

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
GLOBALCOM, INC. and FIRST )  
COMMUNICATIONS, INC. )  
For Approval of the Indirect )  
Transfer of Control of Globalcom, )  
Inc. to First Communications, Inc. )  

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DOCKET NO. 2008-0147

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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OF THE STATE OF HAWAII

In the Matter of the Application of )  
GLOBALCOM, INC. and FIRST ) Docket No. 2008-0147  
COMMUNICATIONS, INC. )  
)  
For Approval of the Indirect )  
Transfer of Control of Globalcom, )  
Inc. to First Communications, Inc. )  
\_\_\_\_\_ )

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 GLOBALCOM, INC. ("Globalcom")<sup>1</sup> and FIRST COMMUNICATIONS, INC.'s ("FCI")<sup>2</sup> (collectively, "Applicants") request to approve the indirect transfer of control of Globalcom that will result from FCI merging with GCI Globalcom Holdings, Inc. ("GCI")<sup>3</sup> ("Proposed Transaction").

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<sup>1</sup>By Decision and Order No. 17852, filed on July 24, 2000, in Docket No. 00-0183, Globalcom was granted a certificate of authority to provide resold intrastate telecommunications services in the State of Hawaii.

<sup>2</sup>FCI is the parent company of First Communications, LLC. ("FCL"). FCL is authorized by the commission to provide local exchange and interexchange telecommunications services in the State pursuant to Decision and Order No. 23499, filed on June 20, 2007, in Docket No. 2006-0471.

<sup>3</sup>GCI is the parent company of Globalcom.

I.

Background

A.

Application

On July 24, 2008, Applicants filed an application for commission approval of the Proposed Transaction, pursuant to HRS § 269-19 ("Application"). According to Applicants, they seek approval to consummate a transaction whereby First Global Telecom, Inc. (FCI's Merger Sub) and GCI will merge, with GCI surviving.<sup>4</sup> The Proposed Transaction will result in GCI as a wholly-owned subsidiary of FCI and FCI will indirectly control GCI's subsidiary, Globalcom.<sup>5</sup>

Applicants state that the Proposed Transaction will enable Globalcom to obtain access to additional financial and operational resources from its new parent company.<sup>6</sup> These additional resources will allow Globalcom to strengthen its competitive position in Hawaii, benefiting Hawaii consumers and the telecommunications marketplace.<sup>7</sup> Applicants assert that the transaction will be virtually transparent to customers of Globalcom and Globalcom will continue to provide high-quality services without interruption and without change in rates, terms or conditions.<sup>8</sup>

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<sup>4</sup>Application, at 4.

<sup>5</sup>Application, at 4.

<sup>6</sup>Application, at 5.

<sup>7</sup>Application, at 5.

<sup>8</sup>Application, at 5.

B.

Consumer Advocate's Statement of Position

On September 17, 2008, the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate")<sup>9</sup> filed its statement of position in which it states that it does not object to commission approval of the Proposed Transaction or, in the alternative, does not object to waiver of the commission's investigative and approval requirements set forth in HRS §§ 269-7(a) and 269-19 and applicable filing requirements, referencing HAR §§ 6-61-101(b)(2) and 6-61-105(c).

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 Globalcom and FCI are non-dominant carriers in the State. The commission also finds that the Proposed Transaction is

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<sup>9</sup>The Consumer Advocate, an ex officio party to all proceedings before the commission pursuant to HRS § 269-51 and HAR § 6-61-62, notes that the Application was not received by the Consumer Advocate until September 9, 2008. See Consumer Advocate's Statement of Position ("Statement of Position"), at 2.

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 269-19 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.<sup>10</sup> 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 July 24, 2008.
2. The filing requirements of HAR §§ 6-61-101 and 6-61-105, to the extent applicable, are also waived.

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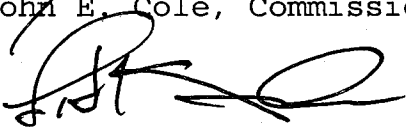
<sup>10</sup>The commission will continue to examine each application or petition and make determinations on a case-by-case basis as to whether the applicable requirements of HRS §§ 269-7(a) or 269-19 should be waived. Thus, the commission's waiver in this instance should not be construed by any public 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 SEP 24 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:

  
Jodi L. K. Yi  
Commission Counsel

2008-0147.cp

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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