

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)

COMMUNICATION LINES, INC. )

For a Certificate of Authority to )  
Provide Resold Competitive Local )  
Exchange and Interexchange )  
Telecommunications Services in the )  
State of Hawaii. )

DOCKET NO. 2007-0301

DECISION AND ORDER NO. 24224

Filed May 13, 2008  
At 1 o'clock P.M.

Karen Higashi  
Chief Clerk of the Commission

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Karen Higashi

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Docket No. 2007-0301  
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DECISION AND ORDER

By this Decision and Order, the commission grants COMMUNICATION LINES, INC. ("Applicant" or "CLI") a certificate of authority ("COA") to provide resold competitive local exchange and intrastate interexchange telecommunications services within the State of Hawaii ("State"), subject to certain regulatory requirements.<sup>1</sup>

I.

Background

Applicant, a Washington corporation, was founded on August 4, 2006.<sup>2</sup> It is authorized by the Department of Commerce

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<sup>1</sup>Application, Verification of Stanley J. Johnson, Exhibits A through D, dated August 29, 2007; Letter from Stacey Klinzman to the commission, filed November 20, 2007, transmitting confidential Exhibit D pursuant to Protective Order No. 23789 (collectively, "Application").

<sup>2</sup>Application, at 1.

and Consumer Affairs Business Registration Division to transact business in Hawaii as a foreign corporation, effective August 1, 2007.<sup>3</sup>

A.

Application

On August 29, 2007, Applicant filed an Application seeking a COA to provide resold competitive local exchange and intrastate interexchange telecommunications services to residential and commercial consumers within the State.<sup>4</sup> Applicant intends to provide all permitted local exchange and intrastate interexchange services, including post-paid service, prepaid service, bundled local and long distance services, custom calling features, and ancillary services to residential and commercial customers.<sup>5</sup> Applicant states:

Initially, Applicant proposes to provide prepaid local exchange service to residential customers, but intends to expand its services in the commercial market and to make postpaid and bundled local and long distance service offerings in the future. Applicant may also offer stand alone long distance service . . . . Local Exchange Service is to be provided in Hawaiian Telecom [sic], Inc.'s service area. Applicant will provide local exchange service via resale of the Hawaiian Telecom [sic], Inc.'s services and will resell the services of a Hawaii certified long distance carrier as well. Applicant will not purchase or construct facilities of its own.

Application, at 2-3.

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<sup>3</sup>Application, at Exhibit A, page 2.

<sup>4</sup>Application, at 1.

<sup>5</sup>Application, at 2.

Applicant states that it "will rely on the technical ability of its underlying carrier, Hawaiian Telecom [sic], Inc., which owns, operates and maintains the telecommunications network over which Applicant's calls will be carried."<sup>6</sup> Applicant represents that its principals have numerous years of experience in the management of a telecommunications company, including management relationships with incumbent carriers.<sup>7</sup>

Regarding financial ability, Applicant notes that it is a "start-up company that is not yet providing service in any state." It has provided a recent bank statement, projected balance sheet for 2008, 2009, 2010, income statements for 2008, 2009, 2010, and projected three year cash flow.<sup>8</sup>

Applicant represents that its "senior management have the experience and ability to ensure that quality telecommunications services are rendered to residents of Hawaii. Applicant is sufficiently funded to provide service via resale of Hawaiian Telecom [sic], Inc.'s services and will rely on the technical abilities of its underlying carrier . . . . Although Applicant is not currently providing service in any state, Applicant is authorized to provide local exchange telecommunications services in Alabama, Florida, Kentucky, Louisiana, Michigan, Mississippi, New Jersey, Tennessee, and Texas. Applications are pending in Georgia and Massachusetts."<sup>9</sup>

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<sup>6</sup>Application, at 3.

<sup>7</sup>Application, at 3.

<sup>8</sup>Application, at 3-4 and Exhibit D.

<sup>9</sup>Application, at 4.

Applicant contends that:

[A]pproval of its Application is in the public interest, because [Applicant's] market entry will bring a host of benefits to the State's telecommunications users, [including]:

- (i) increased diversity in the supply of telecommunications providers, which will offer additional and new consumer choices;
- (ii) the entry of new telecommunications providers into the State's telecommunications marketplace, which will have no adverse impact upon prices; instead, it will introduce competitive pressures that will foster lower prices;
- (iii) the entry of new telecommunications providers into the State['s] telecommunications marketplace, which will enhance competitive pressures that will foster higher quality service from all providers; and
- (iv) the universal availability and accessibility of high-quality, affordable telecommunications services to Hawaii residents without the imposition of deposits or credit checks.

Application, at 4-5. Applicant makes its request for a COA pursuant to Hawaii Administrative Rules ("HAR") § 6-80-17.<sup>10</sup>

B.

Consumer Advocate's Statement of Position

On October 31, 2007, the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY

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<sup>10</sup>Application, at 1. The commission also reviews applications for COAs pursuant to HAR § 6-80-18.

("Consumer Advocate")<sup>11</sup> filed its Statement of Position<sup>12</sup> informing the commission that it does not object to Applicant's COA request.<sup>13</sup> The Consumer Advocate "accepts Applicant's representation of its technical and managerial fitness to provide the resold telecommunications services described in the [A]pplication."<sup>14</sup> Also, the Consumer Advocate states, "[a]s for financial resources, CLI asserts that even though it is a start-up company, it has the financial ability to provide the proposed telecommunications service because CLI will be a reseller and will not have significant start-up costs or be required to make capital expenditures to begin service in Hawaii."<sup>15</sup> At the time of the Consumer Advocate's review, Applicant had not yet submitted its confidential Exhibit D, containing its financial information.<sup>16</sup>

Moreover, the Consumer Advocate states that "[b]ased on the filing of this application, Applicant has demonstrated its willingness to provide the proposed telecommunications services

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<sup>11</sup>The Consumer Advocate is an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and HAR § 6-61-62(a). No persons moved to intervene or participate in this docket.

<sup>12</sup>Consumer Advocate's Statement of Position; and Certificate of Service, filed on October 31, 2007 (collectively, "Statement of Position").

<sup>13</sup>Statement of Position, at 1.

<sup>14</sup>Statement of Position, at 3.

<sup>15</sup>Statement of Position, at 3.

<sup>16</sup>Statement of Position, at 3-4.

in conformity with the terms, conditions, and rules prescribed by the [c]ommission."<sup>17</sup>

The Consumer Advocate "believes that, based on the presumed fitness and ability of Applicant, CLI's proposed services will be in the public interest."<sup>18</sup> The Consumer Advocate concurs with Applicant that "CLI's entry into Hawaii's telecommunications industry will foster competition, which is desirable to achieve the benefits that would be nonexistent in a monopolistic environment."<sup>19</sup>

Finally, with regard to Applicant's tariff, the Consumer Advocate states that Applicant's tariff should be modified as follows:

- Under the section Liability of the Company, Applicant shall include the statement: "In the event of a conflict with State law, State law shall prevail."
- To better conform to the standard format for telecommunications tariffs filed in the State, the Consumer Advocate recommends that Applicant insert the tariff sheet designation "Original Sheet \_\_\_\_" (or "Revised Sheet \_\_\_\_" if the sheet has been revised) in the upper right-side header directly below the label "HAWAII PUC TARIFF NO. 1."

Statement of Position, at 5.

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<sup>17</sup>Statement of Position, at 4.

<sup>18</sup>Statement of Position, at 4.

<sup>19</sup>Statement of Position, at 5.

## II.

### Discussion

#### A.

#### COA

HRS § 269-7.5 prohibits a public utility from commencing business in the State without first obtaining a certificate of public convenience and necessity ("CPCN") from the commission.<sup>20</sup> HAR § 6-80-18(a) states that:

The commission shall issue a certificate of authority to any qualified applicant, authorizing the whole or any part of the telecommunications service covered by the application, if it finds that:

- (1) The applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the proposed telecommunications service in the State;
- (2) The applicant is fit, willing, and able to properly perform the proposed telecommunications service and to conform to the terms, conditions, and rules prescribed or adopted by the commission; and
- (3) The proposed telecommunications service is, or will be, in the public interest.

HAR § 6-80-18(a).

Upon review of the record herein, the commission makes the following findings pursuant to HAR § 6-80-18(a):

1. Applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the proposed services as Applicant's principals have numerous years

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<sup>20</sup>On June 3, 1996, HAR chapter 6-80 took effect. HAR 6-80, among other things, replaced the CPCN with a COA for telecommunications carriers, and established procedures for requesting and issuing a COA.



of experience in the management of a telecommunications company, including management of relationships with incumbent carriers; and Applicant has authorization in multiple states to provide local exchange telecommunications services, including Alabama, Florida, Kentucky, Louisiana, Michigan, Mississippi, New Jersey, Tennessee, and Texas (with applications pending in Georgia and Massachusetts).<sup>21</sup> In addition, the commission notes the Consumer Advocate's assertion that Applicant has the managerial and technical abilities to provide the proposed telecommunications services within the State.

2. Applicant is fit, willing, and able to properly perform the telecommunications services proposed and to conform to the terms, conditions, and rules prescribed or adopted by the commission, as evidenced by Applicant's representations and the documents submitted in support of its Application, including its confidential financial statements. Moreover, the commission's grant of a COA to Applicant to provide the proposed services will be conditioned upon Applicant's conformity to the terms, conditions, and rules prescribed or adopted by the commission as discussed below.

3. Applicant's proposed telecommunications services are in the public interest. The commission recognizes that additional service providers in the telecommunications market in the State increases competition, providing consumers with added options to meet their needs. As noted by the Consumer Advocate,

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<sup>21</sup>Application, at 4.

"CLI's entry into Hawaii's telecommunications industry will foster competition, which is desirable to achieve the benefits that would be nonexistent in a monopolistic environment."<sup>22</sup>

Based on the foregoing, the commission concludes that Applicant should be granted a COA to provide resold competitive local exchange and intrastate interexchange telecommunications services to residential and commercial consumers within the State as described in its Application.

B.

Tariff Revisions

Upon review of Applicant's proposed initial tariff, attached as Exhibit B to the Application, the commission finds appropriate the tariff revisions proposed by the Consumer Advocate, together with other revisions based on the commission's review of Applicant's proposed tariff. Thus, the commission concludes that Applicant's proposed tariff, Hawaii PUC Tariff No. 1, should be revised as follows:

1. In section 2.1.3, "Liability of the Company," include the statement: "In the event of a conflict with State law, State law shall prevail."
2. For consistency with the standard format for telecommunications tariffs, the header of the tariff should be amended by inserting the tariff sheet designation "Original Sheet \_\_\_\_" (or "Revised Sheet \_\_\_\_" if the sheet has been revised) in the upper right-side header directly below the label "HAWAII PUC TARIFF NO. 1."

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<sup>22</sup>Statement of Position, at 5.

3. In section 2.7.2.C, include a reference to a toll-free telephone number which customers may use for repair service or billing inquiries pursuant to HAR §§ 6-80-114(6) and 6-80-107(1).
4. In section 2.8, incorporate the requirements of HAR § 6-80-103, regarding adjustments for out of service conditions.
5. Throughout the tariff, and in particular, section 3, "Services," correct the spelling of Hawaiian Telcom, Inc.'s name.

In addition, Applicant shall file a copy of its local exchange tariff prior to commencing service in accordance with commission rules.

### III.

#### Orders

##### THE COMMISSION ORDERS:

1. Applicant is granted a COA to provide resold competitive local exchange and intrastate interexchange telecommunications services within the State, as described in its Application.

2. As the holder of a COA, Applicant shall be subject to all applicable provisions of HRS chapter 269; HAR chapters 6-80 and 6-81; any other applicable State laws and commission rules; and any orders that the commission may issue from time to time.

3. Applicant shall file its tariffs in accordance with HAR §§ 6-80-39 and 6-80-40. Applicant's tariffs shall comply with the provisions of HAR chapter 6-80. In the event of a conflict between any tariff provision and State law, State law shall prevail.

4. Applicant shall conform its tariff to all applicable provisions of HAR chapter 6-80 by, among other things, incorporating the tariff provisions referred to or set forth in Section II.B of this Decision and Order. An original and eight (8) copies of the initial tariff shall be filed with the commission, and two (2) additional copies shall be served on the Consumer Advocate. Applicant shall ensure that the appropriate issued and effective dates are reflected in its tariffs.

5. Within thirty (30) days from the date of this Decision and Order, Applicant shall also pay a telecommunications relay service ("TRS") contribution of \$8.00, established pursuant to: (A) HRS § 269-16.6; and (B) Decision and Order No. 23481, filed on June 7, 2007, in Docket No. 2007-0113. The business check shall be made payable to "Hawaii TRS", and sent to the Hawaii TRS Administrator, Solix, Inc.,<sup>23</sup> 100 S. Jefferson Road, Whippany, NJ 07981. Written proof of payment shall be sent to the commission.

6. Failure to promptly comply with the requirements set forth in paragraphs 3 to 5, above, may constitute cause to void this Decision and Order, and may result in further regulatory action, as authorized by law.

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<sup>23</sup>Solix, Inc. was formerly known as NECA Services, Inc.

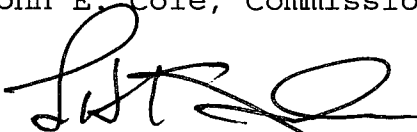
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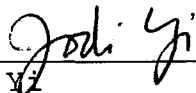
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
John E. Cole, Commissioner

By   
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

  
Jodi Yi  
Commission Counsel

2007-0301.laa

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 24224 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

CATHERINE P. AWAKUNI  
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Karen Higashi

DATED: MAY 13 2008