

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
)
PUBLIC UTILITIES COMMISSION) (NON-DOCKETED)
)
Commission Suspension of Termination)
or Disconnection of Services Due to)
Non-Payment Related to Maui Wildfires)
and Directing Affected Maui Utilities)
to Pursue All Available Aid.)
_____)

ORDER NO. 40313

CONTINUING SUSPENSION OF TERMINATION OR DISCONNECTION OF MAUI
UTILITIES' REGULATED UTILITY SERVICES DUE TO CUSTOMER
NON-PAYMENT AND/OR ASSESSMENT OF CERTAIN OTHER CHARGES

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By this Order, based on the extraordinary circumstances related to the August 2023 Maui wildfires ("Wildfires"), the Hawaii Public Utilities Commission ("Commission") directs that, during the pendency of the Governor's Emergency Proclamations Relating to Wildfires ("Ongoing Suspension Period"),¹ unless otherwise ordered and subject to the conditions

¹"Ongoing Suspension Period" starts from August 8, 2023, the issuance date of Acting Governor Sylvia Luke's First Emergency Proclamation relating to the Maui Wildfires and continues thereafter, as extended by Governor Josh Green. "First Proclamation Related to Wildfires," available at: <https://dod.hawaii.gov/hiema/governor-issues-emergency-proclamation-relating-to-wildfires/>. On September 8, 2023, Governor Green issued the Seventh Proclamation Related to Wildfires, effective through November 6, 2023, superseding the Sixth Proclamation Relating to Wildfires, issued on

herein: (1) all Commission-regulated electric, gas, telecommunications, water, and wastewater public utilities located on Maui, or providing utility service on Maui ("Maui Utilities," or "Maui Utility," individually), suspend disconnections of electricity, gas, telecommunications, water, and wastewater services² and associated disconnection fees; (2) any and all rules

August 19, 2023. Governor's "Seventh Proclamation Related to Wildfires," available at: <https://governor.hawaii.gov/wp-content/uploads/2023/09/2309064.pdf>.

The Commission also notes that on August 21, 2023, Maui Electric Company, Ltd. ("MECO") filed an application (assigned to Docket No. 2023-0349) requesting Commission approval for "the deferral of costs related to the Company's response and restoration efforts and other expenses arising from and associated with the recent Maui windstorm and wildfires event . . . beginning from August 8, 2023, the date the Company commenced emergency response and restoration efforts." "Application of Maui Electric Company, Limited; Exhibits A-C; Verification," filed on August 21, 2023, in Docket No. 2023-0349, at 1 ("Application"). The Commission distinguishes the deferral of costs related specifically and only to suspension of disconnections authorized here, from MECO's request in its Application, and will also address this, as needed, in any orders regarding that Application.

As discussed in Ordering Paragraph No. 12, below, the Commission will continue to periodically review the ongoing Maui Utility reporting to determine whether to maintain the Ongoing Suspension Period and will announce any upcoming changes or a disconnection suspension sunset by subsequent order.

²The Commission issued Order No. 40218 (Non-Docketed), "Directing Maui Utilities to Suspend Termination or Disconnection of Regulated Utility Services Due to Non-Payment and/or Assessment of Other Charges Through October 17, 2023, and Directing Affected Maui Utilities to Pursue All Available Aid," on August 31, 2023 ("Order No. 40218"). The Commission noted in Order No. 40218 that it would "assess whether to extend the Suspension Period prior to October 17, 2023," and would issue an order

and provisions of individual utility tariffs that prevent or condition re-connection of disconnected customers, including new connection fees and deposits, shall be suspended;

(3) Maui Utilities shall not charge customers interest on past due payments, or impose any late payment fees; (4) each of these Maui Utilities is authorized to establish regulatory assets to record costs directly related to the suspension of disconnections (e.g., incremental bad debt expense³) and shall record receipt of governmental aid and donation-based aid, loans or grants, and/or all other assistance measures, and any cost savings realized;

(5) the filing of emergency or general rate increases in response to the emergency situation is discouraged; and (6) any Maui Utility shall file a notice with the Commission regarding any upcoming application or other request pursuant to HRS §§ 269-16.3, -17, -17.5, -18, -19, or -19.5, and/or regarding any significant financial change to the Maui Utility, at least sixty (60) days prior to filing such application or other request with the

addressing this issue prior to that date. Order No. 40218 at 2 n.2.

³By "incremental bad debt expense," the Commission refers to customer non-payment of bills that exceeds the amount a utility expects or allows for in base rates. The Commission understands utilities may use different terms for this expense.

Commission ("Notice").⁴ In the Notice, the Maui Utility shall describe, in detail, the nature of the upcoming application or other request, the expected timing for filing of that application or request, and any requested timing for a Commission decision. Further, apart from any Notice described above, to the extent applicable, the Maui Utility shall file a monthly report by the last day of the month (first report due October 31, 2023) with a brief description of the status, including the procedural posture and any new or amended claims related to any Wildfire-related litigation involving the Maui Utility, whether pending or yet to be filed (e.g., the Maui Utility has prior knowledge regarding any such upcoming action).⁵

As noted in Order No. 40218, if a utility elects to utilize deferred accounting for disconnection suspension costs while the disconnection suspension is still in effect, the Commission will assess, in appropriate future proceedings (i.e., rate case, application for cost recovery, etc.), whether

⁴The obligation for a Maui Utility to provide Notice also applies to any upcoming application or other request to be filed with the Commission by the Maui Utility parent company/ies.

⁵This report shall include all Wildfire-related litigation, including past litigation as well as any newly-filed and pending lawsuits. The Maui Utility shall also provide any publicly available information not yet reported to the Commission about any previously-pending lawsuits that have been concluded since a prior month's report.

each Maui Utility's request for recovery of these regulatory assets is reasonable and necessary, the appropriate period of recovery for the approved amount of regulatory assets, any amount of carrying costs thereon, any savings directly attributable to suspension of disconnects, and other related matters.

The Commission also continues to direct, during and after the Ongoing Suspension Period, the Maui Utilities affected by the Wildfires to pursue all available aid, including but not limited to any federal funding.⁶ The Commission also urges the Maui Utilities to consider proactive actions that enable customers to pay their utility bills to the extent feasible during and after the Ongoing Suspension Period, to mitigate the risks of customer disconnection after the Ongoing Suspension Period ends, and to facilitate utility financial integrity during the Ongoing Suspension Period.⁷

Maui Utilities should continue to work with customers to coordinate payment plans, in efforts to prevent a customer from having to pay a future large lump sum bill following the Ongoing

⁶See Order No. 40218 at 6.

⁷Order 40218 at 6-7, suggested, for example, that the Maui Utilities should prioritize educating customers by, among other things, identifying sources of available public and/or private aid that may be available to customers, such as the Low Income Home Energy Assistance Program (LIHEAP) and the Low Income Household Water Assistance Program (LIWAP).

Suspension Period. The Commission also encourages Maui Utilities to emphasize to customers the importance of energy efficiency and water conservation, which can help in reducing bills as well as the likelihood of disconnection.

THE COMMISSION ORDERS:

1. Maui Utilities, beginning from the date of the Acting Governor's First Emergency Proclamation relating to the Maui Wildfires issued on August 8, 2023 and continuing during the Ongoing Suspension Period, unless otherwise ordered by the Commission, shall continue to (a) suspend disconnections of electricity, gas, telecommunications, water, and wastewater services and associated disconnection fees; and (b) suspend any and all rules and provisions of individual utility tariffs that prevent or condition re-connection of disconnected customers, including new connection fees and deposits.

2. Each Maui Utility continues to be authorized to establish regulatory assets to record costs directly related to the suspension of disconnections (e.g., incremental bad debt expense) and shall record receipt of governmental aid and donation-based aid, loans or grants, all other assistance measures, and any cost savings realized during the Ongoing Suspension Period.

3. The Commission will discuss, via future order, details regarding Maui Utilities' payment plans or other

reasonable arrangements for customers once the suspension of disconnections are lifted, as appropriate.

4. The Commission also directs Maui Utilities not to charge customers interest on past due payments, or impose any late payment fees, through the Ongoing Suspension Period.

5. During the Ongoing Suspension Period, any Maui Utility that books regulatory assets consistent with the authorization provided in this Order, shall also file a quarterly report (the next relevant quarter ends on December 31, 2023, and the quarterly report is due on the last day of the month following the quarter's end), detailing the amounts of the incremental costs incurred and any savings realized, which have been booked to the regulatory assets. These quarterly reports should include: (a) updated information regarding status of the Maui Utility's provision of services to its customers, and any details regarding significant changes to its customer base; (b) the Maui Utility's financial condition, (c) a list of the measures the Maui Utility has in place, if any, to assist its customers during the Maui Wildfire emergency situation, and (d) a discussion of the Maui Utility's education and outreach efforts to assist customers with continuing to pay their utility bills and mitigating any adverse

impacts.⁸ A Maui Utility shall inform the Commission in its quarterly reports if a previously-reported upon measure the Maui Utility had in place to assist customers has since been terminated, as well as a short description of the Utility's rationale for the termination of that measure.⁹ The Maui Utility shall also provide information regarding the status of the Maui Utility's provision of service to customers and any significant change in its customer base as a result of the Wildfires or its current financial condition.

6. This Order shall not affect a Maui Utility's ability to disconnect a customer's service for public safety concerns unrelated to non-payment of services.

7. The Commission also emphasizes that customers should continue paying their bills to the extent possible during the Ongoing Suspension Period, but also states that it issues this

⁸The Commission notes that pursuant to a request from Maui Electric Company, Limited, dated September 29, 2023, the due dates for MECO's reports pursuant to this Paragraph have been adjusted to being due on the last business day of the month following quarter end, rather than on the 15th day of the month following quarter end. For consistency of reporting due dates, the Commission thus changes the due date for these reports for all Maui Utilities to the last business day of the month following quarter end.

⁹The Commission directs that even if a Maui Utility opts not to book regulatory assets pursuant to the authorization provided in this Order, the Maui Utility should still send a quarterly status update to the Commission pursuant to this Paragraph, because that information is useful to future decision-making related to the ongoing disconnection suspension.

Order to acknowledge that the Maui Wildfires have resulted in significant disruption to some customers' ability to make those payments.

8. If a Maui Utility subject to this Order maintains a website, such Maui Utility shall provide notice of this Order's content on such website, and in any other prominent place that the Utility finds will help inform its customers.

9. The Commission also directs Maui Utilities affected by the Wildfires to pursue all available aid, including federal funding, during and after the Ongoing Suspension Period. The Commission discourages requests for emergency rate relief or general rate increases in response to the emergency situation. Further, the Commission urges the Maui Utilities, beyond the Ongoing Suspension Period to continually educate customers as to any sources of possible aid, the availability of payment plans, and efforts to reduce bills through efficiency or conservation.

10. The Commission further establishes an ongoing requirement that a Maui Utility file a Notice with the Commission regarding any upcoming application or other request pursuant to HRS §§ 269-16.3, -17, -17.5, -18, -19, or -19.5, and/or regarding any significant financial change to the Maui Utility, at least

sixty (60) days prior to filing such application or other request.¹⁰ In the Notice, the Maui Utility shall describe, in detail, the nature of the upcoming application or request, the expected timing for filing of that application or request, and any requested timing for a Commission decision. Further, apart from any Notice described above, to the extent applicable, the Maui Utility shall file a monthly report by the last day of the month (first report due October 31, 2023) with a brief description of the status, including the procedural posture and any new or amended claims related to any Wildfire-related litigation involving the Maui Utility, whether pending or yet to be filed (e.g., the Maui Utility has prior knowledge regarding any such upcoming action).¹¹

11. As noted in Order No. 40218, if a utility elects to utilize deferred accounting for disconnection suspension costs while the disconnection suspension is still in effect, the Commission will assess, in appropriate future proceedings (i.e., rate case, application for cost recovery, etc.), whether each Maui

¹⁰As set forth above, the obligation for a Maui Utility to provide notice to the Commission also applies to any upcoming application or other request to be filed with the Commission by the Maui Utility parent company/ies.

¹¹This report shall include all Wildfire-related litigation, including past litigation as well as any newly-filed and pending lawsuits. The Maui Utility shall also provide any publicly available information not yet reported to the Commission about any previously-pending lawsuits that have been concluded since a prior month's report.

Utility's request for recovery of these regulatory assets is reasonable and necessary, as well as the appropriate period of recovery for the approved amount of regulatory assets, any amount of carrying costs thereon, any savings directly attributable to suspension of disconnects, and other related matters.


12. The Commission will continue to periodically review the ongoing Maui Utility reporting to determine whether to maintain the Ongoing Suspension Period and will announce any upcoming changes or a disconnection suspension sunset by subsequent order.

DONE at Honolulu, Hawaii OCTOBER 13, 2023.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 

Leodoloff R. Asuncion, Jr., Chair

By 

Naomi U. Kuwaye, Commissioner

By 

Colin A. Yost, Commissioner

APPROVED AS TO FORM:



Caroline C. Ishida
Commission Counsel

Non-Docketed Order.ljk

Non-Docketed

CERTIFICATE OF SERVICE

The foregoing Order was served on the date of filing by
electronic mail addressed to the following parties:

MICHAEL ANGELO
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND
CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
mangelo@dcca.hawaii.gov

KEVIN M. KATSURA
DIRECTOR, REGULATORY NON-RATE
PROCEEDINGS
HAWAIIAN ELECTRIC COMPANY, INC.
HAWAI'I ELECTRIC LIGHT COMPANY,
INC.
MAUI ELECTRIC COMPANY, INC.
kevin.katsura@hawaiianelectric.com

DIAMOND JAKE GIACOMELLI
SENIOR BUSINESS AND
REGULATORY ANALYST
THE GAS COMPANY, LLC
dba HAWAI'I GAS
dgiacomelli@hawaiiigas.com
regulatoryaffairs@hawaiiigas.com

STEVEN P. GOLDEN
HAWAIIAN TELCOM, INC.
steven.golden@hawaiiantel.com

JANICE L. ONO
AREA MANAGER - REGULATORY
AT&T CORP.
Janice.Ono@att.com

BREANNE KAHALEWAI
PRESIDENT
SANDWICH ISLES COMMUNICATIONS,
INC.
abbyt@sandwichisles.com

DANIEL MELDAZIS
ONVOY, LLC
taxdepartment@inteligent.com

ANDREW M. LANCASTER
MANAGER
SPRINT COMMUNICATIONS COMPANY
L.P.
Andy.M.Lancaster@sprint.com

MIKE METHVIN
TAX DIRECTOR
SPOK, INC.
matt.ford@spok.com

ROBERT CLEARY
VICE PRESIDENT
800 RESPONSE INFORMATION
SERVICES LLC
bcleary@800response.com

SCOTT ALLEN
CHIEF FINANCIAL OFFICER
ACCESSLINE COMMUNICATIONS
CORPORATION
dba VOICE TELCO SERVICES
sdesgrousilliers@intermedia.net

Certificate of Service

Page 2

JOSEPH T. KOPPY
CHIEF FINANCIAL OFFICER
AFFINITY NETWORK INCORPORATED
jrenneker@nos.com

REBECCA WEST
STAFF MANAGER
BROADVIEW NETWORKS, INC.
becky.west@windstream.com

ANDRE SIMONE
CHIEF FINANCIAL OFFICER
AIRUS, INC.
asimone@intelepeer.com

SUSAN RAPINZ
REGULATORY MANAGER
BROADVOX-CLEC, LLC
info@inteserra.com

JUDITH A RILEY
ANPI BUSINESS, LLC
jriley@telecompliance.net

KATE O'CONNOR
CHIEF FINANCIAL OFFICER
BUEHNER-FRY, INC.
MBCoker@TheNavisWay.com

LISA JILL FREEMAN
VP & REGULATORY COMPLIANCE
OFFICER
BANDWIDTH.COM CLEC, LLC
ljsfreeman@bandwidth.com

MARY GARRIS
CENTURYLINK COMMUNICATIONS, LLC
mary.garris@centurylink.com

ACN COMMUNICATIONS SERVICES, LLC
mark@csilongwood.com

RICHARD MINEROINO
COMTECH 21, LLC
regulatory@comtech21.com

TAMMY FERBER
CONTROLLER
AMERIVISION COMMUNICATIONS, INC.
tferber@affinity4.com

JEFF KORN
CHIEF LEGAL OFFICER
CREXENDO BUSINESS SOLUTIONS,
INC.
jkorn@storesonline.com

JOSEPH O' HARA
CHIEF FINANCIAL OFFICER
ANPI, LLC
johara@anpisolutions.com

MENDEL BIRNBAUM
VICE PRESIDENT
DYNALINK COMMUNICATIONS, INC.
mendel@dynalinktel.com

KATHLEEN GOREY
REGULATORY MANAGER
BCN TELECOM, INC. (COA)
kgorey@bcntele.com

MARY GARRIS
BROADWING COMMUNICATIONS, LLC
mary.garris@centurylink.com

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Page 3

WENDY HEE
PRESIDENT
CLEARCOM, INC.
abbyt@sandwichisles.com

JOSEPH A. NICOTRA
PRESIDENT
CONSUMER TELCOM, INC.
abloom@idxx.com

FERNANDA BIEHL
CROWN CASTLE NG WEST LLC
PUC.Correspondence@crowncastle.com

REBECCA WEST
STAFF MANAGER
DELTACOM, LLC
dba EARTHLINK BUSINESS I
becky.west@windstream.com

GINA LAWRENCE
eNETWORKS, LLC
gina.lawrence@essentia-inc.com

DANIEL I. TIMM
CHIEF FINANCIAL OFFICER
EXTENET SYSTEMS, INC.
compliance@util.extenetsystems.com

JOSEPH TOPEL
REGULATORY MANAGER
FRANCE TELECOM CORPORATE
SOLUTIONS L.L.C. (COA)
joe.topel.ext@orange.com

MARY GARRIS
GLOBAL CROSSING
TELECOMMUNICATIONS, INC.
mary.garris@centurylink.com

GINO CAPOZZI
GODADDY.COM, LLC
gcaפוzzi@godaddy.com

KIM MCNEANY
ELECTRIC LIGHTWAVE LLC
dba INTEGRA TELECOM
kim.mcneany@allstream.com

JERRY WEIKLE, REGULATORY
ENTELEGENT SOLUTIONS, INC.
dba ENTELEGENT COMMUNICATIONS
SOLUTIONS
regulatory@entelegent.com

JEFF GIANNANTONIO
FIRST COMMUNICATIONS, LLC
jgiannantonio@firstcomm.com

DAN KARDATZKE
CHIEF FINANCIAL OFFICER
GC PIVOTAL, LLC
regulatory@globalcapacity.com

GLOBAL TEL*LINK CORPORATION
scockerham@telecompliance.net

JOHN PRINNER
GRANITE TELECOMMUNICATIONS, LLC
taxdept@granitenet.com

BRIAN KENNEY
GRASSHOPPER GROUP, LLC
brian.kenney@logmein.com

JARED GRUGETT
PRESIDENT
HAWAII DIALOGIX TELECOM, LLC
jgrugett@hawaiidt.com

Certificate of Service

Page 4

CARL BILLEK
SENIOR REGULATORY COUNSEL
IDT AMERICA, CORP.
carl.billek@idt.net

KEN DAWSON
DIRECTOR
INMATE CALLING SOLUTIONS, LLC
dba ICSOLUTIONS
scastillo@icsolutions.com

RICHARD JOHNSON
MANAGER, REGULATORY AFFAIRS
INTRADO SAFETY COMMUNICATIONS,
INC.
regulatory.safetyservices@intrado.com

MARY GARRIS
LEVEL 3 COMMUNICATIONS, LLC
mary.garris@centurylink.com

JOHN NELSON, PRESIDENT
HAMILTON RELAY, INC.
john.nelson@hamiltontel.com

THOMAS PAOLUCCI
CONTROLLER
HAWAIIAN TELCOM SERVICES
COMPANY, INC. (COA)
Tom.Paolucci@cinbell.com

INCONTACT, INC.
compliance@niceincontact.com

CINDY FOSTER
DIRECTOR
INTELLETRACE, INC.
support@intellextrace.com

LESLIE BEACH, TAX ACCOUNTANT
INTERNATIONAL TELECOM, LTD.
leslieb@kall8.com

SHANNON BROWN
MCI COMMUNICATIONS SERVICES,
INC.
dba VERIZON BUSINESS SERVICES
shannon.brown@verizon.com

RALPH DICHY
DIRECTOR OF TAX AFFAIRS
METROPOLITAN TELECOMMUNICATIONS
OF HAWAII, INC.
dba METTEL
rdichy@mettel.net

KAREN HYDE
MOBILITIE, LLC
kmh@compliancegroup.com

JIM MCCABE
VICE PRESIDENT OF OPERATIONS
NETWORK INNOVATIONS, INC.
dba NITEL
jriley@telecompliance.net

DANIEL MELDAZIS
NEUTRAL TANDEM-HAWAII, LLC
taxdepartment@inteliquent.com

ALEX VALENCIA
VICE PRESIDENT
MATRIX TELECOM, LLC
dba MATRIX BUSINESS
TECHNOLOGIES,
dba TRINSIC COMMUNICATIONS,
dba VARTEC TELECOM,
dba EXCEL TELECOMMUNICATIONS,
dba CLEAR CHOICE COMMUNICATIONS
alex.valencia@lingo.com

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Page 5

SHANNON BROWN
MCI METRO ACCESS TRANSMISSION
SERVICES, LLC
dba VERIZON ACCESS TRANSMISSION
SERVICES
shannon.brown@verizon.com

AMANDA HUTCHISON HARRIS
REGULATORY COMPLIANCE OFFICER
NETWORKIP, LLC
regulatory@networkip.net

GLEN NELSON
VICE PRESIDENT
NEW HORIZONS COMMUNICATIONS
CORP.
gnelson@nhcgrp.com

SUSAN ORNSTEIN
NEXTGEN COMMUNICATIONS, INC.
SST-Compliance@comtechtel.com

JOSEPH T. KOPPY
CHIEF EXECUTIVE OFFICER
NOS COMMUNICATIONS, INC.
jrenneker@nos.com

MARK LEAFSTEDT
CHIEF EXECUTIVE OFFICER
OPEX COMMUNICATIONS, INC.
dba TCI LONG DISTANCE
regulatory@opexld.com

SHARON E. PORTER
PNG TELECOMMUNICATIONS, INC.
dba POWERNET GLOBAL
COMMUNICATIONS
dba CROSSCONNECT
tax@powernetco.com

THOMAS P. MARGAVIO
SBC LONG DISTANCE, LLC
dba SBC LONG DISTANCE
dba AT&T LONG DISTANCE
tm5886@att.com

RICHARD ZHENG
PRESIDENT
SERVPAC INCORPORATED
rzheng@servpac.com

TODD LESSER
PRESIDENT
NORTH COUNTY COMMUNICATIONS
CORPORATION
nccpuc@nccom.com

JOHN DAY
PRESIDENT
PACIFIC DATA SYSTEMS
dba NEXGEN NETWORK SERVICES
john@pdsquam.com

PUBLIC COMMUNICATIONS SERVICES,
INC.
scokerham@telecompliance.net

DAVID RODMAN
PRESIDENT
RED ROAD TELECOM, LLC
david@redroad.com

MICHAEL S.J. LOZICH
CORPORATE COUNSEL
DIRECTOR OF REGULATORY & GOVT.
AFFAIRS
SECURUS TECHNOLOGIES, INC.
mlozich@securustechnologies.com

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Page 6

REBECCA WEST
TALK AMERICA, INC.
dba CAVALIER TELEPHONE
dba PAETEC BUSINESS SERVICES
becky.west@windstream.com

BARBARA MONTE
TELEPORT COMMUNICATIONS AMERICA,
LLC
bm2571@att.com

SUSAN COCKERHAM
TIME CLOCK SOLUTIONS, LLC
scockerham@telecompliance.net

HEATHER DOBSON
TIME WARNER CABLE INFORMATION
SERVICES (HAWAII), LLC
dba TIME WARNER CABLE
heather.dobson@charter.com

ROBERT YOUNG
PRESIDENT
U.S. TELECOM LONG DISTANCE, INC.
abloom@ldxx.com

SUSAN COCKERHAM
VELOCITY THE GREATEST PHONE
COMPANY EVER, INC.
scockerham@telecompliance.net

VERIZON LONG DISTANCE LLC
dba VERIZON LONG DISTANCE
regacct@verizon.com

JANE OMAN
TDS LONG DISTANCE CORPORATION
(COA)
finance@tdstelecom.com

HEATHER DOBSON
TIME WARNER CABLE BUSINESS LLC
heather.dobson@charter.com

SUSAN COCKERHAM
VALUE-ADDED COMMUNICATIONS, INC.
scockerham@telecompliance.net

PATRICE DEMARCO
VERIZON HAWAII INTERNATIONAL,
INC.
patrice.demarco@verizon.com

DEISY CARRERA
VERIZON SELECT SERVICES, INC.
deisy.carrera@verizon.com

KEITH CUMMINGS, VP
VOICECOM TELECOMMUNICATIONS, LLC
mark@csilongwood.com

ANDREW NICKERSON
DIRECTOR
WIDE VOICE, LLC
erlae@widevoice.com

WIMACTEL, INC.
dba INTELICAL OPERATOR
SERVICES OF NORTH AMERICA
jmackenzie@wimactel.com

JANICE CRUMP
CHIEF FINANCIAL OFFICER
WORKING ASSETS FUNDING SERVICE,
INC.
dba CREDO LONG DISTANCE
compliance@wafs.com

Certificate of Service

Page 7

SHARON ADAMS
GOVERNMENT RELATIONS ANALYST
XO COMMUNICATIONS SERVICES, LLC
sharon.e.adams@verizon.com

JOHN PRINNER
GRANITE TELECOMMUNICATIONS, LLC
(COR)
taxdept@granitenet.com

THOMAS PAOLUCCI
CONTROLLER
WAVECOM SOLUTIONS CORPORATION
Tom.Paolucci@cinbell.com

CURTIS CHURCH
AMERICAN BROADBAND AND
TELECOMMUNICATIONS COMPANY
cchurch@ambt.net

MARY GARRIS
WILTEL COMMUNICATIONS, LLC
mary.garris@centurylink.com

BCN TELECOM, INC. (COR)
[contact@nationwideregulatorycomp
liance.com](mailto:contact@nationwideregulatorycomp
liance.com)

REBECCA WEST
WINDSTREAM COMMUNICATIONS, LLC
becky.west@windstream.com

KATHLEEN GOREY
REGULATORY MANAGER
BCN TELECOM, INC.
(FACILITIES-BASED)
kgorey@bcntele.com

MARK PAVOL
X2COMM, INC.
dba DC COMMUNICATIONS
mark@x2comm.com

SHANE BRIDGES
CONTROLLER
CONSUMER CELLULAR, INCORPORATED
tax@consumercellular.com

MARK PAVOL
REGULATORY MANAGER
YMAX COMMUNICATIONS CORP.
regulatory@ymaxcorp.com

JOE TOPEL
REGULATORY MANAGER
FRANCE TELECOM CORPORATE
SOLUTIONS L.L.C. (COR)
joe.topel@orange.com

BOOMERANG WIRELESS, LLC
dba ENTOUCH WIRELESS
jrcarter@readywireless.com

JARAD BACKLUND
BUSINESS CONTROLLER
GOOGLE NORTH AMERICA INC.
fi-compliance@google.com

RAYMOND VALME
DIAL WORLD COMMUNICATIONS, LLC
ray@dialworldcom.com

MARK LAMMERT
FLASH WIRELESS, LLC
mark@csilongwood.com

THOMAS PAOLUCCI
CONTROLLER
HAWAIIAN TELCOM SERVICES
COMPANY, INC. (COR)
Tom.Paolucci@cinbell.com

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MASAHIRO FURUYA
EXECUTIVE VP
KDDI AMERICA, INC.
ga@kddia.com

CORY VAN ARSDALE
CHIEF LEGAL OFFICER
MVNO CONNECT LLC
coryv@mvnoc.com

AMY RAY
METROPCS CALIFORNIA, LLC
Taxops@T-Mobile.com

JUSTIN SNYDER
NATWIRELESS LLC
dba NATIONAL WIRELESS
regulatory@natwireless.com

GENNARO ISABELLA
SENIOR TAX ANALYST
ONSTAR, LLC
tamika.mayes@gm.com

PURETALK HOLDINGS, LLC
mark@csilongwood.com

LISA WILLIS
K G COMMUNICATIONS, INC.
lisa@kgcomm.net

GLENN P. STORY
CHIEF FINANCIAL OFFICER
PATRIOT MOBILE, LLC
glenn@eoscell.com

RICHARD PELLY
PLINTRON TECHNOLOGIES USA LLC
richardpelly@plintronamericas.com

READY WIRELESS, LLC
dba AFFINITY CELLULAR
dba CLUB CELLULAR
jrcarter@readywireless.com

NATHAN JOHNSON
CHIEF EXECUTIVE OFFICER
SAGE TELECOM COMMUNICATIONS, LLC
dba TRUCONNECT
scockerham@telecompliance.net

MEGHAN HAN ZHOU
DIRECTOR
SQUARE MOBILE, INC.
meghanz@squaremobile.co

STS MEDIA, INC.
dba FREEDOMPOP
orvin@gsaudits.com

ENRIQUE LANDIVAR
TELEFONICA USA, INC.
enrique.landivar@telefonica.com

ELENA THOMASSON
TEMPO TELECOM, LLC
elena.thomasson@birch.com

SELECTEL, INC.
dba SELECTEL WIRELESS
oflaherty.matt@gmail.com

DARRIN PFANNENSTIEL, ESQ.
STREAM COMMUNICATIONS, LLC
darrin.pfannenstiel@streamenergy.net

TACHIBANA ENTERPRISES, LLC
sli@tachibana.com

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TELRITE CORPORATION
mark@csilongwood.com

CHRISTINA MEYERING
TING INC.
cmeyering@tu cows.com

CHESLEY DILLION
VP - CORP. TAX
TRACFONE WIRELESS, INC.
dba SAFELINK WIRELESS
mmontenegro@tracfone.com

GARY JOSEPH
MANAGER
WIMACTEL, INC. (COR)
jmackenzie@goviiz.com

ANDREW M. LANCASTER
MANAGER
VIRGIN MOBILE USA, L.P.
andy.m.lancaster@sprint.com

SUSAN COCKERHAM
365 WIRELESS LLC
scockerham@telecompliance.net

STEVE DELGADO
CONSULTANT - TAX
CELLCO PARTNERSHIP
dba VERIZON WIRELESS
steve.delgado@gmail.com

GERALD GUARDIOLA
CRICKET WIRELESS LLC
gg009y@att.com

GERALD GUARDIOLA
NEW CINGULAR WIRELESS PCS, LLC
gg009y@att.com

WENDY HEE
PA MAKANI LLC
dba SANDWICH ISLES WIRELESS
wendyh@waimana.com

ANDREW M. LANCASTER
MANAGER
SPRINTCOM, INC.
dba SPRINT PCS
andy.m.lancaster@sprint.com

GARY FINKEL
ALLIANT TECHNOLOGIES, L.L.C.
gfinkel@allianttech.com

KIRK IYAMA
COMCAST OTR1, LLC
kirk_iyama@cable.comcast.com

JAMES TATE
GENERAL MANAGER
EXCELLUS COMMUNICATIONS, LLC
jim.tate@seniortechllc.com

MARY T. BULEY
SENIOR REGULATORY MANAGER
ONVOY SPECTRUM, LLC
mary.buley@onvoy.com

ISSA ASAD
Q LINK WIRELESS LLC
issa@qlinkwireless.com

AMY RAY
T-MOBILE WEST LLC
dba T-MOBILE
Amy.Ray@T-Mobile.com

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Page 10

GARY GRINHAM
UVNV, INC.
dba MINT MOBILE
ggrinham@ultra.me

BLAIR ROSENTHAL
ASSISTANT GENERAL COUNSEL
VODAFONE US INC.
blair.rosenthal@vodafone.com

STEVE DELGADO
VISIBLE SERVICE LLC
steve.delgado@verizon.com

ANDREW M. LANCASTER
MANAGER
ASSURANCE WIRELESS USA LP
Andy.m.lancaster@sprint.com

MATTHEW SANTINI, CEO
COMLINK TOTAL SOLUTIONS CORP.
matt@comlinksmb.com

TINA ALLEN
EASY TELEPHONE SERVICES COMPANY
tallen@telecomservicebureau.com

GREG COLE
GABB WIRELESS, INC.
Greg.cole@gabbwireless.com

BETH BRANDENSTEIN
LYCAMOBILE USA, INC.
beth@gsaudits.com

DAVID SARVER
CEO
SARVER CORPORATION
sales@sarvercorp.com

JASON NARRELL
STX Group, LLC
regulatory@twigby.com

THOMAS SELBY, VICE PRESIDENT
ATC MAKENA WWTP SERVICES CORP.
tselby@makenagbc.com

ROBERT STOUT
ACCOUNTING MGR.
HAWAII WATER SERVICE COMPANY,
INC. - PUKALANI WASTEWATER
DISTRICT
rstout@hawaiiwaterservice.com

PAULUS SUBRATA
VICE PRESIDENT
KAPALUA WASTE TREATMENT COMPANY
psubrata@mlpmaui.com

OLIVIA MAKI
HANA WATER SYSTEMS, LLC - SOUTH
omaki@biologicalcapital.com

OLIVIA MAKI
HANA WATERSYSTEMS, LLC - NORTH
omaki@biologicalcapital.com

ROBERT STOUT
ACCOUNTING MANAGER
HAWAII WATER SERVICE COMPANY,
INC. - KAA NAPALI OPERATION
Rstout@hawaiiwaterservice.com

PAULUS SUBRATA
VICE PRESIDENT
KAPALUA WATER COMPANY
psubrata@mlpmaui.com

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Page 11

GLENN TREMBLE
MANAGER
LAUNIUPOKO IRRIGATION COMPANY,
INC.
glenn@westmauiland.com

GLENN TREMBEL
VP OPERATIONS
LAUNIUPOKO WATER COMPANY, INC.
glenn@westmauiland.com

OLOWALU WATER COMPANY, INC.
glenn@westmauiland.com

ROBERT E. STRAND, ESQ.
CARLSMITH BALL LLP
rstrand@carlsmith.com

PETER Y. KIKUTA
THOMAS W. WILLIAMS
GOODSILL ANDERSON QUINN & STIFEL
LLP
pkikuta@goodsill.com
twilliams@goodsill.com

BRUCE NAKAMURA
JOSEPH A. STEWART
KOBAYASHI SUGITA & GODA
ban@ksqlaw.com
jas@ksqlaw.com

KENT D. MORIHARA
LIANNA L FIGUEROA
JAMIE C. YOSHIKANE
PETER Y. KIKUTA
SCHNEIDER TANAKA RADOVICH ANDREW
& TANAKA LLLC
Kent.Morihara@stratlaw.com
Lianna.Figueroa@stratlaw.com
Jamie.Yoshikane@stratlaw.com
Peter.kikuta@stratlaw.com

SANDRA-ANN Y.H. WONG
ATTORNEY AT LAW, A LAW
CORPORATION
sawonglaw@hawaii.rr.com

DOUGLAS CODIGA
SCHLACK ITO, LLC
dcodiga@schlackito.com

PAMELA J. LARSON
DAVID Y. NAKASHIMA
JEFFREY T. ONO
WATANABE ING LLP
PLarson@wik.com
DNakashima@wik.com
JOno@wik.com

DEAN T. YAMAMOTO
WIL T. YAMAMOTO
CARLITO CALIBOSO
YAMAMOTO CALIBOSO, LLLC
DYamamoto@ychawaii.com
WYamamoto@ychawaii.com
CCaliboso@ychawaii.com

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