

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
 HAWAIIAN TELCOM, INC.)
)
 For Approval of Time Warner Cable)
 Information Services (Hawaii),)
 LLC's Adoption of Pacific Lightnet,)
 Inc.'s Interconnection Agreement.)
 _____)

DOCKET NO. 2009-0172

DECISION AND ORDER

FILED
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PUBLIC UTILITIES
COMMISSION

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_____)	

DECISION AND ORDER

By this Decision and Order, the commission approves the adoption by TIME WARNER CABLE INFORMATION SERVICES (HAWAII), LLC ("Time Warner-Hawaii") of the interconnection agreement between PACIFIC LIGHTNET, INC. ("Pacific Lightnet") and HAWAIIAN TELCOM, INC., fka VERIZON HAWAII INC. ("Hawaiian Telcom"), pursuant to Hawaii Administrative Rules ("HAR") § 6-80-54(b).

I.

Background

Hawaiian Telcom is a Hawaii corporation with its principal place of business in Honolulu, Hawaii. As the incumbent local exchange carrier for the State of Hawaii ("State"), Hawaiian Telcom provides a "comprehensive slate" of local and intraLATA telecommunications services on a statewide basis.

Time Warner-Hawaii is a limited liability company with its principal place of business in New York, New York. It is a competitive local exchange carrier authorized by the commission to provide facilities-based and resold intrastate telecommunications services in the State.¹ Specifically, Time Warner-Hawaii provides local and long distance Internet Protocol voice services (aka, Voice Over Internet Protocol, or VOIP).²

A.

Petition

By letter dated July 30, 2009 (the "Petition"), Hawaiian Telcom filed Time Warner-Hawaii's adoption of the interconnection agreement between Pacific Lightnet and Hawaiian Telcom ("Interconnection Agreement"). The Petition was submitted pursuant to 47 U.S.C. § 252(i) of the Telecommunications Act of 1996 (the "Act").³ The commission will construe Hawaiian Telcom's Petition as a request for commission approval of Time

¹See In re Time Warner Cable Information Services (Hawaii), LLC, Docket No. 04-0135, Decision and Order No. 21427, filed on October 22, 2004, at 9 (granting Certificate of Authority).

²Id., at 3.

³See Pub. L. 104-104, 110 Stat. 56 (February 8, 1996) (codified at 47 U.S.C. §§ 151 et seq. and 42 U.S.C. § 1983). The Act was designed to foster competition in local telecommunications markets. Under 47 U.S.C. § 251, "incumbent local exchange carriers", such as Hawaiian Telcom, are required to provide "interconnection" to "competitive local exchange carriers" seeking access to a market.

Warner-Hawaii's adoption of the Interconnection Agreement under HAR § 6-80-54.⁴

Along with the Petition, Hawaiian Telcom also filed an adoption letter dated May 15, 2009 ("Adoption Letter"), signed by representatives of Hawaiian Telcom and Time Warner-Hawaii (collectively, the "Parties"). Time Warner-Hawaii's adoption of the Interconnection Agreement is subject to the conditions and reservations set forth in the Adoption Letter.⁵

B.

Time Warner-Hawaii's Adoption

The commission approved the Interconnection Agreement in Decision and Order No. 23500, filed on June 20, 2007, in In re Pacific Lightnet, Inc., Docket No. 03-0197 ("Decision and Order No. 23500"). In that decision and order, the commission found that approval of the Interconnection Agreement was reasonable and consistent with the commission's policy of encouraging voluntary negotiations and agreements, as set forth in HAR § 6-80-6(a)(1).⁶

⁴Moreover, the Act requires any interconnection agreement adopted by negotiation or arbitration to be submitted for state commission approval. See 47 U.S.C. § 252(e)(1).

⁵Copies of Hawaiian Telcom's Petition and the Adoption Letter were served on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party to this proceeding pursuant to Hawaii Revised Statutes § 269-51 and HAR § 6-61-62. No person moved to intervene or participate in this docket.

⁶See Decision and Order No. 23500 at 3.

Time Warner-Hawaii's adoption of Pacific Lightnet's Interconnection Agreement with Hawaiian Telcom is permitted under 47 U.S.C. § 252(i), which states that:

A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

As specified in the Adoption Letter, Time Warner-Hawaii agrees to adopt the terms of the Interconnection Agreement, subject to the conditions and reservations set forth in the Adoption Letter.

C.

Consumer Advocate's Position

On October 8, 2009, the Consumer Advocate filed its Statement of Position stating that that it would not be participating in this particular proceeding due to limited resources. The Consumer Advocate, however, reserves the right to conduct analysis and/or offer recommendations in the future as appropriate and if necessary.

II.

Discussion

HAR § 6-80-54 requires all agreements concerning access, interconnection, unbundling, and network termination adopted by negotiation or arbitration be submitted to the commission for review and approval. The Adoption Letter,

signed by the Parties, is a negotiated contract between Time Warner-Hawaii and Hawaiian Telcom. Accordingly, the commission will treat the adoption of the Interconnection Agreement as a negotiated interconnection agreement between the Parties and conduct its review under HAR § 6-80-54(b).

Under HAR § 6-80-54(b) the commission may reject a negotiated agreement, or any portion of it, if the commission finds:

- (1) The agreement, or any portion of the agreement, discriminates against a telecommunications carrier not a party to the agreement; or
- (2) The implementation of the agreement, or any portion of the agreement, is not consistent with the public interest, convenience, and necessity.

The commission finds that the adoption of the Interconnection Agreement does not discriminate against other telecommunications carriers and that the implementation of the adopted Interconnection Agreement is consistent with the public interest, convenience, and necessity. The commission also finds that approval of Time Warner-Hawaii's adoption of the Interconnection Agreement is consistent with federal requirements. In addition, the commission recognizes that approval of Time Warner-Hawaii's adoption of the Interconnection Agreement will further enable Time Warner-Hawaii to provide telecommunications services in the State as authorized in its COA, thereby increasing competition in the State's telecommunications market.

Accordingly, the commission concludes that Hawaiian Telcom's Petition for commission approval of Time Warner-Hawaii's adoption of the Interconnection Agreement, subject to the conditions and reservations set forth in the Adoption Letter, should be granted.

III.

Orders

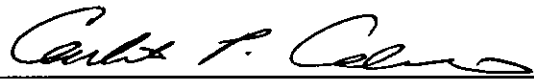
THE COMMISSION ORDERS:

1. Time Warner's adoption of the Interconnection Agreement between Pacific Lightnet and Hawaiian Telcom, subject to the conditions and reservations set forth in the Adoption Letter, is approved under HAR § 6-80-54(b).

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

DONE at Honolulu, Hawaii OCT 16 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:


Bonita Y.M. Chang
Commission Counsel

2009-0172.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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