

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
)	
HAWAIIAN TELCOM, INC.)	WCB/Pricing File No. 08-01
)	
Petition for Phase I Pricing Flexibility)	
Pursuant to Section 69.709 of the)	
Commission's Rules)	
)	
)	

COMMENTS OF PACIFIC LIGHTNET, INC.

Pacific LightNet, Inc. ("PLNI") submits these brief comments in response to Hawaiian Telcom, Inc.'s ("Hawaiian Telcom" or "HT") Petition for Phase I Pricing Flexibility ("Petition") filed November 16, 2007.¹ PLNI, a competitive local exchange carrier serving customers on Oahu, Maui, Kauai, the Big Island, Molokai and Lanai through its own submarine cable and land-based fiber network, offers a full range of integrated telecommunications products and services, including local dial tone, high-speed Internet access, dedicated and switched long distance, special access and enhanced data services. As a competitor, collocater and customer of HT's since 2001, PLNI has experienced first-hand the issues plaguing HT's back-office system since HT's cutover from Verizon's systems in 2006—not the least of which was a significant upturn in billing errors.

With these comments, PLNI does not take issue with the adequacy of the Commission's established triggers to effectively gauge the level of competition in a market; rather, PLNI's sole concern lies with the validity of the revenue calculations supporting HT's Petition. Hawaiian

¹ DA 08-19, Released January 3, 2008.

Telcom's Petition—which, if granted, would be irrevocable—hinges on a calculation that allows no margin for error.

To receive pricing flexibility for dedicated transport and special access services (other than channel terminations to end users), a price-cap LEC must demonstrate that unaffiliated competitors (i) have collocated in at least 15 percent of the LEC's wire centers within an MSA, or (ii) have collocated in wire centers accounting for 30 percent of the LEC's revenues from these services within an MSA. In addition, the price-cap LEC must show that, with respect to each wire center, at least one collocater is relying on transport facilities provided by a transport provider other than the incumbent LEC.²

In Hawaiian Telcom's case, the first trigger clearly fails: competitors have collocated in only 4 of the 47 wire centers in the Hawaii Non-MSA Area. Thus, HT relies on the latter trigger, alleging, specifically, that 32.62 percent of total 2006 Qualifying DT/SA Services in the Hawaii Non-MSA Area is attributable to Qualifying Wire Centers.

As described in Attachment D to Hawaiian Telcom's Petition, the revenue data was derived from Verizon's records for the period commencing January 1, 2006 and ending March 31, 2006, and Hawaiian Telcom's vendor, Communications Data Group ("CDG"), for the period commencing April 1, 2006 through December 31, 2006. This disclosure reflects the April 1, 2006 cutover from Verizon's back office to Hawaiian Telcom's back office.

Simply stated, Hawaiian Telcom's April 1, 2006 back office conversion was a failure. As Hawaiian Telcom's Senior Vice President and General Counsel put it, "we were shocked when we actually saw what was being delivered"³ and "[o]bviously, by the end of April, we were

² 47 C.F.R. § 69.709(b)

³ Transcript of Hearings Held September 25-26, 2007 in Docket 2006-0400, *In the Matter of the Public Utilities Commission Instituting a Proceeding Regarding Hawaiian Telcom, Inc.'s Service Quality and Performance Levels and Standards in Relation To Its Retail and Wholesale Customers* ("Transcript"), p. 53, lines 12-13.

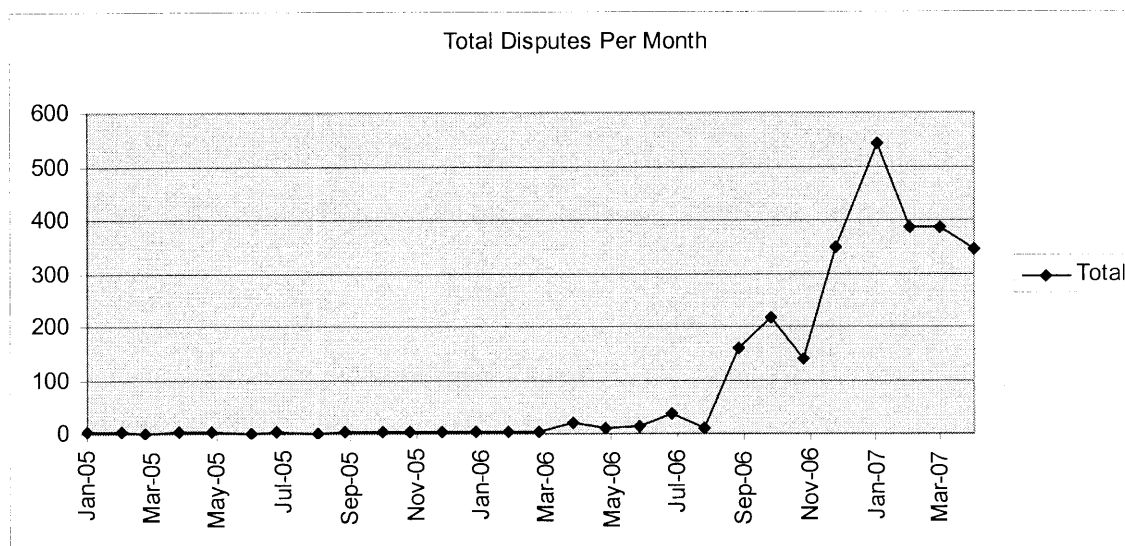
seeing massive problems....”⁴ Although the CABS revenue at issue in HT’s Petition was billed by CDG, a third-party vendor, and not HT itself, the bills could only be as accurate as the data provided to CDG by HT’s back-office systems. HT acknowledged this fact in its Statement of Position filed with the Hawaii Public Utilities Commission, in a proceeding initiated to investigate HT’s service quality:

Following the system conversions, the Company identified that generally the NeuStar system was functioning as expected. **However, within the Wholesale Dispatcher system, certain functionalities were not performing as expected. Those functionalities were validation of the engineering codes, the correct way to assign circuit identification numbers, and accurately apply the USOC codes.** The result of the Wholesale Dispatcher and CABS gaps in functionality from what was expected and the other gaps identified for the other systems such as CRM which were used for both retail and wholesale customers resulted in wholesale customers experiencing difficulties in conducting certain transactions. (emphasis added). Hawaiian Telcom’s Statement of Position, Docket 2006-0400, filed Feb. 15, 2007, *In the Matter of the Public Utilities Commission Instituting a Proceeding Regarding Hawaiian Telcom, Inc.’s Service Quality and Performance Levels and Standards in Relation To Its Retail and Wholesale Customers*, at p. 62.

PLNI’s first-hand experience supports the foregoing assessment by HT. For example, PLNI has an outstanding, unresolved dispute with Hawaiian Telcom regarding misapplication of USOC codes. This and other still unresolved disputes resulted in overbilling by HT for DT/SA Services in Qualifying Wire Centers by approximately 18%. With respect to the Qualifying Wire Centers, from April 1, 2006 through December 31, 2006, over two-thirds of new circuits installed by HT for PLNI experienced billing errors. Across all services, billing errors by HT rose significantly following the cutover,⁵ which trend is only beginning to subside in recent months. The following graph shows the number of disputes of HT invoices filed by PLNI for the period beginning January 2005 and ending April 2007:

⁴ Transcript, p. 83, lines 5-7.

⁵ From a billing perspective, there was something of a calm before the storm immediately following the April 1, 2006 cutover: owing to the large percentage of order fall-out, billing relating to new orders was delayed for the initial months after cutover.



HT's troubled back-office conversion also led to an ongoing disclosure to the SEC and HT's noteholders that the deficiencies in HT's billing and revenue assurance systems, among others, result in a material weakness in HT's internal control over financial reporting.⁶

For the bright-line test of 47 C.F.R. § 69.709(b) to have any validity, the data supporting the triggers must be accurate and reliable. As a *prima facie* matter, HT's Petition does not contain sufficient information or disclosure to reasonably demonstrate that the 32.62% revenue

⁶ See Hawaiian Telcom Communications, Inc. SEC Form 10-Q for the period ending September 30, 2007, filed November 14, 2007, Item 4, pp. 30-31:

A material weakness in internal control over financial reporting exists because there is more than a remote likelihood that a material misstatement of the annual or interim financial statements will not be prevented and detected. The material weakness results from significant weaknesses in several information technology systems and change management controls, as well as operating processes and controls needed to fully record, process, summarize and report financial data after our March 31, 2006 transition. These deficiencies relate to (but are not limited to) the following:

- Billing and revenue assurance,
- Fixed assets and project costing,
- Order accuracy and system processing,
- Procurement and inventory valuation, and
- Tax and surcharge accuracy.


To help remediate deficiencies in these areas we engaged the services of Accenture as a strategic partner with specific expertise in information technology processes and system remediation efforts. In addition, we formed a stabilization project team to perform an assessment of our control environment after the March 31, 2006 transition. These continuing activities are intended to facilitate improvement in the design and operation of our internal controls.

calculation is accurate and reliable. The Commission should require Hawaiian Telcom to produce circuit level revenue data that can be reviewed and verified by the customers who are the source of the revenue, or, alternatively, the same circuit level revenue data should be subject to review and verification by an independent third-party or auditor. As part of this verification, HT should be required to disclose whether its revenues include or exclude pending disputes. If HT's revenues include pending disputes, then it's quite possible that HT's 32.62% calculation—already barely making it over the threshold—is artificially inflated and not indicative of bona fide revenues.

If, in the end, Hawaiian Telcom legitimately meets the trigger, then by all means, pricing flexibility should be granted; however, in light of Hawaiian Telcom's unprecedented failed back-office conversion, the summary revenue data put forth in the Petition does not serve to satisfy HT's burden. Based on Hawaiian Telcom's extraordinary disclosures in other forums that its billing systems were materially deficient during 2006, the accuracy and reliability of the revenue calculations presented in the Petition are at issue, and, therefore, the Commission—whether through an audit or otherwise—should require Hawaiian Telcom to provide additional information to reasonably demonstrate the accuracy and reliability of its outcome-determinative revenue calculation of 32.62%.

[signature page follows]

Respectfully submitted,



J. Jeffrey Mayhook
Laura A. Mayhook

J. Jeffrey Mayhook
Laura A. Mayhook
MAYHOOK LAW, PLLC
34808 NE 14th Avenue
La Center, WA 98629
Tel: (360) 263-4340
Fax: (360) 263-4343

Attorneys for Pacific LightNet, Inc.

February 4, 2008

VERIFICATION

STATE OF HAWAII)
)
County of HONOLULU) SS.

I, Patrick Bustamante, being first duly sworn, deposes and says: That I am a duly authorized officer of Pacific LightNet, Inc., that I have read the foregoing comments, and know the contents thereof; and that the contents of thereof are true.

Patk B. B.

Patrick Bustamante
President
PACIFIC LIGHTNET, INC.

Subscribed and sworn to before me this
4th day of February, 2008.

Pres. David S. Inoué
Notary Public
State of Hawaii

My commission expires: Aug. 29, 2008

