

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
HAWAIIAN TELCOM, INC.	)	WCB/Pricing File No. 07-12
	)	
Petition for Waiver of Section 61.42(g) of	)	
the Commission's Price Cap Rules	)	
for Advanced Services Formerly Offered by	)	
Verizon Hawaii, Inc.	)	

**COMMENTS OF PACIFIC LIGHTNET, INC.  
RELATING TO THE PETITION OF HAWAIIAN TELCOM, INC.  
FOR WAIVER OF THE PRICE CAP RULES**

Pacific LightNet, Inc. (Pacific LightNet) submits these comments in response to Hawaiian Telcom, Inc.'s (Hawaiian Telcom or HTI) March 29, 2007 Petition for Waiver of the Price Cap Rules (Petition). A Hawaii-based 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, Pacific LightNet offers a full range of integrated telecommunications products and services, including local dial tone, high-speed Internet access, dedicated and switched long distance, collocation, special access and enhanced data services, and VoIP services.

Pacific LightNet does not necessarily disagree with HTI that continuing the status quo of keeping advanced services out of the price caps may be appropriate. However, Pacific LightNet is concerned that the rationale for granting HTI's waiver, as articulated in the *2006 HTI Waiver Order*, should not be extended indefinitely into the future. That is, the Commission granted HTI a waiver to give it "a reasonable period of time to respond to [the transfer of control from Verizon and the recent regulatory developments] without incurring the burdens and expenses of

incorporating these services into price caps.” (2006 HTI Waiver Order, ¶ 9; cited by HTI in its Petition at pp. 5-6). The transfer of control from Verizon, however, was made nearly two years ago, while the flash-cut from Verizon’s systems to HTI’s new back-office systems occurred one year ago.<sup>1</sup> Thus, the transfer of control from Verizon should no longer form a rationale for approving HTI’s request for a price cap waiver. HTI needs every incentive to put the transition issues behind it and start living up to the promises it made to consumers, carriers and the regulators who approved the transfer of control.

Significantly, even HTI has guardedly acknowledged that the transition “has not been without challenges.”<sup>2</sup> In just the past three months, for example, HTI (1) terminated its relationship with one back-office integrator and hired another;<sup>3</sup> (2) announced the departure of both its chief financial officer and controller;<sup>4</sup> (3) was downgraded from B to B- by Standard & Poor’s;<sup>5</sup> (4) reported that it used \$22.8 million in cash in the fourth quarter of 2006, and, prior to its recent cash settlement with BearingPoint, had only \$39.8 million available in a revolving credit facility and \$4.7 million in cash and cash equivalents;<sup>6</sup> (5) outsourced its directory assistance services to Metro One, whose auditors disclosed their “substantial doubt as to [Metro One’s] ability to continue as a going concern;<sup>7</sup> and (6) issued a cautionary statement in its most

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<sup>1</sup> The Hawaii Public Utilities Commission approved the transfer of control from Verizon to HTI on March 16, 2005, while HTI’s cut-over from Verizon occurred on April 1, 2006.

<sup>2</sup> HTI’s February 15, 2007 Statement of Position at p. 5, *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*, Docket No. 06-0400.

<sup>3</sup> See Hawaiian Telcom Communication, Inc.’s Form 8-K, February 8, 2007.

<sup>4</sup> See <http://starbulletin.com/2007/03/29/business/bizbriefs.html>

<sup>5</sup> See <http://the.honoluluadvertiser.com/article/2007/Mar/30/br/br3967025148.html>

<sup>6</sup> See HTI’s April 2, 2007 press release “Hawaiian Telcom Reports Fourth Quarter and Full Year 2006 Results.”

<sup>7</sup> See <http://www.bizjournals.com/pacific/stories/2007/04/02/daily38.html> and [http://www.bizjournals.com/portland/stories/2007/04/09/daily18.html?from\\_rss=1](http://www.bizjournals.com/portland/stories/2007/04/09/daily18.html?from_rss=1)

recent 10-K, stating that “a material weakness in [HTI’s] internal control over financial reporting exists.”<sup>8</sup>

If granted, HTI’s Petition should stand on merits independent from the disarray caused by the transfer of control. Further, those merits, per the Commission’s rules at Section 1.3, should reflect the party’s “good cause shown” based on current circumstance, and not on the requesting party’s apparently self-induced and seemingly interminable, long-term prolonging of legacy issues.<sup>9</sup>

[signature page follows]

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<sup>8</sup> See Hawaiian Telcom Communications, Inc. Form 10-K, filed April 2, 2007, p. 88: “Item 9a. We previously disclosed in the November 14, 2006 Form 10-Q filing a significant deficiency in internal control over financial reporting and that we are still in the process of evaluating and adjusting the functionality of all new systems and making modifications and enhancements to internal control processes associated with these new systems. Specifically, the Company began processing transactions utilizing newly implemented operating, financial and administrative information technology systems during 2006. BearingPoint built or converted our back-office and IT infrastructure necessary to replace systems previously provided by Verizon but not all of these systems are functioning or functioning in an acceptable manner for our business. The Company has been using new processes, procedures and controls associated with these new systems for a short period of time. **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 system 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 system deficiencies relate to (but are not limited to) the following:**

- **Accounts receivable balances/subsidiary ledger support,**
- **Billing and revenue assurance,**
- **Cash account reconciliations,**
- **Distribution of expenses and capital,**
- **Fixed assets and project costing,**
- **Management reporting,**
- **Order accuracy and system processing,**
- **Procurement (including accounts payable) and inventory valuation, and**
- **Tax and surcharge accuracy.” (emphasis added).**

<sup>9</sup> 47 C.F.R. § 1.3.

Respectfully submitted,

/s/

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April 24, 2007

## **CERTIFICATE OF SERVICE**

I, Jeffrey Mayhook, do hereby certify that on April 24, 2007, a copy of the foregoing Comments of Pacific LightNet, Inc. Relating to the Petition of Hawaiian Telcom Inc. For Waiver of the Price Cap Rules, as electronically filed with the Federal Communications Commission in WCB/Pricing file No. 07-12, was served by electronic mail upon the following parties as follows:

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