

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)  
HAWAIIAN TELCOM, INC. )  
For Approval of Changes to its )  
Tariff. Transmittal No. 07-16. )  
\_\_\_\_\_ )

DOCKET NO. 2007-0233

ORDER NO. 24141

Filed April 10, 2008  
At 9 o'clock A .M.

Karen Higashi.  
Chief Clerk of the Commission

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2008 APR 14 A 9 28  
DIV. OF CONSUMER ADVOCACY  
DEPT. OF PUBLIC UTILITIES  
COMMUNICATIONS AND  
STATE OF HAWAII

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

Karen Higashi.

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)	)	
HAWAIIAN TELCOM, INC.	)	Docket No. 2007-0233
	)	
For Approval of Changes to its	)	Order No. 24141
Tariff. Transmittal No. 07-16.	)	
_____	)	

ORDER

By this Order, the commission approves the Parties' voluntary and intentional waiver of an evidentiary hearing.<sup>1</sup>

I.

Background

On February 26, 2008, Time Warner and the Consumer Advocate filed their respective position statements, and on March 24, 2008, Hawaiian Telcom filed its reply position statement.

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<sup>1</sup>The Parties are HAWAIIAN TELCOM, INC. ("Hawaiian Telcom"), TIME WARNER TELECOM OF HAWAII, L.P. ("Time Warner"), and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a).

As set forth in Order No. 23963, filed on January 10, 2008, the next procedural steps are:

<u>Procedural Steps</u>	<u>Date</u>
11. Parties to notify the commission and other parties on: (A) whether it waives the evidentiary hearing; and (B) if a hearing is held, the type of hearing that should be held**	by March 31, 2008
**In the event that one party does not waive the evidentiary hearing, the commission may, on its own motion, amend the Procedural Order by requiring the Parties to file written testimonies prior to the evidentiary hearing. Moreover, the commission, based on its review of the Parties' filings that are due by March 31, 2008, reserves the right to amend the remainder of the Procedural Order, to the extent necessary.	
12. Prehearing conference (if necessary)	To be scheduled by the commission
13. Evidentiary hearing (if necessary)	To be scheduled by the commission
14. Parties' post-hearing briefs (if necessary)	Three weeks following the filing of the official transcripts

On March 31, 2008, Hawaiian Telcom and Time Warner filed their respective letters, informing the commission and other parties that an evidentiary hearing is unnecessary.

## II.

### Discussion

As noted by the commission in Procedural Order No. 23895, filed on December 18, 2007, Hawaiian Telcom and the Consumer Advocate, in submitting their joint, proposed procedural order for the commission's consideration, both proposed to waive

their right to a hearing.<sup>2</sup> By its letter, Hawaiian Telcom subsequently reiterates its belief that: (1) no evidentiary hearing is required; and (2) if the commission is inclined to hold a hearing, such a "hearing should be, at most, similar in process to that which the Commission established in Docket No. 2006-0400, the service quality docket[,] " whereby "[t]he Commission required all questions to be submitted in writing to the party being questioned before the hearing and limited the number of questions that could be asked."<sup>3</sup> Hawaiian Telcom further states:

No hearing of any kind should be held in this matter because the Commission has before it all the evidentiary evidence it needs to determine that Hawaiian Telcom's Tariff is just and reasonable, and after full discovery no Party has submitted any credible evidence to support any further suspension or investigation of the tariff.

Hawaiian Telcom's letter, dated March 31, 2008, at 1.

Hawaiian Telcom concludes by requesting an "expeditious decision," and states that any further delay resulting from the holding of a hearing will "simply allow TWTC to continue to provide service to the Customer, something it has acknowledged, while denying Hawaiian Telcom from providing service as the Customer's chosen provider."<sup>4</sup>

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<sup>2</sup>See Procedural Order No. 23895, at 8; and Exhibit B of Hawaiian Telcom's and the Consumer Advocate's Proposed Procedural Order, filed on November 20, 2007.

<sup>3</sup>Hawaiian Telcom's letter, dated March 31, 2008, at 1 and 2.

<sup>4</sup>Hawaiian Telcom's letter, dated March 31, 2008, at 3.

By its letter, Time Warner states that it waives an evidentiary hearing, reasoning that "the limited issues identified by the Commission in Procedural Order No. 23895 have been adequately addressed by the parties."<sup>5</sup> That said, Time Warner notes that Hawaiian Telcom and the Consumer Advocate "have raised issues outside the scope of the issues identified in Procedural Order No. 23895, including the issue of the reclassification of the proposed service."<sup>6</sup> In Time Warner's view, "[i]f the Commission wishes to address the reclassification of the proposed service, or any other issues outside the scope of the issues identified in Procedural Order No. 23895, [Time Warner] believes that it should do so in a separate proceeding in which other interested parties would have an opportunity to participate."<sup>7</sup>

The Consumer Advocate, meanwhile, has not changed its position with respect to the waiver of a hearing.<sup>8</sup>

The Parties, through their position statements, advance divergent views on the issues in this proceeding, as identified in Procedural Order No. 23895. Nonetheless, the Parties, based on their representations, agree that an evidentiary hearing is

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<sup>5</sup>Time Warner's letter, dated March 31, 2008, at 1.

<sup>6</sup>Time Warner's letter, dated March 31, 2008, at 1.

<sup>7</sup>Time Warner's letter, dated March 31, 2008, at 1.

<sup>8</sup>See Procedural Order No. 23895, at 8; and Exhibit B of Hawaiian Telcom's and the Consumer Advocate's Proposed Procedural Order, filed on November 20, 2007; see also Hawaiian Telcom's Reply Position Statement, filed on March 24, 2008, at 40 (Hawaiian Telcom and the Consumer Advocate have already stated that no hearing is necessary).

unnecessary, and thus, waive an evidentiary hearing in this proceeding. The commission approves the Parties' voluntary and intentional waiver of an evidentiary hearing. Accordingly, Procedural Steps Nos. 12, 13, and 14, as set forth in Order No. 23963, are hereby deleted as moot.

III.

Orders

THE COMMISSION ORDERS:

1. The Parties' voluntary and intentional waiver of an evidentiary hearing is approved.

2. Procedural Steps Nos. 12, 13, and 14, as set forth in Order No. 23963, filed on January 10, 2008, are deleted as moot.

DONE at Honolulu, Hawaii APR 10 2008.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By Carlito P. Caliboso  
Carlito P. Caliboso, Chairman

By John E. Cole  
John E. Cole, Commissioner

APPROVED AS TO FORM:

Michael Azama  
Michael Azama  
Commission Counsel

Leslie H. Kondo  
Leslie H. Kondo, Commissioner

2007-0233.laa

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 24141 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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Karen Higashi

DATED: APR 10 2008