

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

KRS DEVELOPMENT, INC. and
HALE KANANAI ASSOCIATES, INC.

Complainants

vs.

HAWAIIAN TELCOM, INC.

Respondent.

DOCKET NO. 2008-0017

ORDER NO. 24057

Filed Feb. 26, 2008
At 10 o'clock A.M.

Karen Higashi
Chief Clerk of the Commission

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

Karen Higashi

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

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RECEIVED

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

KRS DEVELOPMENT, INC. and)	
HALE KANANAI ASSOCIATES, INC.)	
)	Docket No. 2008-0017
Complainants)	
)	Order No. 24057
vs.)	
)	
HAWAIIAN TELCOM, INC.)	
)	
Respondent.)	
_____)	

ORDER

By this Order, the commission: (1) serves a copy of the complaint jointly filed by KRS DEVELOPMENT, INC., and HALE KANANI ASSOCIATES, LLC (collectively, "KRS"), on January 31, 2008, as amended on February 19, 2008, upon HAWAIIAN TELCOM, INC. ("HTI" or "Company");¹ and (2) instructs HTI to file with the commission an answer to the complaint within twenty days after the date of service of this Order, with copies served upon KRS and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate").

¹A copy of the complaint, as amended (the "Amended Complaint"), is attached as an exhibit to this Order.

I.

Background

"KRS Development, Inc, is the Member/Manager of Hale Kanani Associates, LLC. Hale Kanani Associates, LLC was the owner of a condominium development located at 44 Kanani Road, Kihei, Hawaii 96753."² "KRS is a Hawaii Corporation that, at all relevant times did business in the County of Maui, State of Hawaii."³

HTI is the incumbent provider of telecommunications services in the State of Hawaii. The Consumer Advocate is an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a).

On January 31, 2008, KRS filed their complaint with the commission, specifying the following two counts against HTI:

COUNT I
SPECIFIC PERFORMANCE

28. KRS incorporates by reference the allegations of fact contained in paragraphs 1 through 28 above.

29. HTI entered into an express contract to provide the work specified in the Agreement dated November 10, 2004.

30. By reason of the acts, omissions and conduct alleged herein, HTI breached [its] express Agreement with KRS by not performing the required services in a timely fashion and not providing a detailed accounting of the expenses incurred for this project.

²Amended Complaint, ¶ No. 2, at 2.

³Amended Complaint, ¶ No. 1, at 1.

31. KRS performed all obligations under the Agreement and did so in a timely and responsible fashion.

32. The Agreement does not provide a mediation or arbitration clause. Therefore remedy must be sought through the PUC formal complaint rules HAR §6-62-67 and Hawaii Administrative Rules, Title 6, Chapter 61, Subchapter [5].

COUNT II
BREACH OF CONTRACT

33. KRS incorporates by reference the allegations of fact contained in paragraphs 1 through 28 above.

34. KRS relied upon the Agreement which references Verizon Hawaii PUC Tariff No. 1, Section 2 governing the recovery of the actual cost.

35. Verizon Hawaii PUC Tariff No. 1, Section 2.11.1 states that the Company (HTI) may require customers (KRS) to make deposits to guarantee . . . payment of charges before credit is established. The Company shall pay interest on deposits pursuant to applicable rules and regulations. Section 2.11.2 states that a deposit shall not exceed the estimated charges for two months service and shall be returned within thirty (30) days of the Customer[] establishing credit pursuant to applicable rules and regulations.

36. HTI references this tariff within the body of the Agreement then later stated that it only applied to "Consumers" and not "Developers".

37. KRS relied upon this Tariff to protect them as a consumer and feel that HTI therefore breached its contract by not providing a detailed accounting and timely refund of their deposit.

38. HTI has failed and refused to perform under the Agreement and thereby causing damage to KRS in such amounts as shall be established at trial of this matter.

Amended Complaint, at 7-8.

On February 8, 2008, the Consumer Advocate filed its Statement of Position, stating "its decision to not participate

in this proceeding."⁴ On February 19, 2008, KRS amended their complaint by filing their Verification and Certificate of Service, in response to the commission's directive.⁵

II.

Formal Complaint

HAR § 6-68-13 states:

§6-68-13 Complaint. (a) Unless ordered or directed otherwise by the commission, any complaint (informal or formal) against a public utility, water carrier, motor carrier, or other person subject to the commission's jurisdiction alleging a violation of any regulatory law shall be processed in accordance with chapter 6-61.

(b) Whenever the commission is of the opinion that the complaint does not state reasonable grounds for investigation and action on the commission's part, the commission may dismiss the complaint.

HAR § 6-68-13 (emphasis added).

In turn, HAR chapter 6-61, subchapter 5, governs complaints and commission investigations. With respect to the filing of a formal complaint and an answer thereto, HAR §§ 6-61-67 and 6-61-68 state:

§6-61-67 Formal complaints. (a) Any person may file a formal complaint against any public utility, water carrier, motor carrier, or other person subject to commission jurisdiction.

(b) Formal complaints shall:

(1) Be in writing;

⁴Consumer Advocate's Statement of Position, at 2. The Consumer Advocate requests that it receive "a copy of the documents filed in the proceeding to ensure that the Consumer Advocate's docket file is current." Id.

⁵See Commission's letter, dated February 13, 2008; and KRC's transmittal letter, dated February 19, 2008, with attachments.

- (2) Comply with sections 6-61-15 to 6-61-21;
- (3) State the full name and address of each complainant and of each respondent;
- (4) Set forth fully and clearly the specific act complained of in ordinary and concise language; and
- (5) Advise the respondent and the commission completely of the facts constituting the grounds of the complaint, the injury complained of, and the exact relief desired.

(c) A complaint that alleges a violation of law shall clearly specify the particular parts of the law which are alleged to have been violated and the facts which the complaint relies upon to establish the violation.

(d) If two or more sections or subsections of the law or two or more requirements established pursuant to law are alleged to be violated, the facts claimed to constitute violation of one section, subsection, or requirement shall be stated separately from those claimed to constitute a violation of another section, subsection, or requirement whenever that can be done without undue repetition.

(e) If the formal complaint substantially complies with this subchapter, the commission shall serve a copy upon each respondent, together with an order requiring that the complaint be answered within twenty days after the date of service. Two copies of the formal complaint shall also be served on the consumer advocate. In emergency cases, the commission may require the filing of an answer within a shorter time.

(f) If the formal complaint is not in substantial compliance with this subchapter, the commission shall return the complaint to the complainant with an explanation of the reasons why the formal complaint does not comply with this chapter.

§6-61-68 Answer to formal complaints. The respondent shall, within the time specified in the order or any extension thereof as the commission grants, file its answer with proof of service on the complainant and the consumer advocate. All grounds of defense, both of law and of fact, shall be raised in the answer. If the respondent has no information or belief upon the subject sufficient

to enable an answer to the allegation, it may so state in the answer and place its denial upon that ground.

HAR §§ 6-61-67 and 6-61-68 (emphasis added).

Count II of the Amended Complaint, for breach of contract, appears to allege the violation of certain tariff provisions, while in Count I, entitled "specific performance," KRC seeks relief with the commission.

Upon review, the commission finds that the complaint, as amended, i.e., the Amended Complaint, appears to substantially comply with HAR chapter 6-61, subchapter 5, the commission's rules governing the filing of formal complaints. Accordingly, the commission, consistent with HAR § 6-61-67(e), instructs HTI to file with the commission an answer to the complaint within twenty days after the date of service of this Order, with copies served upon KRS and the Consumer Advocate.⁶

III.

Order


THE COMMISSION ORDERS:

Hawaiian Telcom, Inc. shall file with the commission an answer to the attached Amended Complaint, within twenty days after the date of service of this Order, with copies served upon KRS and the Consumer Advocate.

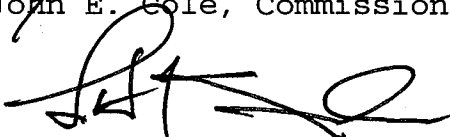
⁶As noted in the attached Certificate of Service, service of this Order and attached exhibit will be made upon HTI's Vice President for External Affairs and its Assistant General Counsel.

DONE at Honolulu, Hawaii FEB 26 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:


Michael Azama
Commission Counsel

2008-0017.cp

Kent R. Smith
KRS Development, Inc. and
Hale Kanani Associates LLC
8 Kiopa'a Street, Suite 201
Pukalani, Hawaii 96768
(808) 572-3011 ext. 203

Pro Se

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

PUBLIC UTILITIES
COMMISSION

2008 JAN 31 P 3:52

FILED

KRS DEVELOPMENT, INC. a)
Hawaii Corporation and)
HALE KANANI ASSOCIATES, LLC)
Complainant,)
vs.)
HAWAIIAN TELCOM, a)
Hawaii Private Utilities Company)
Respondent.)

DOCKET NO. 2008-0017
EXHIBITS "A" - "O"

COMPLAINT

Plaintiff KRS Development, Inc. and Hale Kanani Associates, LLC (collectively, "KRS") files this complaint against Hawaiian Telcom, ("HTI") for breach of contract claiming the following:

PARTIES, JURISDICTION AND VENUE

1. KRS is a Hawaii Corporation that, at all relevant times did business in the County of Maui, State of Hawaii.

2. HTI is an incumbent local exchange carrier or dominant local telephone company, serving the State of Hawaii. Its parent company is The Carlyle Group, a Washington, D.C. based global private equity investment firm.

3. This Commission has jurisdiction over the above matter pursuant to HAR § 6-61-15 as it is a civil action or proceeding.

FACTS

4. KRS Development, Inc. is the Member/Manager of Hale Kanani Associates, LLC. Hale Kanani Associates, LLC was the owner of a condominium development located at 44 Kanani Road, Kihei, Hawaii 96753.

6. On November 10, 2004 KRS entered into a contract with Verizon Hawaii, Inc. to perform some off-site improvements fronting the project. The scope of the work is detailed in exhibit "A".

6. Verizon Hawaii Inc. was acquired by Hawaiian Tel in April of 2005.

7. As part of the terms and conditions of the contracts, Hale Kanani, LLC was to pay the estimated costs for these improvements (\$417,015.00) prior to the start of any construction activities. This payment was made in two disbursements. \$210,000.00 at the time the contract was signed, November 9, 2004 and the balance \$207,015.00 on April 12, 2005.

8. Work was completed in May 2006 and we were told by HTI representatives that there would be a reimbursement of approximately \$150,000.00. Upon further discussion it was confirmed that the engineering Department (Wayne Kajiwarra) was waiting to accumulate all cost receipts and timesheets.

9. In July of 2006, we were told by their engineering Department (Wayne Kajiwara) that they were having problems in their finance Department due to a change over of their computer system in April of 2006. Invoices needed to be manually added in and there were duplications and other errors discovered.

10. On September 6, 2006 we received a reimbursement check in the amount of \$102,696.17. Accompanying the check was an invoice showing four line items. A copy is attached as Exhibit "B". As we had been expecting a larger reimbursement amount based on previous representations by Verizon/Hawaiian Tel, we requested them to provide detailed backup to justify the amount reimbursed, with which we could perform an audit of their accounting.

11. On September 12, 2006, we received an email from Wayne Kajiwara of HTI with a very limited breakdown of the charges. Again, these were just figures with no supporting documentation.

12. On September 21, 2006 KRS met with Wayne Kajiwara at our office. He brought with him copies of the invoices for Volcom, a subcontractor on the job. We were told that we could look at the invoices but would not be able to make copies. Again the information was inadequate to do a thorough audit of what they charged and the work performed.

13. On November 3, 2006 we were notified that before they would release any additional information to us, we would need to sign a Nondisclosure Agreement. This agreement restricted us from releasing any of the information obtained from them in regards to their accounting and calculations without their prior written approval. Before

signing this agreement we inserted our own clause stating "such approval will not be unreasonably withheld". Agreement is attached as exhibit "C".

14. On October 23, 2006 we sent a letter to Bryan G. Kageyama of the Public Utilities Commission, Maui Branch office, requesting his assistance in clarifying some of the outstanding issues and questions. Letter attached as exhibit "D".

15. On November 16, 2006 we received an email response from Brian G. Kageyama stating "I am not qualified to determine who is right as I am not an engineer nor technically qualified". Copy is attached as Exhibit "E".

16. We hired attorney Dean T. Yamamoto of the office of Yamamoto and Settle. On January 11, 2007, Mr. Yamamoto sent a demand letter to HTI requesting a detailed accounting of various costs incurred to complete the construction work, a copy of the section of Hawaii Revised Statutes, HAR or Verizon/Hawaiian Telcom's tariffs on file with the PUC or other authority which permits them to require a deposit for construction work equal to two times the amount of the estimated costs of such work. Mr. Yamamoto also inquired about interest on the deposit amount during the time they held the funds and information regarding the 32.04% surcharge for general and administrative costs. The Letter of Agreement provides that KRS would be charged only the "actual costs" of the Construction work. Letter is attached as exhibit "F"

17. HTI responded on February 15, 2007. The letter stated, quote: "Conclusion; based on the discussion above, HTI refused each of KRS's demands. While HTI cannot prevent KRS from filing either an informal or formal complaint with the Commission, it is HTI's hope that this response will help KRS to more clearly

understand the legal and regulatory basis for HTI's position on this matter". Copy of letter is attached as Exhibit "G".

18. On May 22, 2007 KRS's attorney Dean T. Yamamoto sent another letter asking for a "detailed breakdown of the project costs". Response deadline of June 22, 2007 was given. Copy of letter attached as exhibit "H".

19. Letter dated June 22, 2007 was received from Blane Yokota, Esq., HTI's legal council. In this letter they provided additional information regarding the actual cost of the project. In close review of the invoices they are not specific on what job site they are for. In fact none of the invoices specify Hale Kanani.

20. On June 25, 2007 KRS received another letter from Blane Yokota which included another refund check in the amount of \$676.85. He stated that this was due to an error in calculations on their part. Copy attached as exhibit "J".

21. KRS terminated its relationship with Dean T. Yamamoto and then wrote a letter directly to Blane Yokota, Esq. returning the check for \$676.85 as it was not satisfactory to the amount that is owed. KRS made an offer to compromise of \$59,799.91. This reflects an additional refund of \$23,045.16 that was charged for G&A loading on subcontractors and interest on that amount that was advanced to HTI (\$424,581.00). Interest was calculated at 8% per year, for a total of 395 days. Interest expense is \$36,754.75. Copy of letter attached as exhibit "K".

22. KRS received a letter dated April 16, 2007 (should have been dated AUGUST), in which HTI returned the check in the amount of \$676.85 stating that it was not and is still not HTI's intent that the refund check be viewed as a settlement payment or as a means to obtain any waiver or release of any additional amounts that KRS may

assert it is owed in connection with this situation, but simply to correct an error in calculation of one of the invoices. They stand by their position that they do not owe us any additional information or detailed accounting and end their letter as they have every other letter with "HTI cannot prevent KSD from filing either an informal or formal complaint with the Commission....". Copy of letter attached as exhibit "L"

23. KRS responded directly back to Blane Yokota and stated that it was very unfortunate that HTI is not willing to compromise its position and try to work out an amiable settlement. We also stated that our company had been in the development business for more than twenty years and adequately established ourselves with the utility companies and should not have been required or demand made for such a large one year advance deposit. We were/are open to continued dialog in trying to try and resolve this matter and would be proceeding with an informal complaint prior to the end of 2007. Copy of letter attached as exhibit "M".

24. No additional response correspondence from HTI was received.

25. On December 10, 2007 an informal complaint was faxed to the Public Utilities Commission ("PUC") Oahu and Maui offices. Copy attached as exhibit "N".

26. On December 20, 2007, Bonnie Ancog, Controller for KSD Hawaii, who is pursuing the matter on behalf of KRS, received a telephone call from Bryan Kageyama stating that if they wanted to pursue the matter they would need to pursue a "formal" complaint. Ms. Ancog requested that Mr. Kageyama state so in a letter to KRS.

27. On January 10, 2008 KRS received a letter from Bryan Kageyama, District Representative of the Public Utilities Commission, Maui District Office. Mr. Kageyama's letter stated, ("I stated that the technical nature of your complaint cannot be

satisfied by correspondence, and therefore, is not susceptible to informal adjustment between the parties involved as provided in our rules governing informal complaints. If you wish to pursue a further administrative remedy on your initial informal Complaint that is received, the Commission's rules provide that you may file a formal complaint in accordance with Hawaii Administrative Rules, Title 6, Chapter 61, Subchapter 67"). A copy of this letter is attached as Exhibit "O".

COUNT I
SPECIFIC PERFORMANCE

28. KRS incorporates by reference the allegations of fact contained in paragraphs 1 through 28 above.

29. HTI entered into an express contract to provide the work specified in the Agreement dated November 10, 2004.

30. By reason of the acts, omissions and conduct alleged herein, HTI breached their express Agreement with KRS by not performing the required services in a timely fashion and not providing a detailed accounting of the expenses incurred for this project.

31. KRS performed all obligations under the Agreement and did so in a timely and responsible fashion.

32. The Agreement does not provide a mediation or arbitration clause. Therefore remedy must be sought through the PUC formal complaint rules HAR §6-61-67. and Hawaii Administrative Rules, Title 6, Chapter 61, Subchapter 67.

COUNT II
BREACH OF CONTRACT

33. KRS incorporates by reference the allegations of fact contained in paragraphs 1 through 28 above.

34. KRS relied upon the Agreement which references Verizon Hawaii PUC Tariff No.1, Section 2 governing the recovery of the actual cost.

35. Verizon Hawaii PUC Tariff No.1, Section 2.11.1 states that the Company (HTI) may require customers (KRS) to make deposits to guarantee of payment of charges before credit is established. The Company shall pay interest on deposits pursuant to applicable rules and regulations. Section 2.11.2 states that a deposit shall not exceed the estimated charges for two months service and shall be returned within thirty (30) days of the Customer's establishing credit pursuant to applicable rules and regulations.

36. HTI references this tariff within the body of the Agreement then later stated that it only applied to "Consumers" and not "Developers".

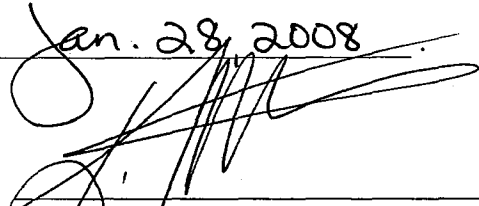
37. KRS relied upon this Tariff to protect them as a consumer and feel that HTI therefore breached its contract by not providing a detailed accounting and timely refund of their deposit.

38. HTI has failed and refused to perform under the Agreement thereby causing damage to KRS in such amounts as shall be established at trial of this matter.

WHEREFORE, KRS respectfully requests that HTI be summoned to appear herein and that upon final hearing, the Commission enter a judgment of specific performance of the Agreement, directing HTI to provide a detailed accounting of the work performed, refund of monies over and beyond the scope of work along with accrued interest. That KRS recover its reasonable attorney's fees and costs incurred, or, in the alternative, if the Commission determines that KRS has an adequate remedy at law, to enter a judgment in favor of KRS and against HTI in such amounts as shall be established

at trial, together with reasonable attorney's fees and costs incurred, and such other further relief as the Court deems just and proper in the circumstances.

DATED: Kahului, Hawai'i,

Jan. 28, 2008


Kent R. Smith, President
KRS Development, Inc.

May 21, 2004



80 S. Church St.
Wailuku, HI 96793

ECM, INC. Attn: Mark P. Rickard, P.E.
130 North Market Street
Wailuku, HI 96793

Subject: REVISION - HALE KANANI CONDO

Dear Customer,

Verizon Hawaii Incorporated has completed the engineering cost estimate you have requested to place cables fronting "Hale Kanani" subdivision underground and estimates it would cost \$417,015.00 to do the following work:

Consolidate and place 8 aerial cables into the existing duct structure along Kanani Road (poles 1-3) to one pole North and one pole South on S. Kihei Road. Work includes all labor and material associated with the aforementioned cables. This price does not include any substructure work. This letter is a revision to the letter dated May 7, 2004 and no longer includes replacing one fiber and one 600 pair cable at the riser pole in front of the "Shores of Maui" complex.

This cost estimate is an estimate only. Your agreement with Verizon Hawaii is to pay for the actual cost of the work, which may be greater or less than the estimated cost listed above. If the actual cost is greater than the estimated cost, you will be billed the additional charges. If the actual cost is less than the estimated cost, you will receive a refund. In accordance with Verizon Hawaii PUC Tariff No.1, Section 2 governing the recovery of the actual costs of facility rearrangements and Company policies, I am required to collect the full amount of the estimated cost of your work in advance before any work can begin.

During our performance of the requested work, an additional advance payment could be required should you alter the scope of work, take other action which could cause us to incur additional costs, or if we encounter unforeseen events or obstructions.

If you wish Verizon Hawaii Incorporated to proceed with this work, please submit a payment of \$417,015.00. This payment will authorize Verizon Hawaii Incorporated to proceed with the work under the following terms and conditions:

TERMS AND CONDITIONS

1. The amount of \$417,015.00 must be fully paid prior to start of any construction activities on the part of Verizon Hawaii Incorporated.

Exhibit "A"

Mark P. Rickard, P.E.

May 21, 2004

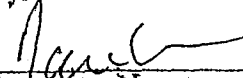
Page 2 of 2

2. Verizon Hawaii will attempt to proceed with the prescribed work for which it is responsible under this agreement within 30 days of the receipt of this signed form and payment of \$417,015.00.
3. No damages or liability shall accrue against Verizon Hawaii in favor of the undersigned in the unlikely event Verizon Hawaii is unable, for any reason, to proceed with the prescribed work within the time frame stated above.
4. The cost quoted within this agreement will be null and void if this form is not received, with signature(s) and payment of \$417,015.00 by June 21, 2004. Payment and signed letter should be sent to the following address:

Lynette Yoshida
Verizon Hawaii, Incorporated
60 S. Church Street
Wailuku, Hawaii 96793

5. The undersigned understands that this agreement shall not be binding on Verizon Hawaii, Incorporated or individual requester(s) unless, and until, all have given their approval of these terms and conditions and by signing on the lines provided below:

Signed By:


Requester Name

11-10-04
Date

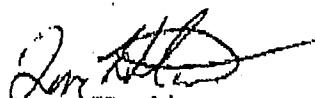
Print or Type:

Requester Name

Title

Should there be any questions, please call Tom Hutchison at 808/242-5107.

Verizon Hawaii Incorporated


Tom Hutchison

Engineer - OSP Engineering
Network Engineering and Planning

Cc: L. Yoshida

File: 3035-8P001ET

INVOICE

Date: 08/27/06
 Account: 14118
 Page: 1

Billing Address:

Customer Address:

Hale Kanani Associates LLC
 1043 Makawao Avenue, #208
 Makawao HI 96768

Hale Kanani Associates LLC
 1043 Makawao Avenue, #208
 Makawao HI 96768

Date	Number	Item	Due Date	Remark	Reference	Amount
08/27/06	321	001	09/26/06	Advance Payments	8P001ET3035000	424,581.00-
		002	09/26/06	Engineering & Labor	8P001ET3035000	100,312.54
		003	09/26/06	Materials	8P001ET3035000	118,878.39
		004	09/26/06	Invoices	8P001ET3035000	102,693.90
Total Amount Invoiced						102,696.17-
Tax Amount						
Credit Due						102,696.17-

Please make checks payable to Hawaiian Telcom. Please include this portion with your payment.



Remittance Information:

Customer: 14118 Due Date: 09/26/06 Payment Terms: Net 30 Days
 Invoice: 321 Reference: 8P001ET3035000 Amount: 102,696.17-

Customer Address:

Hale Kanani Associates LLC
 1043 Makawao Avenue, #208
 Makawao HI 96768

Remit To:

Hawaii Telcom
 P.O. Box 30760
 Honolulu HI 96820-0760

Check Date: Aug/29/2006

Vendor Number: 0000004734

Check No. 0100008981

Invoice Number	Invoice Date	Voucher ID	Gross Amount	Discount Taken	Late Charge	Paid Amount
refund 8P001ET3035000	Aug/28/2006	00027633	102,696.17	0.00	0.00	102,696.17

Check Number

Date

Total
Gross AmountTotal
DiscountsTotal
Late ChargesTotal
Paid Amount

0100008981

Aug/29/2006

102,696.17

0.00

0.00

102,696.17

VERIFY THE AUTHENTICITY OF THIS MULTI-TONE SECURITY DOCUMENT. CHECK BACKGROUND AREA CHANGES COLOR GRADUALLY FROM TOP TO BOTTOM.

Hawaiian Telcom

1177 Bishop Street

Honolulu, HI 96813

FIRST HAWAIIAN BANK

999 Bishop Street

Honolulu, HI 96813

59-1017/1213

0100008981

Date Aug/29/2006

Pay Amount 102,696.17***

Pay

ONE HUNDRED TWO THOUSAND SIX HUNDRED NINETY-SIX AND 17 / 100 DOLLAR

To The
Order OfHALE KANANI ASSOCIATES LLC
1043 Makawao Avenue, #208
Makawao, HI 96768

Authorized Signature

⑈0100008981⑈ ⑆121301015⑆ 01⑈181556⑈

NONDISCLOSURE AGREEMENT

THIS AGREEMENT, effective when executed by both parties, is made between HAWAIIAN TELCOM, INC., with offices located at 1177 Bishop Street, Honolulu, Hawaii 96813 (Hawaiian Telcom), and KSD Hawaii at 8 Kiopa'a Street, Suite 201, Pukalani, Hawaii 96768 (Receiving Party), to protect the confidential or proprietary nature of information to be disclosed by Hawaiian Telcom in response to Receiving Party's request for additional information in support of Hawaiian Telcom's charges for relocating its network facilities for the Hale Kanani Condominium development on the corner of South Kihei Road and Kanani Road in Kihei, Maui, Hawaii. (the "Network Relocation Charges") to facilitate Receiving Party's review of such charges (hereinafter referred to as "Receiving Party's Review").

1. To facilitate Receiving Party's Review of Hawaiian Telcom's relocation charges it may be necessary for Hawaiian Telcom to disclose technical, customer, personnel and/or business information in written, graphic, oral or other tangible or intangible forms including, but not limited to, specifications, records, data, computer programs, drawings, schematics, know-how, notes, models, reports and samples. Such information may contain proprietary or confidential material, or material subject to applicable laws regarding secrecy of communications or trade secrets (Confidential Information).

2. The parties acknowledge and agree:

a. All Confidential Information disclosed by Hawaiian Telcom in connection with Receiving Party's review are and shall remain the exclusive property of Hawaiian Telcom;

b. Hawaiian Telcom will identify in writing as confidential or proprietary, or mark as confidential or proprietary, any written information it deems to be Confidential Information;

c. Information which is disclosed orally shall not be considered Confidential Information unless it is identified by Hawaiian Telcom as confidential at the time it is orally disclosed to Receiving Party.

d. Receiving Party shall receive in confidence any Confidential Information; shall limit access to such Confidential Information to authorized employees who have a need to know the Confidential Information in order for Receiving Party to participate in the matter of mutual interest described above; and Receiving Party shall not disclose such Confidential Information to others (to include consultants, advisors and other such entities and persons which are not full-time, regular employees of Receiving Party) or authorize anyone else to disclose such Confidential Information to others without the prior written approval of Hawaiian Telcom; such approval shall not be unreasonably withheld.

e. Receiving Party shall use such Confidential Information only for purposes of reviewing the Network Relocation Charges;

f. Receiving Party shall return promptly to Hawaiian Telcom, or shall destroy any copies of such Confidential Information in written, graphic or other tangible form upon the completion of Receiving Party's Review or at Hawaiian Telcom's request;

g. The obligations with respect to Confidential Information shall extend for a period of five (5) years following the date of initial disclosure of that Confidential Information, and such obligations shall extend beyond completion of the term of this Agreement if the term expires before the five year period of protection of the Confidential Information; and

h. Neither disclosure of Confidential Information nor this Agreement shall be construed as a license to make, use or sell the Confidential Information or products derived therefrom.

3. These obligations do not apply to Confidential Information which:

a. As shown by reasonably documented proof, was in Receiving Party's possession prior to receipt thereof from Hawaiian Telcom; or

b. As shown by reasonably documented proof, was received by the Receiving Party in good faith from a third party not subject to a confidential obligation to Hawaiian Telcom; or

c. Now is or later becomes publicly known through no breach of confidential obligation by Receiving Party; or

d. Is disclosed to a third party by Hawaiian Telcom without a similar nondisclosure restriction; or

e. Is disclosed pursuant to a requirement imposed by a governmental agency or is otherwise required to be disclosed by operation of law, except that prior to disclosure pursuant to this subsection, Receiving Party shall notify Hawaiian Telcom and shall give Hawaiian Telcom an opportunity to participate in objecting to production of the Confidential Information; or

f. Was developed by Receiving Party without the developing person(s) having access to any Confidential Information received from Hawaiian Telcom; or

g. Is authorized in writing by the Hawaiian Telcom to be released or is designated in writing by Hawaiian Telcom as no longer being confidential or proprietary.

4. It is agreed that a disclosure of Confidential Information in violation of any of the provisions of this Agreement will cause irreparable harm and injury and Hawaiian Telcom shall be entitled, in addition to any other rights and remedies it may have at law or in equity, to an injunction enjoining and restraining Receiving Party from doing or continuing to do any such act and any other violations or threatened violations of this Agreement. Absent a showing of willful violation of this Agreement, neither party shall be liable to the other, whether in contract or in tort or otherwise, for special, indirect, incidental or consequential damages.

5. Neither this Agreement nor provision of Confidential Information pursuant to it shall be construed as an agreement, commitment, promise or representation by either party to do business with the other or to do anything except as set out specifically in this Agreement.

6. This Agreement shall be construed in accordance with the laws of the State of Hawaii.

7. This Agreement is the entire agreement between the parties with respect to nondisclosure of Confidential Information pertaining to the matter of mutual interest stated above and supersedes all prior agreements and understandings with respect to this subject. This Agreement may be amended only by written agreement executed by both parties. This Agreement shall not be assigned or transferred by either party without the prior written consent of the other. This Agreement shall be binding on agents, successors and permitted assigns of the parties.

8. Unless terminated earlier by written notice, this Agreement shall remain in force for two (2) years.

HAWAIIAN TELCOM, INC.

By: Harvey A. Plummer

Name: HARVEY A. PLUMMER

Title: SVP - Engineering & Operations

Date: NOV 02 2006

KSB Hawaii

By: David Goode

Name: David Goode

Title: President

Date: Sept. 20, 2006



October 23, 2006

Brian G. Kageyama
Public Utilities Commission
Maui Branch Office
54 South High Street, Suite 218
Wailuku, Hawaii 96793

RE: Hale Kanani Condominium /Hawaiian Telecom Reimbursement

Aloha Brian:

I would like to thank you for your assistance to date in regards to our reimbursement of construction deposit funds from Hawaiian Telcom. Unfortunately, we still need your help.

We received a deposit reimbursement check in the amount of \$102,696.17 on September 6, 2006. Accompanying the check was an invoice showing four line items. (A copy is attached for your review). As we had been expecting a larger reimbursement amount based on previous representations by Verizon/Hawaiian Telcom, we requested them to provide detailed backup to justify the amount reimbursed, with which we could perform an audit of their accounting.

We were notified that before they would release any information to us, we would need to sign a Nondisclosure Agreement. This Agreement restricted us from releasing any of the information obtained from them in regards to their accounting and calculations without their prior written approval. Before signing this Agreement we inserted our own clause stating "such approval will not be unreasonably withheld". Although we couldn't fully understand the need, we executed the Agreement and sent it back. They did not provide any PUC authorization for this requirement. To date we have not received a fully executed copy of this Agreement back from Hawaiian Telcom.

On September 12, 2006, I received an email from Wayne Kajiwarra of Hawaiian Telcom with a very limited breakdown of the charges. Again, these are just figures with no supporting documentation. We met with Wayne here at our offices on September 21, 2006. He brought with him copies of the invoices for Volcom. We were told that we could look at them but would not be able to make copies.

At this time we are still unsatisfied with the information provided to. The information is inadequate to do a through audit of what they charged and the work preformed. We have the following questions, comments and concerns:

- ❖ In the beginning of the project we were given an initial quote of approximately Two Hundred Thousand dollars. Prior to signing the contract we were informed via letter that the deposit had doubled. They stated this was a new "Mainland Corporate Policy" of the then owner Verizon. We would like to see a copy of the PUC rule which allowed them to demand "double deposit".
- ❖ Hawaiian Telcom had possession of our funds from November 2004 to May of 2006. What are the PUC rules covering their requirement to pay reasonable interest on this deposit? They have paid NO interest. If there is rule supporting interest on our \$400K + deposit and it wasn't paid how do we approach getting it? If there is no rule allowing them to demand 200% plus advance deposit how do we pursue through the PUC damages for loss of opportunity for the deposit required?
- ❖ Can you tell me what kind of detailed accounting is allowed to be disclosed to the consumer?
- ❖ We were also informed that there was a 32.04% General & Administrative Charges added on to ALL the cost. This was even added to Volcom's invoices. Please tell me what the PUC's rule is on this and what controls the G&A.

We appreciate your assistance and ask that you respond at your earliest convenience. We would like to have the opportunity to reconcile our concerns and bring this matter to a close.

If you have any questions, please contact me at (808) 572-3011, ext. 203.

Mahalo,



Bonnie DeRego
Controller

Cc: Kent Smith, KRS Development Inc.
Hilton Unemori, ECM Inc.
Dave Jorgensen, Esq.
Brooke Kane, Adm. Director, PUC

Enclosure

Wayne Kajiwa, Hawaiian Telcom

Bonnie Wetter

From: Bryan.G.Kageyama@hawaii.gov
Sent: Thursday, November 16, 2006 2:30 PM
To: bonnie@ksdhawaii.com
Subject: Hale Kanani condominium/Hawaiian telcom reimbursement

Dear Bonnie,

After hearing KSD's concerns and talking to HTelcom people I feel that I cannot continue with this investigation.

There is no tariff that covers interest for constructions deposits nor amount of deposit required. HTelcom personnel tell me that they have provided you with as much cost data as they are required. They said that the cost for the splicing is the original cost estimate and the cost for the company resplicing is not included in the final cost.

I am not qualified to determine who is right as I am not an engineer nor technically qualified.

Therefore, if you wish to further pursue this matter, you may need to go through a formal complaint procedure.

Yours truly,

Bryan Kageyama

11/21/2006

Exhibit "E"

January 11, 2007

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Hawaiian Telcom, Inc.
60 South Church Street
Wailuku, Hawaii 96793
Attn: Mr. Wayne Kajiwarra

Writer's Direct Dial: (808) 526-4732
Writer's Email: dyamamoto@yshawaii.com

Re: Hale Kanani Condominium Project (the "Project")
Letter Agreement Dated May 21, 2004

Dear Mr. Kajiwarra:

Our firm represents Hale Kanani Associates, LLC and KSD Hawaii (collectively, "KSD"). We are contacting you in connection with KSD's prior requests for a detailed accounting of certain construction work done by Hawaiian Telcom, Inc. ("Hawaiian Telcom") to bring aerial cables fronting the Project underground (the "Construction Work"), as described in that certain letter dated May 21, 2004 (the "Letter Agreement") from Verizon Hawaii Incorporated ("Verizon"), Hawaiian Telcom's predecessor-in-interest, to ECM, Inc. ("ECM"), KSD's electrical engineers for the Project.¹ Despite KSD's numerous requests, Hawaiian Telcom has failed to provide to KSD a satisfactory accounting of the costs associated with the Construction Work (the "Construction Costs").

To provide some background, Verizon originally informed KSD and ECM that it estimated the cost of the Construction Work to be \$205,869.30 (the "Original Estimate"). However, in the Letter Agreement, Verizon required a deposit of \$417,015.00 (the "Deposit") (more than twice the amount of the original estimate given by Verizon) to be submitted to Verizon prior to its commencement of the Construction Work. In defense of this increase, Verizon cited a new "Mainland Corporate Policy" which supposedly required the deposit to be set at this amount, notwithstanding that it was twice the Original Estimate. In good faith, KSD advanced the Deposit to Verizon and the Construction Work commenced in April 2005. At no time during construction was KSD informed that the Construction Costs would exceed the Original Estimate. After more than a year, the Construction Work was finally completed in May 2006 and Hawaiian Telcom informed KSD that it would be entitled to a reimbursement of approximately \$150,000, reflecting the unused portion of the Deposit. However, when KSD received a check for the reimbursement on September 6, 2006, it was surprised to find that the check was only for \$102,696.17 (the "Reimbursement"). Not only had it taken Hawaiian

¹ The Letter provided for the following work to be done by Verizon: "Consolidate and place 8 aerial cables into the existing duct structure along Kanani Road (poles 1-3) to one pole North and one pole South on S. Kihei Road. Work includes all labor and material associated with the aforementioned cables."

Telcom more than four months to issue the Reimbursement, but the Reimbursement was for approximately \$50,000 less than Hawaiian Telcom's initial estimate. Consequently, this meant that the Construction Costs totaled over \$300,000, approximately fifty percent (50%) more than the Original Estimate given by Verizon.

In order to understand the discrepancies between the actual and estimated costs referenced above, KSD, through its consultants and on its own behalf, made several requests to Hawaiian Telcom for a detailed accounting of the Construction Costs. However, Hawaiian Telcom has failed, to date, to provide KSD with a satisfactory accounting of the Construction Costs. Rather, KSD has only received one general invoice from Hawaiian Telcom showing only the gross amounts due, and was given one brief opportunity to review selected invoices. Even taken collectively, the events do not create a clear accounting of how the Construction Costs were derived.

As you are aware, Hawaii Administrative Rule ("HAR") §6-80-99 requires telecommunications carriers to, "[u]pon a customer's request, provide explanations of its rates, charges, and provisions applicable to the telecommunications service furnished or available under its tariffs". Further, HAR §6-80-114(4) provides that upon request by a customer, the telecommunications carrier must provide, among other things "[t]he circumstances under which the carrier may require a deposit or additional deposit; how a deposit is calculated; the interest paid on deposits; and the time frame and requirement for the return of the deposit to the customer."

Pursuant to the regulatory requirements set forth above, we hereby demand, on behalf of KSD, the following:

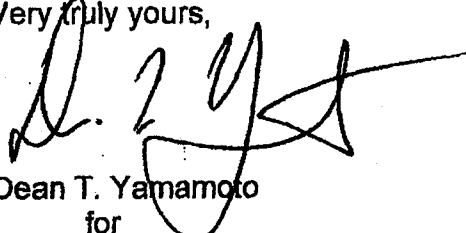
1. Detailed Accounting – A detailed accounting of the various costs incurred to complete the Construction Work which should include, but not be limited to, itemized listings of: (a) all invoices received by Hawaiian Telcom from third party contractors and vendors, specifying the name of each contractor and vendor, all fees and costs charged by such contractor or vendor and a description of the type of construction services or materials provided by each contractor or vendor (including copies of such invoices for KSD's files); (b) the costs incurred for services performed by Hawaiian Telcom employees and affiliates, including the rates used in calculating the same and descriptions of the work performed by such employees and affiliates; and (c) any overhead, taxes or additional charges assessed by Hawaiian Telcom as part of the Construction Costs. At minimum, the detailed accounting and related materials should provide KSD with a clear understanding of how the Constructions Costs were derived.
2. Deposit Amount – A copy of the section of Hawaii Revised Statutes, HAR or Verizon/Hawaiian Telcom's tariffs on file with the PUC (collectively, the "Tariff") or other authority which permits Verizon/Hawaiian Telcom to require a deposit for construction work equal to two times the amount of the estimated costs of such work.

3. Interest on Deposit – Hawaiian Telcom was in possession of the Deposit beginning from November 2004 to September 2006.² As such, interest on the Deposit held by Hawaiian Telcom should have accrued at the rate of six percent (6%) per annum, as provided for under HAR §6-80-105 and in various sections of the Tariff. Consequently, all accrued interest should have been credited to KSD along with the reimbursement check for the unused portions of the Deposit it received in September 2006 and Hawaiian Telcom currently owes KSD approximately \$40,000 in accrued, but unpaid interest. A final determination of the exact interest charges can be determined only upon review of detailed accounting information.
4. General and Administrative Charges – KSD was informed that a 32.04% surcharge for general and administrative costs (the "Surcharge") was calculated on top of all charges incurred under the Construction Costs, including charges from third party contractors (which presumably already includes a surcharge for profits and overhead attributable to such contractors). The Letter Agreement provides that KSD will be charged only the "actual cost" of the Construction Work. As such, KSD should not be assessed the Surcharge, and such amounts should be reimbursed to KSD.

KSD has already executed a Nondisclosure Agreement in favor of Hawaiian Telcom to protect any confidential information KSD might receive. Therefore, any information provided by Hawaiian Telcom to KSD pursuant to this letter will be covered by such Nondisclosure Agreement, provided Hawaiian Telcom designates such information as confidential.

Your prompt response to this letter is recommended. Should you fail to respond in a satisfactory manner to this letter by February 15, 2007, we intend to file a complaint with the Hawaii Public Utilities Commission to obtain the information and monies requested hereunder and to protect our clients' interests.

Very truly yours,



Dean T. Yamamoto
for

YAMAMOTO & SETTLE
A Limited Liability Law Company

cc: KSD Hawaii

² KSD submitted \$210,000.00 of the Deposit to Verizon on November 10, 2004 and the balance of \$207,015.00 on April 12, 2005. The Construction Work commenced thereafter.

Hawaiian Telcom

Legal Department
P.O. Box 2200
Honolulu, Hawaii 96841
Phone: 808-546-3808
Fax: 808-546-7621

WRITER'S DIRECT DIAL NUMBER:
808-546-5468

February 15, 2007

VIA FACSIMILE/U.S. MAIL

Dean T. Yamamoto
Yamamoto & Settle
700 Bishop Street, Suite 200
Honolulu, Hawaii 96813

Re: Hale Kanani Demand Letter dated January 11, 2007

Dear Mr. Yamamoto:

This will acknowledge receipt of your letter dated January 11, 2007 regarding your client Hale Kanani Associates, LLC and KSD Hawaii (hereinafter collectively referred to as "KSD"). Hawaiian Telcom, Inc. ("HTI") also acknowledges that it relocated certain of its existing aerial network facilities along Kanani and South Kihei Roads starting in 2005 (the "Network Facilities Relocation Work") at KSD's request to accommodate KSD's development plans for the Hale Kanani Condominium Project (the "Project"). However, with all due respect to KSD, HTI must decline KSD's demand that HTI provide additional information above and beyond what HTI has already provided with respect to the costs incurred by HTI in performing the Network Facilities Relocation Work. In fact, HTI has already taken steps that go beyond HTI's obligations under either its tariffs as approved by or the regulations promulgated by the Public Utilities Commission. As discussed in more detail below, KSD's latest demand for a "detailed accounting of the costs associated" with the Network Facilities Relocation Work is based on a misstatement of the relevant facts and a misinterpretation and misapplication of the relevant tariffs and regulations.

1177 Bishop Street • Honolulu • HI 96813

Exhibit "G"

Dean T. Yamamoto, Esq.
February 15, 2007
Page 2

Call Mark #29f

Statement of the Relevant Facts:

By letter dated August 7, 2003, Sheri-Ann Tihada, a Project Engineer in HTI's¹ Access Design group provided ECM Consulting Engineers ("ECM"), KSD's electrical engineers for the Project, with a "broad gauge cost estimate for relocation of overhead telephone facilities along P4ET Kanani Road to P1ET Kihei Rd and from P1ET Kihei Rd to P139XT Kihei Rd" (the "Original Relocation Request"). (See the first sentence following the salutation "Dear Sir" in the August 7, 2003 letter.) Ms. Tihada went on to state:

The cost estimate to perform the relocation as indicated is \$205,869.30. This cost is a BROAD GAUGE cost analysis. A detailed cost analysis will be provided once a detailed electrical print in provided of the subject project, an Advanced Payment Agreement is signed, returned and engineering fees are received."

This language is significant because it makes clear that as of August 7, 2003 ECM had not yet provided HTI with a detailed, let alone any, electrical print upon which HTI could develop or provide a more detailed cost estimate. This language also made clear that both an Advanced Payment Agreement must be signed and engineering fees paid before HTI would proceed with any relocation work.

Over the next several months, the parameters of KSD's request for HTI to relocate its facilities changed a number of times with the result that the relocation request in effect by the beginning of May 2004 was more complicated and would involved significantly more estimated work. Finally, on May 3, 2004, nearly 9 months after HTI provided the Broad Gauge cost estimate on the Original Relocation Request, ECM provided HTI with a detailed electrical print (the "May 2004 Relocation Request") upon which HTI would develop the cost estimate of \$417,015.00 that HTI communicated to ECM and KSD in the proposed letter agreement dated May 21, 2004. A simple comparison of the August 7, 2003 Broad Gauge estimate and the May 21, 2004 proposed letter agreement makes clear how far the planning and design process had progressed with respect to the relocation work requested by KSD. The August 7, 2003 estimate has only one paragraph. In contrast the May 21, 2004 proposed letter agreement set forth detailed terms and conditions, including the specific requirements that the agreement be signed and returned within thirty (30) days and the advance payment tendered to HTI before the commencement of any relocation work.

¹ Prior to May 2, 2005 Hawaiian Telcom, Inc. was known as Verizon Hawaii Inc. Pursuant to a Merger Agreement between GTE Corporation and the Carlyle Group that was approved by the Public Utilities Commission in early 2005, all of the stock of Verizon Hawaii Inc. was transferred to the Carlyle Group effective May 2, 2005. On that same date, Verizon Hawaii Inc. filed an application to amend its charter of incorporation with the Department of Commerce and Consumer Affairs to legally change its name to Hawaiian Telcom, Inc.

Dean T. Yamamoto, Esq.
February 15, 2007
Page 3

On May 21, 2004, Tom Hutchison, Engineer – OSP Engineering with HTI's Network Engineering and Planning group, sent a copy of the proposed letter agreement to Mark Rickard with ECM. On that same day Mr. Hutchison also faxed a copy of the May 21, 2004 letter agreement directly to Dave Goode, the President of KSD² and Mr. Hutchison sent an e-mail to Mr. Goode with the following language:

I faxed you a revised estimate for the undergrounding of cables on Kanani, along with a hard copy to Mark. It is not typically our custom to provide a detailed breakdown of estimate "broad gauge" costs, but I will provide the following for your use in determining cost for any subsequent agreements between you and the adjacent property. The total cost has been estimated at \$417,015.00 with a breakdown as follows:

Engineering - \$7,566.00
Labor - \$245,652.00
Material - \$163,797.00

Due to the complexity and handling of circuits and other circumstances mentioned in our meeting today, I figure that the splicing labor is running approximately 75% of the total labor cost above. As mentioned earlier, these are broad estimates and adjustments will be made either plus or minus based on actual charges. Since this is a new method of us, in my opinion, the cost is running "high" and I

² The copy of this e-mail, that was included as Attachment C to the January 11, 2007 demand letter clearly refutes the allegation made therein that "At no time during construction was KSD informed that the Construction Costs would exceed the Original Estimate [i.e. the August 7, 2003 broad gauge estimate of \$205,889.30]. Moreover, the third paragraph of the May 21, 2004 proposed letter agreement plainly stated:

This cost estimate [i.e. the \$417,015.00 estimate] is an estimate only. Your agreement with Verizon Hawaii is to pay for the actual cost of the work, which may be greater or less than the estimated cost listed above. If the actual cost is greater than the estimated cost, you will be billed the additional charges. If the actual cost is less than the estimated cost, you will receive a refund.

When measured against the facts, KSD's present claim that it had no expectation that the construction costs would or could exceed the 2003 estimate (an early Broad Gauge estimate that was provided as an accommodation to KSD despite the fact that ECM had not provided any prints before the 2003 estimate was provided, and that was subsequently substantially revised in 2004 to reflect changes to and expansion of KSD's relocation request) rings hollow at best.

Dean T. Yamamoto, Esq.
February 15, 2007
Page 4

am anticipating that Verizon may be refunding some money on this project.

KSD argues that this language somehow proves that the corporate offices of Verizon on the mainland had adopted some new cost estimation methodology that simply doubled the cost estimate from August 7, 2003. This interpretation of Mr. Hutchison's e-mail is incorrect. The "new method" mentioned by Mr. Hutchinson in May 2004 was in reference to the practice of doing a true up of costs after customer requested network facilities relocation work was completed. Based on the true up, HTI would charge the customer more if actual costs exceeded the advanced payment or HTI would give the customer a refund if the actual costs were less than the advanced payment. Previously, no such true up was done upon the completion of customer requested network facilities relocation work (i.e. if the estimate for the work was low, then the company would bear the additional expense without seeking any further contribution from the customer; if the estimate was high, then the company would keep the difference and give no credit to the customer).

Even after HTI provided the May 21, 2004 cost estimate, KSD and ECM continued to modify the request for facilities relocation. Moreover, the May 21, 2004 Proposed Letter Agreement expressly provided that it would expire if not signed within 30 days of issuance. However, based on subsequent communications between Mr. Hutchison and Mr. Goode, the parties agreed that a new cost estimate would not be issued and that KSD could still sign and HTI would accept the May 21, 2004 Letter Agreement. KSD finally signed and returned the Letter Agreement in November 2004. It would then take KSD another five months to make the full advanced payment required (one payment in the amount of \$210,000.00 was received by HTI on November 9, 2004 with a second payment of \$207,015.00 received on April 15, 2005). HTI began ordering equipment for the work shortly after receiving the first installment payment from KSD. In turn HTI began the actual Network Facilities Relocation Work after KSD's contractor, Goodfellow Bros, completed its work to prepare the underground support structures into which HTI would consolidate and relocate its aerial network facilities.

On March 27, 2006, Mr. Hutchison sent Mr. Goode and e-mail in which he explained that:

Due to our systems changing from Verizon, I am not able to get a current running total at this time. However, as of 3/20 I estimate that we will refund about \$150,000 back to your company. I won't know for sure until all activity has been completed and the final Vendor invoices have been processed.

Dean T. Yamamoto, Esq.
February 15, 2007
Page 5

Mr. Hutchison provided this estimate as a courtesy to KSD and at no time gave any guarantee or assurance regarding the amount of any final refund. After HTI completed its final review of the cost for the work, HTI issued a refund in the amount of \$102,696.17 on KSD's advanced payment. On May 10, 2006 HTI completed the Network Facilities Relocation Work.

In response to KSD's request for additional information regarding the computation of HTI's actual cost to complete the Network Facility Relocation Work. On September 12, Mr. Kajiura provided KSD with a breakdown of the amount charged against KSD advanced payment by labor costs, material costs, and third party vendor invoices. This breakdown also provided a further breakdown of labor hours by HTI work groups and specified the invoice amounts from the three separate third party vendors that provided services to HTI (Volt, Aina Excavation, and Sun Industries). In response to requests for additional information, HTI asked that KSD execute a non-disclosure agreement. Contrary to the allegation in the KSD demand letter the NDA was signed by KSD on September 20, 2006. Thereafter HTI proceeded to disclose additional information to KSD that HTI does not ordinarily disclose in connection with such work. More specifically, HTI, provided KSD in September 2006 with all of the following: (1) a breakdown of HTI's loaded average hourly rates for the engineering, lineworker, customers operations, and central office work groups; (2) a breakdown of the specific underground cables that were installed by HTI in completing the work; (3) the opportunity to view the final invoices from Volt (as requested by KSD); and (4) the specific factor used to ensure HTI's recovery of its general and administrative expenses (i.e. 32.04%). That HTI provided this level of detail to KSD is unprecedented. In the past HTI has only provided a breakdown between labor and materials in response to a customer request.

HTI's Responses to Each of KSD's demands:

Based on the facts described above, HTI responds below to each of KSD's demands.

1. KSD's demand for a detailed accounting. - HTI has no obligation under the applicable regulations or tariffs to provide KSD with any further "Detailed Accounting" of HTI costs in connection with the Network Facilities Relocation Work or the advanced payment specified in the May 21, 2004 Letter Agreement. In fact, HTI has already satisfied the requirements of HAR Section 6-80-89 by providing KSD with an "explanation of its . . . charges" applicable to such work. Nor does HAR Section 6-80-114(4) apply to the current situation. The advanced payment required of KSD is not a "deposit" for purposes of the HAR sections. This is made clear by reference to the plain language of HAR Section 6-80-105 that covers "Customer deposits". The type of customer "deposits" covered by the HAR are cash deposits intended to guarantee payment of bills for tariffed services that involve service activation, monthly recurring

Dean T. Yamamoto, Esq.
February 15, 2007
Page 6

charges during the period the service is provided, and finally service termination. HAR Section 6-80-105(b) further provides that the deposit shall be returned if the customer establishes credit or the service is terminated. Neither of these conditions apply, nor does the designation of "deposit" apply to advanced payments made in connection with any request that HTI relocate its existing network facilities. A customer requesting facilities relocation work does not establish credit nor would it make sense to simply return the entire advanced payment if the party requesting such services simply decided to terminate the facilities relocation work before it was completed.

2. KSD's demand that HTI identify the statutory or regulatory authority for requiring "a deposit for construction work equal to two times the amount of the estimated costs of such work." - As demonstrated by HTI's statement of facts above, KSD's attempt to characterize the advance payment amount specified in the May 21, 2004 Letter Agreement as arbitrary and unexpected by KSD is wrong. HTI did not simply double the Original Cost Estimate to arrive at the advanced payment requirement of approximately \$417,000.00. Instead, based on the changes to and expansion of the relocation request as reflected in the electrical print submitted to HTI on May 3, 2004, HTI properly exercised its authority under Tariff 20, Section 1.10.5 to require payment by KSD for such work. Section 1.10.5 provides in relevant part:

... when the Company is requested to replace or relocate existing line facilities, the applicant or Customer who initiates the request will be required to bear the costs incurred.

Moreover, if, KSD had any objections to the specified advanced payment amount it should have raised those concerns in a timely manner after being notified of the revised payment amount in May 2004. Instead, KSB proceeded to sign the Letter Agreement in November 2004 and thereafter made full payment of the required advanced amount before HTI commenced its work in April 2005.

3. KSD's demand for Interest on the advanced payment - KSD is not entitled to any interest on the advanced payment. As discussed above in HTI's response to KSD's demand for a Detailed Accounting, HAR Section 6-80-105 does not apply to the instant situation. Nor is there any provision in either the HAR or HTI's tariffs that provides for any interest payments in connection with the type of advanced payment that KSD made. In this regard HTI notes that in October 2006 KSD sent a letter to the PUC staff (with a copy to Mr. Kajiware) asking for guidance and assistance on this very issue. While HTI was not privy to any further discussions or communications that KSB may have had with the PUC staff, from HTI's perspective it is telling that after submitting that letter KSB did not approach HTI with any citation to any new tariff or HAR provisions in support of KSB's claim that it is entitled to interest.

*letter expired ~ 30 days
did not want to hold
up project so signed
also paid half to HTI
not*

Interest?

Dean T. Yamamoto, Esq.
February 15, 2007
Page 7

4. KSD's demand that HTI refund any General and Administrative Charges assessed to KSD - As indicated above, HTI acknowledges disclosing to KSD that a 32.04% surcharge for general and administrative costs was included in the final calculation of the costs for the network facilities relocation work. KSD argues that this was improper because this type of surcharge is not part of HTI's "actual costs". KSD's argument fails for the simple reason that general and administrative costs are included in HTI's rates for its services, including facility relocation services. To do otherwise (i.e. exclude any recovery for such costs from KSD) would result in HTI's other regulated ratepayers effectively subsidizing the Network Facilities Relocation Work requested by KSD.

*Should not
be calculated
on subs.*

Conclusion

Based on the discussion above, HTI refuses each of KSD's demands. While HTI cannot prevent KSD from filing either an informal or a formal complaint with the Commission, it is HTI's hope that this response will help KSD to more clearly understand the legal and regulatory basis for HTI's position on this matter.

Sincerely,



Blane Yokota
Assistant General Counsel
Hawaiian Telcom

May 22, 2007

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Blane Yokota, Esq.
Assistant General Counsel
Hawaiian Telcom, Inc.
Legal Department
P.O. Box 2200
Honolulu, Hawaii 96841

Writer's Direct Dial: (808) 526-4732
Writer's Email: dyamamoto@yshawaii.com

Re: Hale Kanani Condominium Project (the "Project")
Request for Detailed Breakdown of Project Costs

Dear Mr. Yokota:

Thank you for your letter dated February 15, 2007. On behalf of our clients, Hale Kanani Associates, LLC and KSD Hawaii (collectively, "KSD"), we acknowledge the responses and assertions set forth in your letter, however we respectfully disagree with the positions taken therein by Hawaiian Telcom, Inc. ("Hawaiian Telcom"). Notwithstanding this, and without waiver of any of our clients' rights and remedies available at law or in equity, we direct your attention to our request for a detailed breakdown of the costs incurred in connection with the relocation of certain aerial cables fronting the Project (the "Construction Work"). In your letter, you noted that the level of detail in the information that has been provided to KSD is "unprecedented" and that, previously, Hawaiian Telcom "only provided a breakdown between labor and materials in response to a customer request." However, given the significant amount of funds expended by KSD for the Construction Work, it is reasonable for KSD to expect that Hawaiian Telcom would be more forthcoming in providing greater detail as to how such costs were incurred and what KSD's moneys were spent on, particularly when such information has been requested by KSD in good faith.

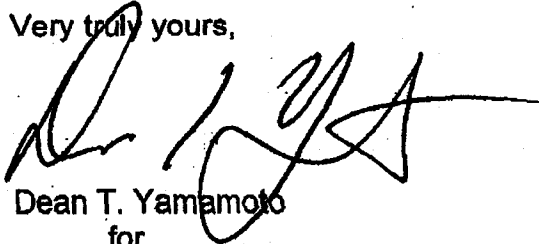
As previously stated, the information Hawaiian Telcom has provided to date is insufficient to create a clear picture of how the costs of the Construction Work accumulated. Consequently, to address this deficiency, we again request that you provide us with the following information upon your receipt of this letter: (a) a detailed breakdown of the specific labor tasks performed and rates charged by each of the third-party contractors (each a "Contractor" and collectively, the "Contractors") that performed services in connection with the Construction Work (i.e., Volt, Aina Excavation and Sun Industries); (b) copies of the actual invoices Hawaiian Telcom received from the Contractors identifying the fees and costs charged by such Contractor; (c) an explanation of how the 32.04% surcharge for Hawaiian Telcom's administrative expenses (the "Surcharge") was applied with respect to the Contractor's services (i.e., is the Surcharge applied to the total amount of each Contractor invoice, or only to certain

portions of each invoice?); (d) whether the Surcharge was applied to the materials used for the Construction Work (e.g., aerial and underground cables and poles); and (e) whether Hawaiian Telcom's hourly rates for engineering, lineworker, customer operations and central office hours (\$158, \$109, \$82 and \$91, respectively) include the Surcharge.

We trust that an organization as large and sophisticated as Hawaiian Telcom, with its numerous obligations for reporting to various regulatory agencies, has numerous protocols and procedures in place to keep detailed records of its expenditures and that Hawaiian Telcom followed such protocols and procedures in connection with the Construction Work. Accordingly, we trust that the information we are requesting on KSD's behalf is readily available to Hawaiian Telcom. Given the foregoing, if Hawaiian Telcom does not provide the information we request, we can only assume: (1) that Hawaiian Telcom is deliberately withholding the information reasonably requested, which in turn raises the question of whether or not Hawaiian Telcom is attempting to conceal some aspect of the expenditures; or (2) that Hawaiian Telcom failed to take appropriate measures or adopt appropriate protocols and procedures to keep track of how it spent KSD's moneys, and therefore does not truly know how the moneys were spent.

Your response to this letter is requested by Friday, June 22, 2007. Again, our request for information is reasonable and necessary to provide KSD with a clear understanding of the amounts charged by Hawaiian Telcom in connection with the Construction Work. We believe that the Hawaii Public Utilities Commission would also support the reasonableness of our request and would deem KSD to be entitled to the disclosure of such information.

Very truly yours,



Dean T. Yamamoto
for
YAMAMOTO & SETTLE
A Limited Liability Law Company

cc: KSD Hawaii

Hawaiian Telecom

Legal Department
P.O. Box 2200
Honolulu, Hawaii 96841
Phone: 808-546-3606
Fax: 808-546-7621

WRITER'S DIRECT DIAL NUMBER:
808-546-5466

June 22, 2007

VIA FACSIMILE/U.S. MAIL

Dean T. Yamamoto, Esq.
Yamamoto & Settle
700 Bishop Street, Suite 200
Honolulu, Hawaii 96813

Re: Hale Kanani Demand Letter dated May 22, 2007

Dear Mr. Yamamoto:

This will acknowledge receipt of your letter dated May 22, 2007. The May 22, 2007 letter requests, on behalf of your clients, Hale Kanani Associates, LLC and KSD Hawaii (hereinafter collectively referred to as "KSD"), that Hawaiian Telecom, Inc. ("HTI") provide: (a) a detailed breakdown of the specific labor tasks performed and rates charged by each of the third party contractors that performed services in connection with the Network Facilities Relocation Work¹ (i.e. Volt, Aina Excavation and Sun Industries); (b) copies of the actual invoices Hawaiian Telecom received from the those three contractors; (c) an explanation of how HTI applied its 32.04% loading for general and administrative expenses (the "G&A Loading") to the charges from said contractors; (d) an explanation of whether the G&A Loading was applied to material charges associated with the Network Facilities Relocation Work; and (e) an explanation of whether the hourly rates for HTI employees previously provided to KSD included the G&A Loading.

As a preliminary matter, HTI reiterates its position that it has more than fully satisfied its obligation under its tariffs and the regulations promulgated by the PUC with respect to providing information to KSD about the charges assessed to KSD in connection with the Network Facilities Relocation Work and that the quantum and level of detail of the information previously provided to KSD is unprecedented. HTI also rejects KSD's attempt to assert, based solely on speculation and innuendo, that HTI has somehow failed to properly account for the costs associated with the Network Facilities Relocation Work. However, in the interest of trying to resolve this matter and without waiving the

¹ As that term was defined in HTI's February 15, 2007 response.

Dean T. Yamamoto, Esq.
June 22, 2007
Page 2

aforementioned position or any other rights or defenses, HTI provides the following responses to KSD's latest requests.

In response to Items (a) and (b), HTI provides the attached copies of the invoices from the three contractors. As indicated by the legends typed on each of those copies, the invoices are designated by HTI as Confidential Information subject to the Non-disclosure Agreement previously entered into between KSD and HTI. In responding to these requests, HTI points out that the lion's share of the contractor charges were for the cable splicing, cutoff, and transfer services provided by Volt and that HTI had previously allowed KSD to inspect the Volt invoices. HTI also states that it awarded the cable work to Volt on a fixed price basis.

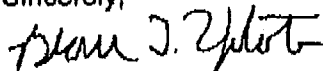
In response to item (c) HTI states that the G&A Loading was applied to only \$71,926.24 of the total contractor charges invoiced. That application should have resulted in G&A Loading on the labor charges with tax in the invoices from Volt and Aina Excavation (no G&A Loading was applied to the invoices from Sun Industries for the traffic control equipment and services). In reviewing the figures for the contractor labor charges for this response HTI determined that it should only have applied the G&A Loading to \$69,813.74 (i.e. \$66,000 for the combined Volt invoices + \$1,021 for the first Aina Excavation invoice + \$2,792.74 for the second Aina Excavation invoice). Accordingly HTI owes KSD an additional refund of \$697.97 (i.e. the difference of \$2,112.50 times the G&A Loading 32.04%). This error occurred because the second Volt invoice was not apportioned between labor and non-labor charges. HTI will issue an additional refund check to KSD for this \$697.97.

In response to item (d) HTI states that the G&A Loading was not applied to the material charges previously identified to KSD.

Lastly, in response to item (e) HTI states that the G&A Loading was included in the hourly labor rates for the four HTI employee groups that were previously provided to KSD.

As HTI stated in its February response, while HTI cannot prevent KSD from filing either an informal or a formal complaint with the Commission, it is HTI's hope that this response will help KSD to more clearly understand the legal and regulatory basis for HTI's position on this matter.

Sincerely,



Blane Yokota
Assistant General Counsel
Hawaiian Telecom

Enclosures

HAWAIIAN TELCOM CONFIDENTIAL INFORMATION PROVIDED SUBJECT TO THE
NON-DISCLOSURE AGREEMENT BETWEEN HAWAIIAN TELCOM AND KSD.



DEBIT TO:
VOLT
FILE #58156
LOS ANGELES, CA 90074-4156

INVOICE

INVOICE #	0980534
ACCOUNT #	0032085
DATE	11/29/2005

BILL TO

Accounts Payable
Hawaiian Telcom
P.O. Box 2200
Honolulu, HI 96841

Attn: DAPHNE MANAGO

IF THERE ARE ANY QUESTIONS, PLEASE CALL YOUR LOCAL VOLT
OFFICE AT _____

CALL OR RECEIPT

128010045 H02477	3035/8P001ET	PARTIAL	75%	11/29/2005
Location: Aerial to UG Relo (Hale Nani)				
Description: Splice, cutoff, & transfer various cables from aerial to underground				
N05B0099				
Labor				\$ 53,604.33
Materials				
Sub Total				\$ 53,604.33
Tax @ 4.166%				\$ 2,233.16
Total Amount Due				\$ 55,837.49
<div style="text-align: center;"> </div>				
<div style="text-align: center;"> HAWAIIAN TELCOM, INC. REVIEWED: _____ APPROVED: <u>W. L. Campbell</u> DATE: <u>12/5/05</u> </div>				
				DEC 1 '05 PM 2:17

PLEASE SUBMIT INVOICE COPY WITH REMITTANCE

When remitting please refer to invoice number.

A charge of 1-1/2% per month will be made on delinquent accounts. You will also be charged for any attorney's fees, court costs, and costs of collection.

TEMPORARY SERVICES • TECHNICAL SERVICES • TECHNICAL PUBLICATION SERVICES • VIDEOTECH
DIRECTORY SERVICES • TELECOMMUNICATION SERVICES • PRINTING SERVICES • COMPUTER SERVICES

Volt Information Services, Inc. & Subsidiaries

ORIGINAL INVOICE

**HAWAIIAN TELCOM CONFIDENTIAL INFORMATION PROVIDED SUBJECT TO THE
NON-DISCLOSURE AGREEMENT BETWEEN HAWAIIAN TELCOM AND KSD.**

VOLT

REMIT TO:
VOLT
FILE # 34184
LOS ANGELES CA 90074-2156

FILE TO

Accounts Payable
Hawaiian Telecom
PO Box 2200
Honolulu, HI 96841

Attn: Daphne Manago Mailcode#ABY-2

INVOICE

INVOICE NO
1525930

CUSTOMER NO
0032095

DATE
6/23/2008

IF THERE ARE ANY QUESTIONS PLEASE CALL YOUR LOCAL
OFFICE AT (800) 673-1711

DUE ON RECEIPT

[illegible]

PLEASE SUBMIT INVOICE COPY WITH REMITTANCE

When remitting please refer to invoice number

A charge of 1-1/2% per month will be made on delinquent accounts. You will also be charged for any attorney's fees, court cost, and cost of collection.

TEMPORARY SERVICES • TECHNICAL SERVICES • TECHNICAL PUBLICATION SERVICES • ENERGY SYSTEMS

DIRECTORY DATA • TELECOMMUNICATION SERVICES • PRINTING SERVICES • COMPUTER SERVICES

Voll Information Sciences, Inc. & Subsidiaries

ORIGINAL

2007

שם : תאריך : חתום :

HAWAIIAN TELCOM CONFIDENTIAL INFORMATION PROVIDED SUBJECT TO THE
NON-DISCLOSURE AGREEMENT BETWEEN HAWAIIAN TELCOM AND KSD.

7938
CONE 1020

AINA EXCAVATION & GRADING
10 KAMALEI CIRCLE
KAHULUI, HI 96732
808-877-0155

Page 1 of 1

Invoice: 010899

Date: 4/27/2006

Job Number: 0406-18

Start Date: 4/25/2006

Comp Date:

WorkOrder: 3035-8P001ET

Sold To:

HAWAIIAN TELCOM COMMUNICATIONS, INC.
P.O. BOX 2200, MAIL ABY-2
HONOLULU HI 96841
Authorization No.: N06R0081

Attention Purchase Order Job Location

T.PRUITT/W.WAT

KANANI ROAD, KIHEI

Item	Quantity	Price	Extn.
Cost-Plus Item	1	\$2,792.74	\$2,792.74

Sub Total: \$2,792.74

Tax: \$0.00

Amount Due: \$2,792.74

Job Description

PROJECT: POLE REMOVALS
LOCATION: POLES 1,2 & 3 KANANI RD., KIHEI

PROVIDED EQUIPMENT AND LABOR TO REMOVE THREE (3)
POLES AND PATCH A/C PAVEMENT.

TOTAL AMOUNT DUE \$2,792.74

NOTE: CWS #63460192 DTD 4/19/06

CP 5-10-4
K 5-10-06

2558.46
+ 234.28
2792.74

**HAWAIIAN TELCOM CONFIDENTIAL INFORMATION PROVIDED SUBJECT TO THE
NON-DISCLOSURE AGREEMENT BETWEEN HAWAIIAN TELCOM AND KSD.**

12/13/2005 TUE 08:34 FAX

0014

**AINA EXCAVATION & GRADING
10 KAMALEI CIRCLE
KAHULUI, HI 96732
808-877-0155**

Page 1 of 1

Invoice: 010700

Date: 12/6/2005

Job Number: 1105-30

Start Date: 11/30/2005

Comp Date: 12/5/2005

WorkOrder: 3035 8P001ET

Sold To:

**HAWAIIAN TELCOM COMMUNICATIONS, INC.
P.O. BOX 2200, MAIL ABY-2
HONOLULU HI 96841
Authorization No.: N0580226**

Attention	Purchase Order	Job Location
CONTRACT ADMI	3035 8P001ET	E151 (141ET) S. KIHEI RD.

Item	Quantity	PRICE	EXTN.
AMOUNT DUE	1	\$1,531.00	\$1,531.00

Sub Total: \$1,531.00

Tax: \$0.00

Amount Due: \$1,531.00

Job Description**PROJECT: DIG POLE HOLE****LOCATION: POLE 141XTE S. KIHEI RD., KIHEI**

**PROVIDED EQUIPMENT AND LABOR TO CUT CONCRETE SIDEWALK, BREAK AND DIG ONE
(1) 50' POLE HOLE. WORK COMPLETED.**

REF: PROPOSAL #10617 DATED 11/30/05**HAWAIIAN TELCOM, INC.**REVIEWED: *[Signature]*APPROVED: *[Signature]*

DATE: _____

*See account
by [Signature]
12/13/05*

DEC 9 '05 PM 12:41

HAWAIIAN TELCOM CONFIDENTIAL INFORMATION PROVIDED SUBJECT TO THE
 NON-DISCLOSURE AGREEMENT BETWEEN HAWAIIAN TELCOM AND KSD.

(K-02) 134-25073

***** RENTAL INVOICE *****

1/2
 09-07-2006
 09:11:48 p.m.
 HAWAIIAN TELCOM MA
 KANAWAY SOLUTIONS
 KAN SUN Industries Inc.
 660 Kapunapuna Street
 Honolulu HI 96819

PROFILE: TC RATE: 1.20

SOLD TO: VERIZON HAWAII INC.
 ACCOUNTS PAYABLE
 PO BOX 2200 ABE2
 Honolulu HI 96819

SHIP TO: VERIZON HAWAII INC.
 TONY
 KANAWAY/5. KINCHI RD

12-HATELCO		BEGIN DATE: 03/29/06 WED		ORDER #		PERSON/ORDER	
		ENDING DATE: 03/29/06 WED		R085864		TONY PRUETT	
INVOICE #	INVOICE DATE	CUSTOMER PO	SHIP/MA	TAX CODE	FOB	SALESPERSON	SHIP/PU DATE
3/7084-18	03/29/06	LS10					
ITEM#	DESCRIPTION	U/M	ORDERED	SHIPPED	PRICE	EXTENSION	
TC	Traffic Control	DAY		1.20	340.00	340.00	
	SET-UP, TAKE DOWN, MONITOR	MAN					
248CW20-2	48X48 FLAGMAN SYMBOL	EACH		2.00	0.20	.20	
248CWA	48X48 ROAD WORK AHEAD	EACH		2.00	0.20	.20	
248CW4-21	48X48 REV. CURVE LF	EACH		1.00	0.20	.20	
248CUC	48X48 REV. CURVE RT	EACH		1.00	0.20	.20	
2CONSTAND	CONSTRUCTION STAND FOR SIGNEA			5.00	0.20	.20	
2HSP4328WC	18" TRAFFIC CONE W/COLLARS	EACH		30.00	0.20	.20	
				act code: X421.10			
				loc code: 3035			
				wk ord #: 8P001ET			
340.00		03/29/06		14.16		354.16	
INVOICE TOTAL		CONT. DATE		DISC. AMT		FREIGHT	
				SALES TAX		DEPOSIT	
						INV. BALANCE	

Terms are N/30 unless otherwise specified. A finance charge of 1.5% will be applied to all unpaid balances over 30 days. The purchaser agrees to pay reasonable attorney fees and other costs incurred for collection.

A restocking fee of 20% will be assessed on return items which we do not stock. No refund is available for special ordered items.

ACKNOWLEDGE RECEIPT IN GOOD ORDER OF THE ABOVE ITEMS AND AGREE TO RETURN SAME IN SIMILAR CONDITION, NORMAL WEAR EXCEPTED AND CERTIFY THAT I HAVE READ AND AGREE TO ALL TERMS ON BOTH THE FRONT AND BACK OF THIS WRITING WHICH CONSTITUTES OUR ENTIRE CONTRACT.

DATE: 3/30/06
 CUSTOMER SIGNATURE: [Signature]
 70X

808.2420760
 mailed
 5/10/06

APR 10 2006 11:25

HAWAIIAN TELCOM CONFIDENTIAL INFORMATION PROVIDED SUBJECT TO THE
NON-DISCLOSURE AGREEMENT BETWEEN HAWAIIAN TELCOM AND KSD.

ROADWAY SOLUTIONS
KAA SON Industries Inc.
650 Kapunapuna Street
Honolulu HI 96819

*** KENYA INVOICE ***

(200) 333-25041

PROFILE: TC RATE: 1.00

SOLD TO: VERIZON HAWAII INC.
ACCOUNTS PAYABLE
PO BOX 2200 ABYZ
Honolulu

SHIP TO: VERIZON HAWAII INC.
TONY
KIHEI

HI 96819

Kihei HI 96753

09-07-2006

03:12:32 PM

12-HATECO	BEGIN DATE: 04/03/06	MUN	ORDER#	PERSON#	ORDER
	ENDING DATE: 04/03/06	MUN	R085987	TONY	

INVOICE#	INVOICE DATE	CUSTOMER PO#	SHIP VIA	TAX CODE	FOB	SALESPERSON	SHIP/PU DATE
0377894-IN	04/04/06	1512					

ITEM#	DESCRIPTION	UNIT	ORDERED	SHIPPED	PRICE	EXTENSION
770	SET UP, TAKE DOWN MONITOR PMDAY			1.00	545.00	545.00
1248CW20-7	48X48 FLAGMAN SYMBOL	EACH		2.00	0.00	.00
1248RW4	48X48 ROAD WORK AHEAD	EACH		2.00	0.00	.00
1248CW4-2L	48X48 REVERSE CURVE RT	EACH		1.00	0.00	.00
1248CW4-2R	48X48 REVERSE CURVE LF	EACH		1.00	0.00	.00
12CONSTAND	CONSTRUCTION STAND FOR SIGNEA			0.00	0.00	.00
2HSP4328WC	28" TRAFFIC CONE W/COLLARS	EACH		60.00	0.00	.00
	Barryl & Jr. 8:30am-2:00pm .50hr lunch					

acct code: X421.10
loc code: 3035
W.O.#: 8P001ET

545.00	04/04/06		20.83		565.83
INVOICE TOTAL	CONT. DATE	DISC. AMT	FREIGHT	SALES TAX	DEPOSIT
					INV. BALANCE

Terms are NET unless otherwise specified. A finance charge of 1.5% will be applied to all unpaid balances over 90 days. This purchaser agrees to pay reasonable attorney fees and other costs incurred for collection.

A restocking fee of 20% will be assessed on return items which we normally stock. No refund is available for special ordered items.

EXCEPTED AND CERTIFY THAT I HAVE READ AND AGREE TO ALL TERMS ON BOTH THE FRONT AND BACK OF THIS WRITING WHICH CONSTITUTES OUR ENTIRE CONTRACT.

CUSTOMER SIGNATURE: X

4/4/06

HAWAIIAN TELCOM MA

808 2420780
mailed
5/10/06

Hawaiian Telecom

Legal Department
P.O. Box 2200
Honolulu, Hawaii 96841
Phone: 808-546-3606
Fax: 808-546-7821

WATER'S DIRECT DIAL NUMBER:
808-546-5466

June 25, 2007

VIA FACSIMILE/U.S. MAIL

Dean T. Yamamoto, Esq.
Yamamoto & Settle
700 Bishop Street, Suite 200
Honolulu, Hawaii 96813

Re: Hale Kanani Demand Letter dated May 22, 2007

Dear Mr. Yamamoto:

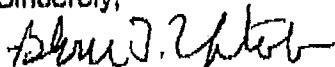
I am writing to correct typos that appeared in my letter to you dated June 22, 2007. In the response to request (c) from your letter dated May 22, 2007 I had written:

Accordingly HTI owes KSD an additional refund of \$697.97 (i.e. the difference of \$2,112.50 times the G&A Loading 33.04%). This error occurred because the second Volt Invoice was not apportioned between labor and non-labor charges. HTI will issue an additional refund check to KSD for this \$697.97.

That statement and the computation of the addition refund to be paid to KSD should have used a G&A loading of 32.04%. The corrected statement is set forth below (the corrected figures are underlined).

Accordingly HTI owes KSD an additional refund of \$676.85 (i.e. the difference of \$2,112.50 times the G&A Loading 32.04%). This error occurred because the second Volt Invoice was not apportioned between labor and non-labor charges. HTI will issue an additional refund check to KSD for this \$676.85.

Sincerely,



Blane Yokota
Assistant General Counsel
Hawaiian Telecom

July 17, 2007

CERTIFIED MAIL; RETURN RECEIPT REQUESTED

Blane Yokota, Esq.
Assistant General Counsel
Hawaiian Telcom, Inc.
Legal Department
P.O. Box 2200
Honolulu, Hawaii 96841

RE: Hale Kanani Condominium Project (the "Project")
Request for Detailed Breakdown of Project Costs

Dear Mr. Yokota,

I am in receipt of your letter dated June 22, 2007 and subsequent letter dated June 25, 2007. The June 22, 2007 letter indicates that your position is that Hawaiian Telcom has "more than fully satisfied it's obligation under its tariffs and the regulations promulgated by the PUC with respect to providing information to KSD about the charges assessed to KSD in connection with the Network Facilities Relocation Work and that the quantum and level of detail of the information previously provided to KSD is unprecedented".

Please cite specific tariff language as relates to your claim that you have fully satisfied your obligation to provide information to us. The information that was provided was not specific or detailed. It did not show amount of hours worked or dates of service. They were mere summaries of work performed. There was no breakdown of costs incurred by Hawaiian Telcom. The Volt invoices also lists Hale Nani as the location of the project. Our Project is Hale Kanani. On the Aina Excavation & Grading invoices, one shows Kanani Road, Kihei and the other S. Kihei Road. How can we be sure these invoices are for our project as well? The Sun Industries invoice, one shows Kanani/S. Kihei Road which would be accurate, but the other invoice merely shows Kihei. I am sure that you have several projects going on at one time and it would be very important to be specific on the location of those projects.

You are claiming that Hawaiian Telcom charged 32.04% G&A loading on those invoices as well. That comes out to be a total of \$23,045.16. We request that you provide specific language which state how this percentage is applied, what is allowable and how it is controlled. It is our understanding that those charges were to be applied to the Hawaiian Telcom overhead but not outside contractors who work on your behalf.

Blane Yokota, Esq.
Assistant General Counsel
Hawaiian Telcom, Inc.
Page 2 of 2

As stated in our previous correspondence Hawaiian Telcom had possession of our funds from November 2005 to May of 2006 in the amount of \$424,581.00. In the initial contract it states "In the Verizon Hawaii PUC Tariff No. 1, Section 2 governing the recovery of the actual costs of facility rearrangements and company policies". This section clearly calls out for interest to be paid on deposits. It also states that an advance payment shall be returned within thirty (30) days of the Customer's establishing credit pursuant to applicable rules and regulations. Even though you claim that this pertains to personal customers, there is no language that excludes business from receiving the same. Why should businesses be treated any different than personal customers?

Accordingly, I request that Hawaiian Telecom compensate Hale Kanani Associates LLC for interest on these funds.

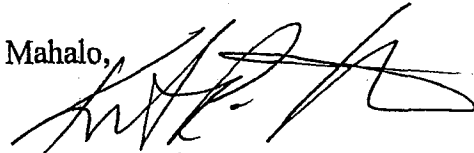
We are willing to compromise and offer to settle this dispute for the amount of \$59,799.91. This reflects a refund of the \$23,045.16 that was charged for G&A loading on subcontractors and interest on that amount that was advanced to Hawaiian Telcom (\$424,581.00). Interest is being calculated at 8% per year, for a total of 395 days. Total interest expense is \$36,754.75. This reflects the amount of time it took from when the project was initiated and final deposit was made (April 12, 2005) to its completion date of May 12, 2006.

This offer will expire thirty days from the date of this letter. If we do not satisfactorily hear back from you, we will have no choice but to file a complaint with the PUC.

We are returning your check #010044233 in that amount of \$676.85 as it is not satisfactory to the amount that is owed and is being rejected as insufficient.

We look forward to hearing from you soon.

Mahalo,



Kent R. Smith

Enclosure

AUG 18 2007

Hawaiian Telcom ●

Legal Department
P.O. Box 2200
Honolulu, Hawaii 96841
Phone: 808-546-3606
Fax: 808-546-7621

WRITER'S DIRECT DIAL NUMBER:
808-546-5466

5/18 Aug 16, 2007

VIA FACSIMILE/U.S. MAIL

Kent R. Smith
KSD Hawaii
8 Kiopa'a Street, Suite 201
Pukalani, Hawaii 96768

Re: Hale Kanani Demand Letter dated July 17, 2007

Dear Mr. Smith:

This will acknowledge receipt of your letter dated July 17, 2007 and the return of the additional refund check in the amount of \$676.85 that Hawaiian Telcom, Inc. ("HTI") sent to you under separate cover. Under the ethical rules applicable to attorneys I can only communicate directly with a party that I know is represented by counsel with the consent of such counsel. Accordingly, I spoke with KSD's outside counsel, Mr. Yamamoto, and he consented to my sending this response directly to you with a copy to his office.

As a preliminary matter let me address what appears to have been some confusion about HTI's purpose in sending the additional refund check. It was not and is still not HTI's intent that the refund check be viewed as a settlement payment or as a means to obtain any waiver or release of any additional amounts that KSD may assert it is owed in connection with this situation. HTI sent KSD that check because, in connection with responding to the additional requests for information set forth in the May 22, 2007 letter from KSD's counsel, HTI discovered that the amount to which it had applied the G&A loading of 32.04% failed to apportion the second Volt invoice between labor and non-labor charges. HTI sent KSD the additional refund check simply to correct this error. HTI asks KSD to accept that additional refund check and so that it is absolutely clear, Hawaiian Telcom will not argue before the Public Utilities Commission, or any other forum for that matter, that KSD's acceptance of the enclosed additional refund check constitutes a waiver or release of any additional amounts that KSD may assert or otherwise claim it is owed in connection with this situation.

Exhibit "L"

Turning to KSD's offer to compromise and settle this dispute for an additional payment from Hawaiian Telcom in the amount of \$59,799.91, for the reasons set forth in more detail below, Hawaiian Telcom must reject this offer.

First, HTI has already stated its position regarding its obligation to provide information to KSD regarding the charges for the Network Facilities Relocation Work (as previously defined in the correspondence from KSD's counsel and HTI's responses thereto). HTI will however, respond to your request for verification that the subcontractor invoices designated as confidential and provided as an attachment to HTI's June 22, 2007 letter actually correspond to the Network Facilities Relocation Work. The "Customer Purchase Order No." field of the Volt invoices and the "Work Order" field of the Aina Excavation invoices all show 3035 8P001ET, which was the HTI location and unique work order numbers assigned to the Network Facilities Relocation Work. While the invoices received from Sun Industries did not originally show this number, at the time the invoices were received HTI's operations group verified that those invoices were for services rendered for the Network Facilities Relocation Work and then wrote those same location and unique work order numbers on the invoices. Moreover, in order to prepare this response HTI's engineering group contacted Sun Industries which reconfirmed that for the dates in question, March 29, 2006 and April 3, 2006, Sun Industries was not doing any other work for HTI in the Kihei area.

Second, regarding the application of the G&A loading to the subcontractor labor charges there is no specific language in HTI's tariffs that prescribes the manner or method in which G&A loading will be applied. Nonetheless, as HTI stated in its February 15, 2007 response to the first demand letter from KSD's counsel, general and administrative costs are included in HTI's rates for its services, including facility relocation services. To do otherwise (i.e. exclude any recovery for such costs from KSD) would result in HTI's other regulated ratepayers effectively subsidizing the Network Facilities Relocation Work requested by KSD. In this regard HTI has treated KSD in the same manner that all other customers requesting facilities relocation work were treated.

Third, regarding the issue of whether or not interest is owed on the advanced payment made by KSD for the Network Facilities Relocation, there appears to be some confusion regarding HTI's position. HTI has never argued that residential customers and business customers should be treated differently with respect to requests for facilities relocation work. Both types of customers are and properly should be treated the same in this regard. As HTI stated in its February 15, 2007 response:

The advanced payment required of KSD is not a "deposit" for purposes of the HAR sections. This is made clear by reference to the plain language of HAR Section 6-80-105 that covers "Customer deposits". The type of customer "deposits" covered by the HAR are cash deposits intended to

guarantee payment of bills for tariffed services that involve service activation, monthly recurring charges during the period the service is provided, and finally service termination. HAR Section 6-80-105(b) further provides that the deposit shall be returned if the customer establishes credit or the service is terminated. Neither of these conditions apply, nor does the designation of "deposit" apply to advanced payments made in connection with any request that HTI relocate its existing network facilities. A customer requesting facilities relocation work does not establish credit nor would it make sense to simply return the entire advanced payment if the party requesting such services simply decided to terminate the facilities relocation work before it was completed.

The analysis and discussion quoted above applies with equal force to the tariff language regarding "Customer deposits" that previously appeared in Verizon Hawaii Inc.'s PUC Tariff No. 1, Section 2, General Rule 6 (that were renamed and renumbered as Hawaiian Telcom's PUC Tariff No. 20, Section 1, General Rule 1.8). As was the case with the HAR language, the tariff language makes clear that customer "deposits" are intended "to guarantee payment of bills for services until credit is established or re-established". (See the first paragraph of General Rule 1.8.) The tariff goes on to state that the amount of the "deposit" shall be based on "the charge for service connection plus one month's recurring charge for service." (See the first paragraph of General Rule 1.8.1.) With respect to facilities relocation work there is no establishment or re-establishment of credit, nor is there any service connection or recurring charges. The advanced payments made for facilities relocation work are not "deposits" for purposes of either the HAR or HTI's tariffs and so no interest on "deposits" is owed to KSD.

As HTI stated in its February and June responses, while HTI cannot prevent KSD from filing either an informal or a formal complaint with the Commission, it is HTI's hope that this response will help KSD to more clearly understand the legal and regulatory basis for HTI's position on this matter.

Sincerely,



Blane Yokota
Assistant General Counsel
Hawaiian Telcom

Enclosure

cc: Dean Yamamoto, Esq.

August 28, 2007

CERTIFIED MAIL; RETURN RECEIPT REQUESTED

Blane Yokota, Esq.
Assistant General Counsel
Hawaiian Telecom, Inc.
Legal Department
P.O. Box 2200
Honolulu, Hawaii 96841

RE: Hale Kanani Condominium Project (the "Project")
Response to Demand Letter dated April 16, 2007

Dear Mr. Yokota:

First of all I would like to bring your attention to the date of your response letter we received on August 18, 2007. I can only assume that this was a typographical error and should have read, August 16, 2007

It is very unfortunate that Hawaiian Telcom is not willing to compromise its position and try to work out an amiable settlement.

We have repeatedly requested that you provide to us the specific tariff language as relates to your claim that you have fully satisfied your obligation to provide information to us. We have yet to receive that.

At the beginning of this project your predecessor, Verizon required Hale Kanani LLC to submit a payment of \$417,015.00. This payment was to reflect our authorization for Verizon Hawaii Incorporated to proceed with the work under specific terms and conditions. One of those terms and conditions was that Verizon Hawaii would attempt to proceed with the prescribed work for which it was hired, within 30 days of the receipt of the signed form and payment. Agreement was signed on November 10, 2004. Payment was made in two installments. \$210,000 was sent with the form and \$207,015 was made on April 12, 2005. Work was completed sometime in May of 2006, eighteen months after our initial payment, and over one year from the final installment.

We have been in the development business for over twenty years and have more then adequately established ourselves with the utility companies. To require and demand of us to make such a large payment and then not complete the work in a timely fashion is absurd. To have possession of those funds and not compensate us for interest is

Blane Yokota, Esq.
August 27, 2007
Page 2 of 2

ludicrous. We have suffered loss of interest income and lost of opportunity of our funds.

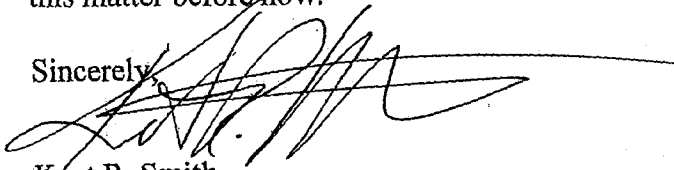
We also have documentation by our Construction Manager on this project of conversations with Voltcom's Field Supervisor that there was additional work required because of damage to the cables by Hawaiian Telcom that required them to come back and re-splice. How are we to be sure that the cost of this additional work was not passed down to us since we were not provided with detailed invoices outlining the work that was performed?

We remain strong in our position therefore we will be proceeding with a formal complaint with the PUC. We will remain open to continuing dialog with Hawaiian Telcom in an effort to resolve this matter.

On another note, it is refreshing to see that there will be other options available to developers and telecom users like us for other communication installations other then TelCom in future projects.

Again, we are open to continued dialog to try and resolve this matter as we proceed with the formal complaint prior to the end of 2007. We had sincerely hoped to have resolved this matter before now.

Sincerely,



Kent R. Smith
President

For Office Use Only

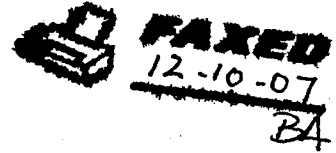
IC Number: _____

Assigned to: _____

Date Assigned: _____



STATE OF HAWAII
PUBLIC UTILITIES COMMISSION

**Residential/Business Complaint Form**

Complainant

Your Name Dorothy D. Ancog	Mailing Address 8 Kiopa'a Street, Suite 201, Pukalani, Hawaii 96768
Name of your Business or Company KRS Development, Inc.	Mailing Address 8 Kiopa'a Street, Suite 201, Pukalani, Hawaii 96768
Personal Contact Information (Residence, Cell, Etc.) (808) 357-0601	Business Contact Information (Main No., Ext., Cell, Etc.) (808) 572-3011 ext. 203 (808) 572-8378 fax

Complaint Against

Company Name Hawaiian Telecom	Company's Telephone Number (808) 546-3606
Main Address 1177 Bishop Street, Honolulu, Hawaii 96813	Mailing Address P.O. Box 2200, Honolulu, HI 96841
Your Account No. 14118	Other Account Information Hale Kanani Associates, LLC

Nature of Complaint

Use this section to describe the nature of your complaint. Describe the events in the order in which they occurred as best

as you can. Along with this form, please submit any and all supporting documents (billing statements, correspondences, notes, etc.).

PLEASE SEE ATTACHED

Statement of Remedial Action Desired

Use this section to indicate what actions you would like to see the Commission take on your behalf to solve this problem.

PLEASE SEE ATTACHED

KSD Hawaii

Nature of Complaint:

On November 10, 2004, Hale Kanani, LLC entered into a contract with Verizon (who was later bought out by Hawaiian Telcom Incorporated on April 1, 2006) to perform some off-site improvements fronting our Hale Kanani Condominium project. The scope of the work is detailed in the attached Letter of agreement.

As part of the terms and conditions, Hale Kanani, LLC was to pay the estimated costs for these improvements (\$417,015.00) prior to the start of any construction activities. This payment was made in two disbursements. \$210,000.00 at the time the contract was signed, November 9, 2004 and the balance \$207,015.00 on April 12, 2005.

Initially, Verizon quoted us \$205,869.30 for the entire work and later increased the price stating that it was "Mainland Corporate Policy" to double the full cost deposit.

Work was completed in May 2006 and we were told by Hawaiian Tel representatives that there would be a reimbursement of approximately \$150,000.00. Upon further discussion it was confirmed that the Engineering Department (Wayne Kajiware) were waiting to accumulate all cost receipts and timesheets.

We started working with Mr. Kajiware in May 2006 to try and obtain our reimbursement. It took us until September 6th before we finally got a reimbursement check. According to Wayne they were having computer problems and that he was waiting to hear back from a guy in Finance with the final figures.

We received a deposit reimbursement check in the amount of \$102,696.17 on September 6, 2006. Accompanying the check was an invoice showing four line items. (A copy is attached for your review). As we had been expecting a larger reimbursement amount based on previous representations by Verizon/Hawaiian Telcom, we requested them to provide detailed backup to justify the amount reimbursed, with which we could perform an audit of their accounting.

We were notified that before they would release any information to us, we would need to sign a Nondisclosure Agreement. This Agreement restricted us from releasing any of the information obtained from them in regards to their accounting and calculations without their prior written approval. Before signing this Agreement we inserted our own clause stating "such approval will not be unreasonably withheld". Although we couldn't fully understand the need for a Nondisclosure Agreement, we executed the Agreement and sent it back. They did not provide any PUC authorization for this requirement.

September 12, 2006, we received an email from Wayne Kajiware of Hawaiian Telcom with a very limited breakdown of the charges. Again, these are just figures with no supporting documentation. We met with Wayne here at our offices on September 21,

2006. He brought with him copies of the invoices for Volcom, a subcontractor on the job. We were told that we could look at them but would not be able to make copies.

At this time we are still unsatisfied with the information provided by Hawaiian Tel. The information is inadequate to do a through audit of what they charged and the work preformed. On November 3, 2006 we received a Nondisclosure Agreement between Hawaiian Telcom and KSD Hawaii that would disallow us to share any information obtained from Hawaiian Telcom with anyone without their approval.

A letter was sent to Brian G. Kageyama on October 23, 2006 requesting his assistance in clarifying some of the outstanding issues and questions. On November 16, 2006 we received an email from his stating that he was not qualified to determine who is right as he was not an engineer nor technically qualified. Therefore, if we wished to further pursue this matter, we would need to go through an informal/formal complaint procedure.

We hired Legal Council to assist us in our dispute with Hawaiian Telcom. On January 11, 2007, our Attorney, Dean T. Yamamoto of Yamamoto and Settle sent a demand letter to Hawaiian Telcom requesting a detailed accounting of various costs incurred to complete the Construction work, a copy of the section of Hawaii Revised Statutes, HAR or Verizon/Hawaiian Telcom's tariffs on file with the PUC or other authority which permits Verizon/Hawaiian Telcom to require a deposit for construction work equal to two times the amount of the estimated costs of such work. Interest on the Deposit amount during the time they held the funds and information regarding the 32.04% surcharge for general and administrative costs. The Letter of Agreement provides that KSD would be charged only the "actual costs" of the Construction work.

Hawaiian Telcom responded on February 15, 2007. To quote from the letter, "Conclusion; based on the discussion above, HTI refuses each of KSD's demands. While HTI cannot prevent KSD from filing either an informal or formal complaint with the Commission, it is HTI's hope that this response will help KSD to more clearly understand the legal and regulatory basis for HTI's position on this matter."

On May 22, 2007 KSD's attorney Dean T. Yamamoto again asking for a "detailed breakdown of project costs". Response deadline of June 22, 2007 was given.

Letter dated June 22, 2007 received by our attorney from Blane Yokota, Esq. Hawaiian Telcom legal council. In this letter they provided additional information regarding the actual cost of the project. In close review of the invoices they are not specific on what job site they are for. In fact none of the invoices specify Hale Kanani. On June 25, 2007 we received another letter from Blane Yokota which included another refund check in the amount of \$676.85. He stated that this was due to an error in the calculations on their part.

We (KSD) wrote a letter directly to Blane Yokota, esq. for Hawaiian Telcom returning the check for \$676.85 as it was not satisfactory to the amount that is owed. We made an offer to compromise of \$59,799.91. This reflected a refund of \$23,045.16 that was

charged for G&A loading on subcontractors and interest on that amount that was advanced to Hawaiian Telcom (\$424,581.00) Interest was calculated at 8% per year, for a total of 395 days. Total interest expense is \$36,754.75.

We received a letter dated April 16, 2007 (should have been **August**), in which HTI returned the check in the amount of \$676.85 stating that it was not and is still not HTI's intent that the refund check be viewed as a settlement payment or as a means to obtain any waiver or release of any additional amounts that KSD may assert it is owed in connection with this situation, but simply to correct an error in calculation of one of the invoices. They stand by their position that they do not owe us any additional information or detailed accounting and end their letter as they have every other letter with the "HTI cannot prevent KSD from filing either an informal or a formal complaint with the Commission...".

KSD responded directly back to Blane Yokota and stated that it was very unfortunate that Hawaiian Telcom is not willing to compromise its position and try to work out an amiable settlement. We also stated that are company has been in the development business for more then twenty years and adequately established ourselves with the utility companies and should not have been required or demand made for such a large one year advance deposit. We were/are open to continued dialog in trying to try and resolve this matter and would be proceeding with a formal complaint prior to the end of 2007.

No additional response correspondence from Hawaiian Telcom has been received to date.

December 7, 2007, KSD is proceeding with informal complaint.

Statement of Remedial Action Desired:

We are willing to compromise and offer to settle this dispute for the amount of \$59,799.91. This reflects a refund of the \$23,045.16 that was charged for G&A loading on subcontractors and interest on that amount that was advanced to Hawaiian Telcom (\$424,581.00). Interest is being calculated at 8% per year, for a total of 395 days. Total interest expense is \$36,754.75. This reflects the amount of time it took from when the project was initiated and final deposit was made (April 12, 2005) to completion date of May 12, 2006.

We would also like to recommend that the PUC consider revising the rules to reduce the deposit to fair amounts, pay interest on funds held and most importantly hold utilities responsible to provide complete, detailed and understandable audit information when demanded by the customer. Any non-monopoly business would be forced to do the same by virtue of competitive process.

5/24 Requested Copy of
Tariff for review



Real Estate Development & Consulting

1043 Makawao Avenue, Suite 208, Makawao, HI 96768
Phone: (808) 572-3011 Fax: (808) 572-8378
www.SDHawaii.com email: KRS@SDHawaii.com

KRS

November 10, 2004

Mr. Tom Hutchison
Verizon Hawaii, Incorporated
60 South Church Street
Wailuku, Maui, Hawaii 96793

Subject: Hale Kanani Off Site Improvements

Dear Mr. Hutchison:

Attached herewith is a check in the amount of \$210,000 (approximately half of the \$417,015 estimate) and the signed agreement to initiate the construction of the subject improvements.

If you have any questions regarding this payment, feel free to contact me at 572-3011 x 206.

Thank you for all your assistance in moving this project forward.

Sincerely,

David C. Goode
David C. Goode
Vice President
Development Operations

cc: W. Tanabe, Verizon
Mark Rickard
Hilton Unemori
Chad Fukunaga
Kent Smith ✓

May 21, 2004



80 S. Church St.
Wailuku, HI 96793

ECM, INC. Attn: Mark P. Rickard, P.E.
130 North Market Street
Wailuku, HI 96793

Subject: REVISION - HALE KANANI CONDO

Dear Customer,

Verizon Hawaii Incorporated has completed the engineering cost estimate you have requested to place cables fronting "Hale Kanani" subdivision underground and estimates it would cost \$417,015.00 to do the following work:

Consolidate and place 8 aerial cables into the existing duct structure along Kanani Road (poles 1-3) to one pole North and one pole South on S. Kihei Road. Work includes all labor and material associated with the aforementioned cables. This price does not include any substructure work. *This letter is a revision to the letter dated May 7, 2004 and no longer includes replacing one fiber and one 600 pair cable at the riser pole in front of the "Shores of Maui" complex.*

This cost estimate is an estimate only. Your agreement with Verizon Hawaii is to pay for the actual cost of the work, which may be greater or less than the estimated cost listed above. If the actual cost is greater than the estimated cost, you will be billed the additional charges. If the actual cost is less than the estimated cost, you will receive a refund. In accordance with Verizon Hawaii PUC Tariff No.1, Section 2 governing the recovery of the actual costs of facility rearrangements and Company policies, I am required to collect the full amount of the estimated cost of your work in advance before any work can begin.

During our performance of the requested work, an additional advance payment could be required should you alter the scope of work, take other action which could cause us to incur additional costs, or if we encounter unforeseen events or obstructions.

If you wish Verizon Hawaii Incorporated to proceed with this work, please submit a payment of \$417,015.00. This payment will authorize Verizon Hawaii Incorporated to proceed with the work under the following terms and conditions:

TERMS AND CONDITIONS

1. The amount of \$417,015.00 must be fully paid prior to start of any construction activities on the part of Verizon Hawaii Incorporated.

Mark P. Rickard, P.E.

May 21, 2004

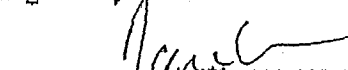
Page 2 of 2

2. Verizon Hawaii will attempt to proceed with the prescribed work for which it is responsible under this agreement within 30 days of the receipt of this signed form and payment of \$417,015.00.
3. No damages or liability shall accrue against Verizon Hawaii in favor of the undersigned in the unlikely event Verizon Hawaii is unable, for any reason, to proceed with the prescribed work within the time frame stated above.
4. The cost quoted within this agreement will be null and void if this form is not received, with signature(s) and payment of \$417,015.00 by June 21, 2004. Payment and signed letter should be sent to the following address:

Lynette Yoshida
Verizon Hawaii, Incorporated
60 S. Church Street
Wailuku, Hawaii 96793

5. The undersigned understands that this agreement shall not be binding on Verizon Hawaii, Incorporated or individual requester(s) unless, and until, all have given their approval of these terms and conditions and by signing on the lines provided below:

Signed By:


Requester Name

11-10-04
Date


Print or Type:

Requester Name

Title

Should there be any questions, please call Tom Hutchison at 808/242-5107.

Verizon Hawaii Incorporated


Tom Hutchison

Engineer - OSP Engineering
Network Engineering and Planning

Cc: L. Yoshida

File: 3035-8P001ET

INVOICE

Date: 08/27/06
Account: 14118
Page: 1

Billing Address:

Hale Kanani Associates LLC
1043 Makawao Avenue, #208
Makawao HI 96768

Customer Address:

Hale Kanani Associates LLC
1043 Makawao Avenue, #208
Makawao HI 96768

Date	Number	Item	Due Date	Remark	Reference	Amount
08/27/06	321	001	09/26/06	Advance Payments	8P001ET3035000	424,581.00-
		002	09/26/06	Engineering & Labor	8P001ET3035000	100,312.54
		003	09/26/06	Materials	8P001ET3035000	118,878.39
		004	09/26/06	Invoices	8P001ET3035000	102,693.90
Total Amount Invoiced						102,696.17-
Tax Amount						
Credit Due						102,696.17-

Please make checks payable to Hawaiian Telcom. Please include this portion with your payment.

Hawaiian Telcom

Remittance Information:

Customer: 14118 Due Date: 09/26/06 Payment Terms: Net 30 Days
Invoice: 321 Reference: 8P001ET3035000 Amount: 102,696.17-

Customer Address:

Hale Kanani Associates LLC
1043 Makawao Avenue, #208
Makawao HI 96768

Remit To:

Hawai Telcom
P.O. Box 30760
Honolulu HI 96820-0760

Check Date: Aug/29/2006

Vendor Number: 0000004734

Check No. 0100008981

Invoice Number	Invoice Date	Voucher ID	Gross Amount	Discount Taken	Late Charge	Paid Amount
refund 8P001ET3035000	Aug/28/2006	00027633	102,696.17	0.00	0.00	102,696.1

Check Number

Date

Total
Gross AmountTotal
DiscountsTotal
Late ChargesTotal
Paid Amount

0100008981

Aug/29/2006

102,696.17

0.00

0.00

102,696.17

VERIFY THE AUTHENTICITY OF THIS MULTI-TONE SECURITY DOCUMENT. CHECK BACKGROUND AREA CHANGES COLOR GRADUALLY FROM TOP TO BOTTOM.

Hawaiian Telcom

1177 Bishop Street

Honolulu, HI 96813

FIRST HAWAIIAN BANK

999 Bishop Street

Honolulu, HI 96813

59-101/1213

0100008981

Date AUG/29/2006

Pay Amount 102,696.17***

Pay

ONE HUNDRED TWO THOUSAND SIX HUNDRED NINETY-SIX AND 17 / 100 DOLLAR

To The
Order OfHALE KANANI ASSOCIATES LLC
1043 Makawao Avenue, #208
Makawao, HI 96768

Authorized Signature

0100008981 121301015 01 181556

Hawaiian Telcom ●

Legal Department
P.O. Box 2200
Honolulu, Hawaii 96841
Phone: 808-546-3606
Fax: 808-546-7621

WRITER'S DIRECT DIAL NUMBER:
808-546-2891

November 3, 2006

TRANSMITTAL LETTER

Bonnie DeRego
KSD Hawaii
8 Kiopa'a Street, Suite 201
Pukalani, Hawaii 96768

RE: Nondisclosure Agreement Between Hawaiian Telcom, Inc. and KSD Hawaii

Enclosed is the following:

ORIG.	COPIES	DATED	DESCRIPTION
	1	11/2/06	Nondisclosure Agreement

(X) For your files

REMARKS: Please find enclosed a fully executed copy of the subject agreement for your files.

Thank you.

Gwen Massiah

Gwen Massiah
Assistant Corporate Secretary /
Contract Administrator

c: Wayne Kajiwarra



KSD HAWAII
8 KIOPAA STREET, SUITE 201 • PUKALANI, HI 96768
PHONE: (808) 572-3011 • FAX: (808) 572-8378
WWW.KSDHAWAII.COM

FAX TRANSMITTAL LETTER

DATE: September 19, 2006

TO: Wayne Kajiwaru
Reimbursable Engineer
Hawaiian Telecom

FAX: 871-5724

FROM: Bonnie DeRego

SUBJECT: Hale Kanani Condominium - Kihei

SEP 19 2006

Attached please find (2) pages including this cover sheet

❖ Nondisclosure Agreement

<input type="checkbox"/>	For signature & return
<input checked="" type="checkbox"/>	For review
<input type="checkbox"/>	For comment
<input checked="" type="checkbox"/>	For necessary action

<input checked="" type="checkbox"/>	Per our conversation
<input type="checkbox"/>	Per your request
<input type="checkbox"/>	For your information
<input checked="" type="checkbox"/>	See remarks below


REMARKS:

Aloha Wayne,

I am faxing this copy over for your review and will mail the original out in today. Please note my change to #2 (d). I have added the language to read "such approval shall not be unreasonably withheld.

If there are any questions please contact me at 572-3011, ext. 203.

Sincerely,


Bonnie DeRego
Controller

NONDISCLOSURE AGREEMENT

THIS AGREEMENT, effective when executed by both parties, is made between HAWAIIAN TELCOM, INC., with offices located at 1177 Bishop Street, Honolulu, Hawaii 96813 (Hawaiian Telcom), and KSD Hawaii at 8 Kiopa'a Street, Suite 201, Pukalani, Hawaii 96768 (Receiving Party), to protect the confidential or proprietary nature of information to be disclosed by Hawaiian Telcom in response to Receiving Party's request for additional information in support of Hawaiian Telcom's charges for relocating its network facilities for the Hale Kanani Condominium development on the corner of South Kihei Road and Kanani Road in Kihei, Maui, Hawaii. (the "Network Relocation Charges") to facilitate Receiving Party's review of such charges (hereinafter referred to as "Receiving Party's Review").

1. To facilitate Receiving Party's Review of Hawaiian Telcom's relocation charges it may be necessary for Hawaiian Telcom to disclose technical, customer, personnel and/or business information in written, graphic, oral or other tangible or intangible forms including, but not limited to, specifications, records, data, computer programs, drawings, schematics, know-how, notes, models, reports and samples. Such information may contain proprietary or confidential material, or material subject to applicable laws regarding secrecy of communications or trade secrets (Confidential Information).

2. The parties acknowledge and agree:

a. All Confidential Information disclosed by Hawaiian Telcom in connection with Receiving Party's review are and shall remain the exclusive property of Hawaiian Telcom;

b. Hawaiian Telcom will identify in writing as confidential or proprietary, or mark as confidential or proprietary, any written information it deems to be Confidential Information;

c. Information which is disclosed orally shall not be considered Confidential Information unless it is identified by Hawaiian Telcom as confidential at the time it is orally disclosed to Receiving Party.

d. Receiving Party shall receive in confidence any Confidential Information; shall limit access to such Confidential Information to authorized employees who have a need to know the Confidential Information in order for Receiving Party to participate in the matter of mutual interest described above; and Receiving Party shall not disclose such Confidential Information to others (to include consultants, advisors and other such entities and persons which are not full-time, regular employees of Receiving Party) or authorize anyone else to disclose such Confidential Information to others without the prior written approval of Hawaiian Telcom; such approval shall not be unreasonably withheld.

e. Receiving Party shall use such Confidential Information only for purposes of reviewing the Network Relocation Charges;

f. Receiving Party shall return promptly to Hawaiian Telcom, or shall destroy any copies of such Confidential Information in written, graphic or other tangible form upon the completion of Receiving Party's Review or at Hawaiian Telcom's request;

g. The obligations with respect to Confidential Information shall extend for a period of five (5) years following the date of initial disclosure of that Confidential Information, and such obligations shall extend beyond completion of the term of this Agreement if the term expires before the five year period of protection of the Confidential Information; and

h. Neither disclosure of Confidential Information nor this Agreement shall be construed as a license to make, use or sell the Confidential Information or products derived therefrom.

3. These obligations do not apply to Confidential Information which:

a. As shown by reasonably documented proof, was in Receiving Party's possession prior to receipt thereof from Hawaiian Telcom; or

b. As shown by reasonably documented proof, was received by the Receiving Party in good faith from a third party not subject to a confidential obligation to Hawaiian Telcom; or

c. Now is or later becomes publicly known through no breach of confidential obligation by Receiving Party; or

d. Is disclosed to a third party by Hawaiian Telcom without a similar nondisclosure restriction; or

e. Is disclosed pursuant to a requirement imposed by a governmental agency or is otherwise required to be disclosed by operation of law, except that prior to disclosure pursuant to this subsection, Receiving Party shall notify Hawaiian Telcom and shall give Hawaiian Telcom an opportunity to participate in objecting to production of the Confidential Information; or

f. Was developed by Receiving Party without the developing person(s) having access to any Confidential Information received from Hawaiian Telcom; or

g. Is authorized in writing by the Hawaiian Telcom to be released or is designated in writing by Hawaiian Telcom as no longer being confidential or proprietary.

4. It is agreed that a disclosure of Confidential Information in violation of any of the provisions of this Agreement will cause irreparable harm and injury and Hawaiian Telcom shall be entitled, in addition to any other rights and remedies it may have at law or in equity, to an injunction enjoining and restraining Receiving Party from doing or continuing to do any such act and any other violations or threatened violations of this Agreement. Absent a showing of willful violation of this Agreement, neither party shall be liable to the other, whether in contract or in tort or otherwise, for special, indirect, incidental or consequential damages.

5. Neither this Agreement nor provision of Confidential Information pursuant to it shall be construed as an agreement, commitment, promise or representation by either party to do business with the other or to do anything except as set out specifically in this Agreement.

6. This Agreement shall be construed in accordance with the laws of the State of Hawaii.

7. This Agreement is the entire agreement between the parties with respect to nondisclosure of Confidential Information pertaining to the matter of mutual interest stated above and supersedes all prior agreements and understandings with respect to this subject. This Agreement may be amended only by written agreement executed by both parties. This Agreement shall not be assigned or transferred by either party without the prior written consent of the other. This Agreement shall be binding on agents, successors and permitted assigns of the parties.

8. Unless terminated earlier by written notice, this Agreement shall remain in force for two (2) years.

HAWAIIAN TELCOM, INC.

By: Harvey A. Plummer

Name: HARVEY A. PLUMMER

Title: SVP - Engineering & Operations

Date: NOV 02 2006

KSB Hawaii

By: David Goode

Name: David Goode

Title: President

Date: Sept. 20, 2006



LINDA LINGLE
GOVERNOR



CARLITO P. CALIBOSO
CHAIRMAN

JOHN E. COLE
COMMISSIONER

LESLIE H. KONDO
COMMISSIONER

Telephone: (808) 588-2020
Facsimile: (808) 588-2086

STATE OF HAWAII
PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
465 S. KING STREET, #103
HONOLULU, HAWAII 96813

e-mail: Hawaii.PUC@hawaii.gov

January 10, 2008

Bonnie Ancog
8 Kiopa'a Street, Suite 201
Pukalani, HI 96768

RE: Hale Kanani Condominium/Hawaiian Telcom Reimbursement

Dear Bonnie:

I stated that the technical nature of your complaint cannot be satisfied by correspondence, and therefore, is not susceptible to informal adjustment between the parties involved as provided in our rules governing informal complaints.

If you wish to pursue a further administrative remedy on your initial informal Complaint that I received, the Commission's rules provide that you may file a formal complaint in accordance with Hawaii Administrative Rules, Title 6, Chapter 61, Subchapter 67. These administrative rules may be viewed on our website at <http://www.hawaii.gov/budget/puc>.

If you have any questions, please contact me at 984-8182.

Yours truly,

A handwritten signature in cursive script, reading "Bryan Kageyama".

Bryan Kageyama
District Representative
Public Utilities Commission
54 High Street, Room 218
Wailuku, HI 96793

LINDA LINGLE
GOVERNOR



CARLITO P. CALIBOSO
CHAIRMAN

JOHN E. COLE
COMMISSIONER

LESLIE H. KONDO
COMMISSIONER

STATE OF HAWAII
PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
465 S. KING STREET, #103
HONOLULU, HAWAII 96813

Telephone: (808) 586-2020
Facsimile: (808) 586-2066

e-mail: Hawaii.PUC@hawaii.gov

February 13, 2008

Kent R. Smith
KRS Development, Inc.
Hale Kanani Associates, LLC
8 Kiopa'a Street
Suite 201
Pukalani, Hawaii 96768

Re: Docket No. 2008-0017, KRS Development, Inc., and Hale Kanani Associates, LLC
vs. Hawaiian Telcom, Inc. ("HTI")

Dear Mr. Smith:

In response to your formal Complaint filed with the Hawaii Public Utilities Commission ("Commission") on January 31, 2008 ("Complaint"), please note that the Complaint does not appear to include:

1. A written Verification, as required by Hawaii Administrative Rules ("HAR") HAR §§ 6-61-17 and 6-61-67(b)(2).

HAR § 6-61-17 states in relevant part:

§6-61-17 Verification. Applications, complaints, and other pleadings that initiate a proceeding and amendments to any such application, complaint, or other pleading shall be verified by at least one applicant or complainant

For your convenience, please refer to HAR chapter 6-61, Appendix C, for a sample written Verification.

2. A written Certificate of Service, as required by HAR §§ 6-61-21 and 6-61-67(b)(2).

HAR § 6-61-21 states in relevant part:

§6-61-21 Service of process. . . .

(b) The commission or any person filing documents shall serve a copy upon each party or its attorney and shall attach a certificate of service on the filed original. . . . The consumer advocate shall be served two copies of any documents filed with the commission.

(c) Documents shall be served personally or, unless otherwise provided by law, by first class mail.

For your convenience, please refer to HAR chapter 6-61, Appendix A, page 61-82, for a sample written Certificate of Service.

Please promptly file with the Commission the original and eight copies of the written Verification and Certificate of Service in support of your Complaint.¹ The Certificate of Service shall state the date and manner of service (personal service or service by first class mail) of your Complaint upon each party.²

Please note that no further action will be taken on your Complaint until these additional documents (original and eight copies) are filed with the Commission at its Honolulu Office (Kekuanao'a Building, 465 South King Street, Room103, Honolulu, Hawaii, 96813).

Sincerely,



Michael Azama
Commission Counsel

MA:laa

c: Joel K. Matsunaga, HTI
Blane Yokota, Esq, HTI
Division of Consumer Advocacy

¹Cf. HAR § 6-61-19 (the Commission may require the amendment of any application that is not in compliance with its rules) and HAR § 6-61-20 (any pleading may be amended at any time before service of a responsive pleading).

²We note that on February 8, 2008, the Consumer Advocate filed its Statement of Position with the Commission, indicating that it had received and reviewed copies of the Complaint.

TRANSMITTAL LETTER

DATE: February 15, 2008

TO: Michael Azama, Commission Counsel
State of Hawaii
Public Utilities Commission
465 South King Street, Room 103
Honolulu, Hawaii 96813

FROM: Bonnie Ancog, Controller

SUBJECT: KRS Development, Inc. and Hale Kanani Associates, LLC vs. Hawaiian Telcom
Docket No. 2008-0017

FILED
2008 FEB 19 A 11:42
PUBLIC UTILITIES
COMMISSION

Enclosed please find;

- ❖ Certificate of Service – original and eight copies
- ❖ Verification – original and eight copies

- ☐ For signature & return
- ☐ For review
- ☐ For comment
- ☒ For necessary action

- ☐ Per our conversation
- ☐ Per your request
- ☐ For your information
- ☐ See remarks below

METHOD OF DELIVERY:

- ☐ Facsimile
 - ☒ U.S. Mail
 - ☐ Hand Delivery
 - ☐ Pick-Up
- CRR

REMARKS:

Aloha Mr. Azama:

Enclosed are the Certificate of Service and Verification forms that should have been attached to our Complaint filed on January 31, 2008. I appreciate your assistance and look forward to hearing from you.

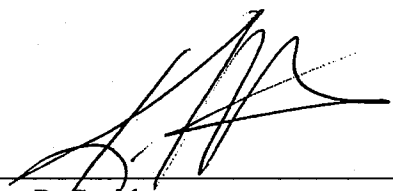
If there are any questions please give me a call at (808) 572-3011, ext. 203.

Sincerely,


Bonnie Ancog

Consumer Advocate
P.O. Box 541
Honolulu, Hawaii 96809

Dated: Pukalani, Hawaii, January 30, 2008.



Kent R. Smith
KRS Development, Inc. and
Hale Kanani Associates LLC
8 Kiopa'a Street, Suite 201
Pukalani, Hawaii 96768


STATE OF HAWAII
COUNTY OF MAUI

)
) ss.
)

VERIFICATION

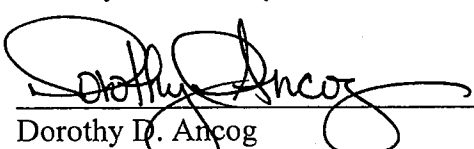
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2008 FEB 19 A 11:45
PUBLIC UTILITIES
COMMISSION

Kent R. Smith, being first duly sworn, deposes and says: That he is President of KRS Development Inc, who is the Member/Manager of Hale Kanani Associates, LLC both of whom are the complainant in this matter, that he has read the foregoing complaint, and knows the contents thereof; and that the contents of the complaint are true.



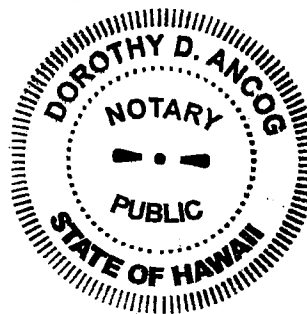
Kent R. Smith

Subscribed and sworn to before me this
15th day of February, 2008.



Dorothy D. Ancog
Notary Public
State of Hawaii

My commission expires: November 23, 2011



CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 24057 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

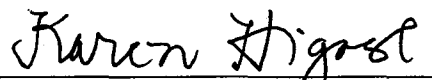
CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

KENT R. SMITH
KRS DEVELOPMENT, INC.
HALE KANANI ASSOCIATES LLC
8 Kiopa'a Street, Suite 201
Pukalani, HI 96768

JOEL K. MATSUNAGA
VICE PRESIDENT, EXTERNAL AFFAIRS
HAWAIIAN TELCOM, INC.
P. O. Box 2200
Honolulu, HI 96841

BLANE YOKOTA, ESQ.
ASSISTANT GENERAL COUNSEL
HAWAIIAN TELCOM, INC.
P. O. Box 2200
Honolulu, HI 96841

Counsel for HAWAIIAN TELCOM, INC.



Karen Higashi

DATED: FEB 26 2008