

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)

EXTENET SYSTEMS, INC.)

DOCKET NO. 2007-0145

For a Certificate of Authority)
to Provide Facility-Based)
and/or Resold Intrastate)
Telecommunications Services)
Within the State of Hawaii)

DECISION AND ORDER NO. 23581

Filed August 7, 2007
At 11 o'clock A.M.

Karen Higashi
Chief Clerk of the Commission

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

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ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

Karen Higashi

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DECISION AND ORDER

By this Decision and Order, the commission grants EXTENET SYSTEMS, INC. ("Applicant") a certificate of authority ("COA") to provide facilities-based and resold intrastate telecommunications services within the State of Hawaii, subject to certain conditions, as described herein.

I.

Background

Applicant is a Delaware corporation with its principal place of business in Oakbrook Terrace, Illinois. Applicant was initially incorporated under the name of ClearLinux Network Corporation, and subsequently changed its name to ExteNet Systems, Inc. Applicant was certified by the State of Hawaii Department of Commerce and Consumer Affairs ("DCCA") to transact business in the State as a foreign corporation, effective May 11, 2007.

A.

Application

On May 30, 2007, Applicant filed an application seeking a COA to provide non-switched point-to-point transport services on a wholesale basis to wireless service providers ("WSPs") in the State of Hawaii.¹ The Application was filed pursuant to HAR §§ 6-80-17 and 6-80-18.

Specifically, Applicant intends to offer facilities-based dedicated point-to-point Private Virtual Circuit transport service on a wholesale basis via a Distributed Antenna System network. Applicant represents that this service enables WSPs to improve their coverage by filling in "dead spots," and to increase their capacity to provide services in certain geographic areas. Applicant states that it has no current plans to offer or provide switched services of any type, including local "dial tone" services and long distance/toll services, to any of its customers; nor does it have any current plans to offer its services to either residential or business end users.

In support of its request, Applicant filed copies of its Certificate of Incorporation (Exhibit A), Certificate of Good Standing from the DCCA (Exhibit B), biographies of its key

¹Application, Verification, Exhibits A-F, and Certificate of Service, filed on May 30, 2007 ("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; Hawaii Administrative Rules ("HAR") § 6-61-62.

personnel (Exhibit C), financial information (Exhibit D),² and its proposed tariff (Exhibit E).

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

ExteNet's [Radio Frequency] transport services allow wireless carriers to address long-standing service coverage problems such as "deadspots" in cellular and/or PCS wireless carriers' networks, where existing wireless networks require additional capacity, and in those areas that are too costly, difficult, or in some cases, impossible to implement using the traditional wireless technology, due to land use limitations and/or prohibitions imposed by localities for the deployment of traditional wireless network infrastructure.³

B.

Consumer Advocate's Statement of Position

On June 28, 2007, the Consumer Advocate filed its Statement of Position, informing the commission that it does not object to commission approval of Applicant's request for a COA, provided that Applicant modifies its tariff in accordance with the Consumer Advocate's recommendations.⁴ On July 19, 2007, Applicant filed an updated tariff in which it incorporated the

²Applicant's financial information was filed subject to Stipulated Protective Order No. 23565, filed on July 27, 2007.

³Application, Section XIV.

⁴Division of Consumer Advocacy's Statement of Position, filed on June 28, 2007 ("Consumer Advocate's Statement of Position").

changes recommended by the Consumer Advocate in its Statement of Position.⁵

II.

Discussion

A.

COA

HRS § 269-7.5 prohibits a public utility from commencing business in the State without first obtaining a certificate of public convenience and necessity ("CPCN") from the commission.⁶ 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 rules prescribed or adopted by the commission; and

⁵Applicant first filed an updated tariff, which incorporated the Consumer Advocate's recommendations in its Statement of Position, on July 5, 2007. By request of commission staff, however, Applicant re-filed its updated tariff, to reflect certain non-substantive, formatting changes, on July 19, 2007.

⁶On June 3, 1996, 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.

- (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 "[t]he introduction of effective competition in the

telecommunications industry is desirable to achieve the benefits that would not be present in a monopolistic environment."⁷

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

As noted above, Applicant filed an updated tariff on July 19, 2007, in which it incorporated the changes recommended by the Consumer Advocate in its Statement of Position. The commission finds that Applicant's revisions to its tariff, based on the Consumer Advocate's tariff revision recommendations, are reasonable and appropriate.

III.

Orders

THE COMMISSION ORDERS:

1. Applicant is granted a COA to provide facilities-based and resold intrastate 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

⁷Consumer Advocate's Statement of Position at 5.

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 initial tariff to the applicable provisions of HAR chapter 6-80. An original and eight (8) copies of the initial tariff shall be filed with the commission, and two (2) 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 (30) days from the date of this Decision and Order, Applicant shall pay a public utility fee of \$60, pursuant to HRS § 269-30. The business check shall be made payable to the Hawaii Public Utilities Commission, and sent to the commission's office at 465 S. King Street #103, Honolulu, HI 96813.

6. Within thirty (30) days from the date of this Decision and Order, Applicant shall also pay a telecommunications relay service ("TRS") contribution of \$8.00, established pursuant to: (A) HRS § 269-16.6; and (B) Decision and Order No. 23481, filed on June 7, 2007, in Docket No. 2007-0113. The business check shall be made payable to "Hawaii TRS", and sent to the Hawaii TRS Administrator, Solix, Inc.,⁸ 80 S. Jefferson Road,

⁸Solix, Inc. was formerly known as NECA Services, Inc.

Whippany, NJ 07981. Written proof of payment shall be sent to the commission.

7. If Applicant will own, operate, or maintain any subsurface installation as defined by HRS § 269E-2, it shall register as an operator with the Hawaii One Call Center and pay to the commission a one-time registration fee of \$350 for the administration and operation of the Hawaii One Call Center,⁹ pursuant to Decision and Order No. 23086, filed on November 28, 2006, in Docket No. 05-0195.

8. Failure to promptly comply with the requirements set forth in paragraphs 3 to 7, above, may constitute cause to void this Decision and Order, and may result in further regulatory action, as authorized by law.

DONE at Honolulu, Hawaii AUG - 7 2007.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

APPROVED AS TO FORM:

Kaiulani Kidani Shinsato
Kaiulani Kidani Shinsato
Commission Counsel

By Leslie H. Kondo
Leslie H. Kondo, Commissioner

2007-0145.sl

⁹The Hawaii One Call Center may be contacted by telephone at (877) 668-4001.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 23581 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

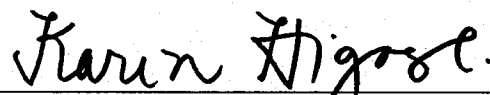
CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

WILLIAM W. MILKS, ESQ.
LAW OFFICE OF WILLIAM W. MILKS
American Savings Bank Tower, Suite 977
1001 Bishop Street
Honolulu, HI 96813

ANITA TAFF-RICE, ESQ.
ANITA TAFF RICE LAW FIRM
1547 Palos Verdes Mall, #298
Walnut Creek, CA 94597

Attorneys for ExteNet Systems, Inc.

TERRY RAY, VICE PRESIDENT AND CFO
EXTENET SYSTEMS, INC.
Suite 190
1901 S. Meyers Road
Oakbrook Terrace, IL 60181



Karen Higashi

DATED: AUG - 7 2007