

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)

TOTAL HOLDINGS, INC., dba)
GTC COMMUNICATIONS)

DOCKET NO. 2008-0263

For a Certificate of Authority to)
Provide Resold Intrastate)
Telecommunications Services.)

DECISION AND ORDER

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

PUBLIC UTILITIES
COMMISSION

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FILED

Applicant is a California corporation with its principal place of business located in Los Angeles, California. Applicant was incorporated in February 2008, and was certified by the State of Hawaii, Department of Commerce and Consumer Affairs to transact business in the State as a foreign corporation, effective August 18, 2008.

A.

Application

On October 15, 2008, Applicant filed an application seeking a COA to provide resold telecommunications services in the State.¹ In its Application, Applicant states its intent to: (1) operate as a reseller of interexchange telecommunications services; and (2) provide interexchange services, such as outbound 1+ dialing, travel card, prepaid calling card, and 800/888 toll-free inbound services. Applicant represents that it is willing and able to perform the proposed telecommunications services on a continuous basis, and that it will comply with all applicable provisions of HRS chapter 269, HAR chapters 6-80 and 6-81, and all other applicable State laws and commission rules. Moreover, Applicant contends that approval of its request is in the public interest.

B.

Consumer Advocate's Statement of Position

On November 5, 2008, the Consumer Advocate filed its Statement of Position ("CA's SOP") stating that it does not object to approval of Applicant's request. However, its position was conditioned on Applicant: (1) modifying its tariff in

¹Applicant filed its application, verification, and exhibits 1-3, on October 15, 2008 (collectively, "Application"). Applicant served copies of the Application on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party to all proceedings before the commission. See Hawaii Revised Statutes ("HRS") § 269-51; Hawaii Administrative Rules ("HAR") § 6-61-62. No persons moved to intervene in this proceeding.

accordance with the recommendations set forth in Section II.D of the CA's SOP; and (2) submitting current financial statements as required under HAR § 6-80-17(c)(1)(E).²

Among other things, the Consumer Advocate states that it "accepts Applicant's representation that it has the managerial and technical abilities to provide its proposed services in Hawaii."³ Moreover, the Consumer Advocate determined (based on the presumed fitness and ability of Applicant) that Applicant's proposed services would be in the public interest.

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.⁴ HAR § 6-80-18(a) states that:

The commission shall issue a certificate of authority to any qualified applicant,

²On December 1, 2008, Applicant submitted appropriate copies of its revised tariffs and current financial statements in response to the CA's SOP. Given the above, the Consumer Advocate's initial recommendations regarding Applicant's tariff revisions and financial statements are now moot.

³See CA's SOP at 3.

⁴On June 3, 1996, HAR chapter 6-80 took effect. HAR chapter 6-80, among other things, replaced the CPCN with a COA for telecommunications carriers, and established procedures for requesting and issuing a COA.

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.

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

1. Applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the proposed services, as evidenced by the description of the qualifications of Applicant's management team and the financial statements submitted in support of its Application.

2. Applicant is fit, willing, and able to properly perform the telecommunications services and to conform to the terms, conditions, and rules prescribed or adopted by the commission, as evidenced by Applicant's representations and the documents submitted in support of its Application. 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, "entry of many telecommunications service providers in the Hawaii market serves to mitigate many traditional public utility regulatory concerns regarding the proposed grant of the requested COA. Therefore, if there are any adverse consequences from the proposed transaction, Hawaii's consumers of Applicant's telecommunication services will have the option of selecting another service provider."⁵

Based on the foregoing, the commission concludes that Applicant should be granted a COA to provide intrastate telecommunications services within the State, as described in the Application.

B.

Tariff Revisions

As noted above, Applicant filed revised tariff sheets on December 1, 2008, in which it incorporated the changes recommended by the Consumer Advocate in its SOP. The commission finds that Applicant's revisions to its tariff, based on the Consumer Advocate's tariff revision recommendations, are reasonable and appropriate.

⁵See CA's SOP at 5.

III.

Orders

THE COMMISSION ORDERS:

1. Applicant is granted a COA to provide resold intrastate telecommunications services in the State, as described in its Application.

2. As the holder of a COA, Applicant shall be subject to all applicable provisions of HRS chapter 269; HAR chapters 6-80 and 6-81; any other applicable State laws and 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. An original and eight copies of the initial tariff shall be filed with the commission, and two 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 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, filed on June 27, 2008, in Docket No. 2008-0089. The business check shall be made payable to "Hawaii TRS", and sent to the

Hawaii TRS Administrator, Solix, Inc.,⁶ 100 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.

DONE at Honolulu, Hawaii FEB 18 2009.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

By Leslie H. Kondo
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

Ji Sook Kim
Ji Sook Kim
Commission Counsel

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⁶Solix, Inc. was formerly known as NECA Services, Inc.

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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

ALICE BRESLOW
COMPLIANCE PARALEGAL
TOTAL HOLDINGS, INC., dba GTC COMMUNICATIONS
707 Wilshire Boulevard, Floor 12
Los Angeles, CA 90017

MARK LEAFSTEDT
CEO, TREASURER
TOTAL HOLDINGS, INC., dba GTC COMMUNICATIONS
707 Wilshire Boulevard, Floor 12
Los Angeles, CA 90017