 2009-0025

DECISION AND ORDER

By this Decision and Order, the commission grants iNETWORKS GROUP, INC. ("Applicant") a certificate of authority ("COA") to provide resold local exchange and interexchange telecommunications services in the State of Hawaii ("State"), subject to certain regulatory requirements.

I.

Background

Applicant is an Illinois corporation with its principal place of business in Chicago, Illinois. Applicant was incorporated on January 16, 2002, and was certified by the State of Hawaii Department of Commerce and Consumer Affairs to transact business in the State as a foreign corporation, effective September 24, 2008.

A.

Application

On January 30, 2009, Applicant filed an application seeking a certificate of public convenience and necessity ("CPCN")¹ to provide resold local exchange and interexchange telecommunications services in the State.² The Application was filed pursuant to HAR §§ 6-80-17 and 6-80-18.

Specifically, Applicant intends to offer local exchange and interexchange telecommunication services statewide. Applicant intends to provide resold voice and data telecommunications services over both switched and dedicated facilities throughout all exchanges currently served by the "incumbent local exchange telecommunications companies of AT&T and Verizon."³

In support of its request, Applicant filed copies of its Illinois Articles of Incorporation (Exhibit A), Certificate of Authority for Foreign Corporation (Exhibit B), Biographies of Key Management (Exhibit C), Financial Statements Filed as

¹On June 3, 1996, Hawaii Administrative Rules ("HAR") chapter 6-80 took effect. HAR chapter 6-80, among other things, replaced the CPCN with a COA for telecommunications carriers, and established procedures for requesting and issuing a COA.

²Application, Verification, Exhibits A-F, and Certificate of Service, filed on January 30, 2009 ("Application"). Applicant 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 before the commission. See Hawaii Revised Statutes ("HRS") § 269-51; HAR § 6-61-62.

³See Application at 2. However, the commission assumes that Applicant intended to reference Hawaiian Telcom, Inc., the State's sole incumbent local exchange carrier ("ILEC"), since neither AT&T nor Verizon are ILECs in the State.

Confidential and Proprietary - Under Seal⁴ (Exhibit D), its Proposed Local Exchange Services Tariff No. 1 (Exhibit E), and its Proposed Interexchange Services Tariff No. 2 (Exhibit F).

Applicant asserts that approval of Applicant's request for a COA is in the public interest. In particular, Applicant states:

[T]he public will benefit directly, through the use of the competitive services to be offered by Applicant, and indirectly, because the presence of Applicant in this market will increase the incentives for other telecommunications providers to operate more efficiently, offer more innovative services, reduce their prices, and improve their quality of services.⁵

B.

Consumer Advocate's Statement of Position

On February 18, 2009, the Consumer Advocate filed its Statement of Position ("CA's SOP"), stating that it does not object to approval of Applicant's request; provided that Applicant modifies its tariff in accordance with the recommendations set forth in Section II.D of the CA's SOP, and if not already provided, submits a copy of the requisite financial statements as required under HAR § 6-80-17(c)(1)(E).⁶

⁴Applicant's additional financial information was filed on March 6, 2009 subject to Protective Order, issued on July 16, 2009.

⁵See Application at 3.

⁶On June 24, 2009, Applicant and the Consumer Advocate submitted a proposed Stipulation for Protective Order for commission review and approval. On July 16, 2009, the commission rejected the proposed stipulation and issued its own Protective

The Consumer Advocate states that it "accepts Applicant's representation that it has the managerial and technical abilities to provide the proposed services in Hawaii."⁷ Moreover, the Consumer Advocate determined (based on the presumed fitness and ability of Applicant) that Applicant's proposed services will be in the public interest.

II.

Discussion

A.

COA

HRS § 269-7.5 prohibits a public utility from commencing business in the State without first obtaining a CPCN, now known as a COA, from the commission. HAR § 6-80-18(a) states that:

The commission shall issue a certificate of authority 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

Order to govern the classification, acquisition, and use of confidential information in this docket. Applicant filed confidential updated financial statements pursuant to HAR §6-80-17(c)(1)(E) on March 6, 2009, and August 5, 2009.

⁷See CA's SOP at 4.

rules prescribed or adopted by the commission; and

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

Upon review of the record herein, 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 description of the qualifications of Applicant's key management personnel and the financial statements submitted in support of its Application.

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 and the documents submitted in support of its claims. 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 State's telecommunications market increase competition and provide consumers with added options to meet their needs. As noted by the Consumer Advocate, Applicant's proposed services are in the public interest as "the entry of many telecommunications service providers in the Hawaii market serves to mitigate many traditional public utility

regulatory concerns regarding the proposed grant of the requested COA. Therefore, if there are any adverse consequences from the proposed transaction, Hawaii's consumers of Applicant's proposed telecommunication services will have the option of selecting another service provider."⁸

Based on the foregoing, the commission concludes that Applicant should be granted a COA to provide intrastate telecommunications services within the State, as described in the Application.

B.

Tariff Revisions

Upon review of the Consumer Advocate's proposed tariff revisions, the commission finds them to be reasonable and appropriate. Moreover, the commission finds certain other tariff revisions to also be appropriate. Thus, the commission concludes that Applicant's proposed tariffs (i.e., Hawaii P.U.C. Tariff No. 1 and Hawaii P.U.C. Tariff No. 2) should be revised as follows:

1. Hawaii P.U.C. Tariff No. 1, Original Page 6, INTRODUCTION, and Hawaii P.U.C. Tariff No. 2, Original Page 7, SECTION 2.1 Undertaking of The Company. Applicant should include a statement that clearly indicates that in the event of a conflict between any of the subject tariff provisions (including provisions governing the duty to defend, indemnification, hold harmless, and limitation of liability) and state of Hawaii law, state of Hawaii law shall prevail.

⁸See CA's SOP at 6.

2. Hawaii P.U.C. Tariff No. 1, Original Page 18, SECTION 2.10, Interruption. To ensure that a customer receives a reasonable amount of time for notification of any service-affecting activities performed by Applicant, this section should be modified to read, "The Company, without incurring any liability whatsoever, may make Scheduled Interruption [sic] at any time with reasonable notice to the customer of at least 24 hours if possible (i) to ensure compliance...."
3. Hawaii P.U.C. Tariff No. 1, Original Page 19, SECTION 2.14.4, Billing and Payments. For consistency with HAR § 6-80-106, the second sentence of this section should be modified to read, "Customer's Service will be discontinued if the amount not in dispute stated on the monthly invoice is not paid...."
4. Hawaii P.U.C. Tariff No. 1, Original Page 20, SECTION 2.14.5, Billing and Payments. For consistency with HAR § 6-80-106(c), the first sentence of this section should be modified to read, "Except as otherwise provided in this Tariff,...,subject to five(5) business days (or seven business days if the notification is mailed) prior written notice...." In addition, for clarification purposes, the last sentence of this section should be modified to read, "... provided, however, Customer will have the right to obtain Commission investigation of any disputed invoice before Service is disconnected in accordance with Regulation in Section 2.36 of this tariff."
5. Hawaii P.U.C. Tariff No. 1, Original Page 22, SECTION 2.20.1, Discontinuation By Company. For consistency with HAR § 6-80-106(c), the first sentence of this section should be modified to read, "Notwithstanding any other provision of this Tariff,..., subject to (i) no less than five (5) business days (or seven business days if the notification is mailed) prior written notice...."

6. Hawaii P.U.C. Tariff No. 2, Original Page 17, SECTION 2.11.1, Billing and Charges. For consistency with HAR § 6-80-102(e), the second sentence of this section should be modified to read, "Billing will be payable upon receipt and will be considered past due if not paid within 20 days."
7. Hawaii P.U.C. Tariff No. 1, Original Page 34, SECTION 2.36, Customer Complaints and/or Billing Disputes, and Hawaii P.U.C. Tariff No. 2, Original Page 18, SECTION 2.13, Customer Complaints and/or Billing Disputes. For clarification purposes, the following sentence should be inserting at the beginning of these sections:

Customer complaints or billing disputes should be addressed to the Company's customer service organization as soon as possible.

In addition, since these sections lack clarifying language related to the provisions of HAR § 6-80-102, which provides for the process by which a telecommunications carrier may proceed to resolve billing disputes, the following sample language should be inserted after the first paragraph:

Upon notification of a dispute, the company will notify the customer within five (5) working days of its receipt of the dispute notice and shall undertake an investigation of the dispute charges. At the conclusion of the investigation, the company will notify the customer of any amount determined by the company to be correctly charged and customer shall pay such amount to the company within fifteen (15) days. The company may suspend/terminate service if the customer fails to pay the amount determined by the company to be properly charged.

Furthermore, to ensure that customers are informed that all billing disputes are subject to HAR § 6-80-102, and are provided the commission's address and telephone number for customer complaints, in accordance with

HAR § 6-80-107(4), the following language should also be incorporated at the end of these sections:

All billing disputes are subject to Hawaii Administrative Rules Section 6-80-102. All Customer complaints and inquiries regarding service or billing are subject to the jurisdiction of the Commission, which may be contacted at the following address and telephone number:

Hawaii Public Utilities Commission
465 South King Street, Room 103
Honolulu, Hawaii 96813
(808)586-2020

8. Hawaii P.U.C. Tariff No. 2. The left header of the tariff pages reflect "Networks Group, Inc." All tariff pages should be revised to reflect "iNetworks Group, Inc." as the correct name of Applicant.

III.

Orders

THE COMMISSION ORDERS:

1. Applicant is granted a COA to provide resold local exchange and interexchange telecommunications services in the State, as described in its Application.

2. As the holder of a COA, Applicant shall be subject to all applicable provisions of HRS chapter 269; HAR chapters 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 shall file its proposed tariffs in accordance with HAR §§ 6-80-39 and 6-80-40. Applicant's tariffs shall comply with the provisions of HAR chapter 6-80. In the event of a conflict between any tariff provision and State law, State law shall prevail.

4. Applicant shall conform its tariffs to all applicable provisions of HAR chapter 6-80 by, among other things, incorporating the tariff revisions referred to or set forth in Section II.B of this Decision and Order. An original and eight copies of the initial tariffs shall be filed with the commission, and two additional copies shall be served on the Consumer Advocate. Applicant shall ensure that the appropriate issued and effective dates are reflected in its tariffs.

5. Within thirty days from the date of this Decision and Order, Applicant shall also pay a telecommunications relay service ("TRS") contribution of \$12.00, established pursuant to: (A) HRS § 269-16.6; and (B) Decision and Order, filed on June 9, 2009, in Docket No. 2009-0095. The business check shall be made payable to "Hawaii TRS", and sent to the Hawaii TRS Administrator, Solix, Inc.,⁹ 100 S. Jefferson Road, Whippany, NJ 07981. Written proof of payment shall be sent to the commission.


6. Failure to promptly comply with the requirements set forth in paragraphs 3 to 5, above, may constitute cause to void this Decision and Order, and may result in further regulatory action, as authorized by law.

⁹Solix, Inc. was formerly known as NECA Services, Inc.

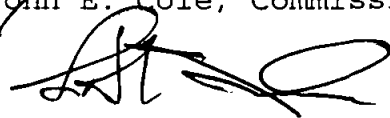
DONE at Honolulu, Hawaii

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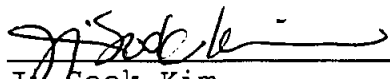
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner


By
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


J. Sook Kim
Commission Counsel

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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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