

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
MATRIX TELECOM, INC.)
For a Certificate of Authority.)
_____)

DOCKET NO. 2007-0007

DECISION AND ORDER NO. 23447

Filed May 18, 2007
At 12 o'clock P.M.

Karen Higashi.
Chief Clerk of the Commission

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

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

Karen Higashi.

("Application").² Applicant's service offering will include using a combination of its own facilities, unbundled network elements leased from the incumbent local exchange carrier, services obtained pursuant to commercial wholesale agreements with other carriers, and resold telecommunications services. Applicant represents that it intends initially to lease unbundled network elements from the incumbent local exchange carrier, or enter into similar wholesale arrangements, and to "deploy and maintain [Applicant]-owned facilities as soon as customer saturation can support such deployment."³

According to Applicant, its entry into the market will serve the public interest by promoting greater competition in the Hawaii telecommunications markets, to the ultimate benefit of consumers. In particular, according to Applicant, the public will benefit directly via lower prices for telecommunications services, higher service quality, and increased innovation by other carriers due to increased competition in the telecommunications market. Applicant asserts that commission approval of its Application will give Applicant the additional flexibility it needs to meet its customers' needs through resale, facilities-based arrangements, commercial wholesale agreements, leased unbundled network elements, or some combination of these.

²Applicant 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.

³Application at section X.
2007-0007

B.

Consumer Advocate's Statement of Position

On February 7, 2007, the Consumer Advocate filed its Statement of Position informing the commission that it does not object to commission approval of Applicant's request for expansion of its COA provided that (1) Applicant modifies its tariff in accordance with the Consumer Advocate's recommendations, and (2) submits copies of its most recent financial statements, pursuant to HAR § 6-80-17(c)(1)(E) ("Statement of Position"). According to the Consumer Advocate, Applicant appears to possess the necessary technical and managerial abilities to provide the telecommunications services and is willing to provide the proposed services. In addition, according to the Consumer Advocate, Applicant's services will provide increased competitive choices, and effective competition will mitigate many of the traditional public utility regulatory concerns present in a monopolistic environment.

Upon a review of Applicant's proposed tariff submitted with the Application ("Proposed Tariff"), however, the Consumer Advocate recommends the following changes to the Proposed Tariff:

1. Applicant's Proposed Tariff should be designated "Hawaii P.U.C. Tariff No. 2", on the right-side header of each tariff sheet as is the standard tariff format, to distinguish it from the tariff filed in accordance with Decision and Order No. 21882.⁴

⁴The Consumer Advocate also recommends that Applicant update its Hawaii P.U.C. Tariff No. 1 with "the proper company issuer's name and address if warranted to be consistent with information submitted in the instant filing." Statement of Position at 7.

2. Modify the first sentence on Original Page 17, Section 1.3, Notification of Service Affecting Activities, to read "When possible, the Company will provide the Customer reasonable notification of at least 24 hours of service-affecting activities" to ensure that a customer receives a reasonable amount of time for notification of any service-affecting activities to be performed by Applicant.
3. On Original Page 29, Section 1.8.5 A, Inspections, modify the first sentence to read "Upon reasonable notification to the Customer of at least 24 hours when possible," to ensure that the customer has a reasonable amount of time to make preparations for the Applicant's test and inspections of their facilities, and for any possible interruption of service that may result.
4. Original Page 31, Section 1.9.2 D, Bills and Collection of Charges, modify the second sentence to read that a late payment charge of 1.5%, or lower if required by law, shall apply per month to amounts not in dispute, consistent with HAR § 6-80-102(a).
5. Amend the title of Section 1.9.3 on Original Page 32 to include the term "Customer Complaints". If Applicant desires, it may establish a separate section for "Customer Complaints".
6. Modify the second sentence on Original Page 32, Section 1.9.3 A to notify customers that "the existence of a disputed amount does relieve the customer of their obligation to pay current charges not in dispute" consistent with HAR § 6-80-102(a). Additionally, the Consumer Advocate recommends that Applicant include in this section, and on its bills, a toll free telephone number that can be used by a customer 24 hours a day, 7 days a week, for complaints, in accordance with HAR § 6-80-107(1).
7. Amend Original Page 32, Section 1.9.3 D, to include information that all customer complaints and billing disputes are subject to HAR §§ 6-80-107 and 6-80-102, and provide the commission's address and telephone number for customer complaints, in accordance with HAR § 6-80-107(4).

8. Amend Section 1.10.1 B on Original Page 34 by inserting the following sentence: "If the notification is mailed to the customer, the customer shall be allowed an additional two days to respond", in accordance with HAR § 6-80-106(c). In the alternative, Applicant may simply change the listed notification interval to seven (7) days without inserting the above sentence.
9. Amend Section 1.10.1 B (ii) on Original Page 34 to read "Failure to pay amounts not in dispute of a bill for service" to be consistent with HAR § 6-80-102(a).

In addition to the above-noted tariff revisions, the Consumer Advocate also recommends that Applicant be required to submit copies of its most recent financial statements, pursuant to HAR § 6-80-17(c)(1)(E).⁵

II.

Discussion

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.⁶ 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

⁵Pursuant to Protective Order No. 23403, filed on May 1, 2007, Applicant filed copies of its most recent financial statements with the commission on May 7, 2007.

⁶On 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.

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 Application, 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 expanded services, as evidenced by the descriptions of the qualifications of Applicant's key management personnel.

2. Applicant is fit, willing, and able to properly perform the expanded 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 claims. Moreover, the commission's grant of an expanded COA to Applicant to provide the proposed services will continue to 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 State's telecommunications market increase competition and provide consumers with added options to meet their needs. As noted by the Consumer Advocate, "[t]he introduction of effective competition in the telecommunications industry is desirable to achieve the benefits

that would not be present in a monopolistic environment. As such, the entry of additional service providers should further the goal of effective competition in Hawaii's telecommunications market."⁷

Based on the foregoing, and on the condition that Applicant incorporate the changes to its Proposed Tariff as set forth in Section I.B above, the commission concludes that Applicant should be granted an expanded COA to also provide facilities-based telecommunications services in the State, as described in its Application.

III.

Orders

1. Applicant's COA is expanded to allow it to operate as a facilities-based carrier, reseller of intrastate telecommunications services and provider of operator services in the State.

2. As the holder of a COA, Applicant shall continue to 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 continue to file its tariff 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.

⁷See Statement of Position at 5.

4. Applicant shall conform its existing tariff to reflect its expanded service and to all applicable provisions of HAR chapter 6-80 by, among other things, incorporating the required tariff revisions set forth in Section I.B of this Decision and Order. An original and eight copies of Applicant's revised 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 tariff.

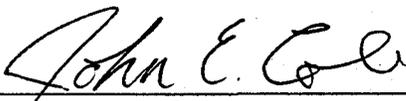
5. Pursuant to HRS § 269E-6, if Applicant will own, operate, or maintain any subsurface installation, Applicant shall: (1) pay to the commission, within thirty days from the date of this Decision and Order, a one-time registration fee of \$350 for the administration and operation of the Hawaii One Call Center, pursuant to Decision and Order No. 23086, filed on November 28, 2006, in Docket No. 05-0195;; and (2) register as an operator, as defined by HRS § 269E-2, with the Hawaii One Call Center by calling (877) 668-4001.

6. Failure to promptly comply with the requirements set forth in paragraphs 3 and 4, 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 MAY 18 2007.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

APPROVED AS TO FORM:


Benedyne S. Stone
Commission Counsel

2007-0007.dhi

CERTIFICATE OF SERVICE

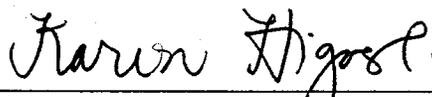
I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 23447 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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

RICHARD R. CAMERON
LATHAM & WATKINS LLP
555 Eleventh Street, N.W., Suite 1000
Washington, D.C. 20004

DANA HOYLE, MANAGER OF REGULATORY AFFAIRS
MATRIX TELECOM, INC.
7171 Forest Lane, Suite 700
Dallas, Texas 75230

SCOTT KLOPACK
VP OF REGULATORY AND GENERAL COUNSEL
MATRIX TELECOM, INC.
7171 Forest Lane, Suite 700
Dallas, Texas 75230



Karen Higashi

DATED: MAY 18 2007