

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

-----In the Matter of-----)
)
 PUBLIC UTILITIES COMMISSION) (NON-DOCKETED)
)
 Letter Request from the Consumer)
 Advocate for Commission Suspension)
 of Authority of Regulated Companies)
 to Terminate or Disconnect Services)
 Due to Non-Payment and/or Assess)
 Unreasonable Charges or Fees During)
 the COVID-19 Pandemic.)
 _____)

ORDER NO. 37125

ADDRESSING THE CONSUMER ADVOCATE'S REQUEST
FOR SUSPENSION OF TERMINATION OR DISCONNECTION OF
REGULATED UTILITY SERVICES DUE TO NON-PAYMENT AND/OR
ASSESSMENT OF OTHER CHARGES DURING THE COVID-19 PANDEMIC

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FOR SUSPENSION OF TERMINATION OR DISCONNECTION OF
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By this Order, the Public Utilities Commission ("commission") addresses the DIVISION OF CONSUMER ADVOCACY's ("Consumer Advocate") letter, filed on April 23, 2020, requesting that the Commission "file an order to temporarily suspend the authority of regulated companies (i.e., electric, gas, telecommunications, water, and wastewater) to: (1) terminate or disconnect services due to non-payment; and (2) assess any charges or fees that might be unreasonably assessed, including the accrual

of interest on outstanding balances, during the ongoing COVID-19 pandemic.”^{1,2}

The Consumer Advocate’s Letter Request to the Commission states that it:

believes that it is in the public interest if the Commission extended the requested relief in this letter to all utility services since those services are even more critical during this period, where telecommunications services are facilitating telework, distance learning, and basic communications; electricity is critical for both residents and businesses; access to clean water for handwashing is crucial in protecting against the spread of COVID-19; wastewater services are a basic necessity during the mandatory stay-at-home period; and gas (both synthetic natural gas and utility propane) services enable cooking and heating water. Access to these essential services are critical and the Consumer Advocate is concerned that customers also could face significant outstanding balances

¹Consumer Advocate Letter re: “Commission Investigation to Address COVID-19 Impacts on Consumers and Regulated Companies,” filed on April 23, 2020 (“CA Letter Request”), at 1.

²Governor Ige issued his Sixth Emergency Proclamation on April 25, 2020, effective through May 31, 2020 (“Sixth Emergency Proclamation”), which amended and restated prior Proclamations, and authorized and invoked a variety of provisions related to the State’s ongoing response to the COVID-19 emergency situation. Governor’s “Sixth Supplementary Proclamation Amending and Restating Prior Proclamations and Executive Orders Related to the COVID-19 Emergency,” available at: <https://governor.hawaii.gov/wp-content/uploads/2020/04/2004144-ATG-Sixth-Supplementary-Proclamation-for-COVID-19-distribution-signed.pdf>. The Governor’s first Emergency Proclamation for COVID-19 was issued on March 5, 2020, available at: <https://governor.hawaii.gov/wp-content/uploads/2020/03/2003020-GOV-EmergencyProclamation-COVID-19.pdf>.

with limited options once the pandemic is deemed under control.³

The Consumer Advocate further states that it "believes it is in the consumers' interest for the Commission to establish guidelines that include, but are not limited to: 1) when it is appropriate for the regulated companies to resume termination of services due to non-payment, assess late fees/charges or any other fees or charges that might be unreasonably assessed during this pandemic; and 2) procedures that will govern how the resumption and collection of such fees and charges will proceed."⁴

The Commission is charged with the duty of ensuring that public utilities provide safe, adequate, and reliable utility service at just and reasonable rates. Additionally, the Commission has general supervisory powers "over all public utilities[,]"⁵ as well as investigatory authority "to examine into the condition of each public utility," including "the fares and rates charged by it."⁶

³CA Letter Request at 2 (footnote omitted).

⁴CA Letter Request at 2.

⁵Hawaii Revised Statutes ("HRS") § 269-6(a).

⁶("HRS") § 269-7(a).

The Commission recognizes that some regulated electric and water utilities have already committed to suspend all disconnections for non-payment during this time.⁷

The Commission further orders:

1. If they have not done so already, all Commission-regulated electric, gas, telecommunications, water, and wastewater public utilities in the State of Hawaii ("Utilities," or "Utility," individually) shall suspend disconnections of electricity, gas, telecommunications, water, and wastewater services during the pendency of the Governor's Emergency Proclamation, and until otherwise ordered by the Commission. The Commission also suspends, pending further orders, any and all rules and provisions of individual utility tariffs that prevent or condition re-connection of disconnected customers.⁸

⁷See, e.g., <https://www.hawaiianelectric.com/hawaiian-electrics-response-to-covid-19>, and <https://website.kiuc.coop/> (scroll to "COVID-19" section at the bottom left of the homepage).

⁸The Commission notes that this is consistent with the approach taken in a number of other jurisdictions across the country. See, e.g., Arkansas Public Service Commission, In the Matter of Administrative Orders Relating to the COVID-19 State of Emergency, Docket No. 20-012-A, Order No. 1, filed on April 10, 2020; California Public Utilities Commission Press Release, available at: <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M329/K673/329673725.PDF>; Illinois Commerce Commission, In the Matter of the Moratorium on Disconnection of Utility Services During the Public Health Emergency Declared on March 9, 2020 Pursuant to Sections 4 and 7 of the Illinois Emergency Management Agency Act, Docket No. 20-0309, opened on March 18, 2020.

2. The Commission authorizes each of these Utilities to establish regulatory assets to record costs resulting from the suspension of disconnections. In future proceedings, to the extent any of these utilities request recovery of these costs, the Commission will consider whether each Utility's request for recovery of these regulatory assets is reasonable and necessary. The Commission will also consider in a future proceeding other issues, such 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.

3. The Commission encourages Utilities to offer payment plans or other reasonable arrangements to customers once the suspension of disconnections or terminations of service are lifted.

4. As of the date of this Order, the Commission also prohibits Utilities from charging customers interest on past due payments, or imposing any late payment fees, until otherwise ordered by the Commission.

5. The Commission instructs any Utility that books regulatory assets consistent with the authorization provided in

this Order to file a short (1-2 page) report by May 20, 2020, regarding the Utility's financial condition.⁹

6. Until otherwise ordered by the Commission, the Commission instructs any Utility that books regulatory assets consistent with the authorization provided in this Order, to also file a quarterly report, beginning on July 30, 2020, detailing the amounts of the costs incurred and any savings realized, which have been booked to the regulatory assets. The Commission further directs that these quarterly reports include: a) updated information regarding the Utility's financial condition, and b) a list of the measures the Utility has in place to assist its customers during the COVID-19 emergency situation. A Utility should inform the Commission in its quarterly reports if a previously-reported upon measure the 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.

⁹The Commission will shortly issue a non-docket Protective Order to govern a Utility's filing of any confidential financial or business information included in these reports and the reports detailed in Paragraph 6, below, provided that, consistent with UIPA, all information for which a Utility claims confidentiality is supported by a description that: (1) identifies in reasonable detail the information's source, character, and location; (2) states clearly the basis for the claim of confidentiality; and (3) describes, with particularity, the cognizable harm to the filing party from any misuse or unpermitted public disclosure of the information, which the Commission will review.

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

8. The Commission also emphasizes that customers should continue paying their bills to the extent possible during this time, noting that customers will still ultimately be responsible for paying Utility service billings accrued during this suspension.

9. If a Utility subject to this Order maintains a website, such 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.

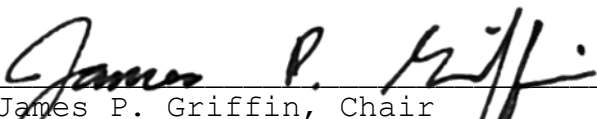
THE COMMISSION ORDERS:

1. Based on the extraordinary circumstances related to COVID-19, and on the Commission's expedited investigation into this matter, there is good cause to grant the Consumer Advocate's request as set forth above, until otherwise ordered by the Commission.


2. The Commission will review the 1-2 page reports from the Utilities required by Paragraph 5, above, in its determination of the appropriate length of the suspension of termination/disconnection set forth in Paragraph No.1, and will issue an order updating Utilities regarding length of the suspension prior to May 31, 2020.

DONE at Honolulu, Hawaii MAY 4, 2020.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
James P. Griffin, Chair

By 
Jennifer M. Potter, Commissioner

By 
Leodoloff R. Asuncion, Jr., Commissioner

APPROVED AS TO FORM:


Caroline C. Ishida
Commission Counsel

Non-Docketed Order.ljk

CERTIFICATE OF SERVICE

Pursuant to Order No. 37043, the foregoing order was served on the date of filing by electronic mail addressed to the following parties:

DEAN NISHINA
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND
CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
dnishina@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

KAUAI ISLAND UTILITY COOPERATIVE
ccuaresm@kiuc.coop

TOM KOBASHIGAWA
DIRECTOR, REGULATORY AFFAIRS
THE GAS COMPANY, LLC
dba HAWAI'I GAS
skobashi@hawaiigas.com

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

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

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

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

JOSEPH O'HARA,
ASSISTANT TREASURER
COMMON POINT LLC
regulatoryaffairs@anpolutions.com

DANIEL MELDAZIS
ONVOY, LLC
taxdepartment@inteliquent.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

Certificate of Service
Page 2

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

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

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

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

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

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

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

JACOB PETROSKY
MANAGER
808PHONE.COM LLC
jacob@808phone.com

ACN COMMUNICATIONS
SERVICES, LLC
mark@csilongwood.com

AIRESPRING, INC.
cat@airespring.com

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

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

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

JARROD HARPER
MANAGER, REGULATORY &
COMPLIANCE
BROADVIEW NETWORKS, INC.
jharper@broadviewnet.com

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

Certificate of Service
Page 3

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

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

RICHARD MINEROINO
COMTECH 21, LLC
regulatory@comtech21.com

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

DAVID H. BARKSDALE
CHIEF FINANCIAL OFFICER
CUSTOM TELECONNECT, INC.
bperna@customteleconnect.com

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

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

GINO CAPOZZI
TAX AND REGULATORY COMPLIANCE
MANAGER
CALLCATCHERS INC.
dba FREEDOMVOICE SYSTEMS
compliance@freedomvoice.com

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

JONATHAN BARDSLEY
DELTACOM, LLC
dba EARTHLINK BUSINESS I
Jonathan.bardsley@windstream.com

ROBERT MOCAS
PRESIDENT
EASTON TELECOM SERVICES,
LLC
smacke@eastontelecom.com

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

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

Certificate of Service
Page 4

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

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

ELENA THOMASSON
FUSION CLOUD SERVICES, LLC
elena.thomasson@fusionconnect.com

GLOBAL TEL*LINK CORPORATION
scockerham@telecompliance.net

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

JOHN PRINNER
GRANITE TELECOMMUNICATIONS,
LLC
taxdept@granitenet.com

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

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

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

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

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

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

JEFF GIANNANTONIO
FIRST COMMUNICATIONS, LLC
jgiannantonio@firstcomm.com

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

JESSICA MATUSHEK
DIRECTOR ACCOUNTING
FRONTIER COMMUNICATIONS OF
AMERICA, INC.
jessica.matushek@ftr.com

Certificate of Service
Page 5

MIKE CUMPTON
CONTROLLER
INTELLICALL OPERATOR SERVICES,
INC.
mark@csilongwood.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@intelletrace.com

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

LEGACY LONG DISTANCE
INTERNATIONAL, INC.
dba LEGACY INMATE
COMMUNICATIONS
brian@edovo.com

ALEX VALENCIA
VICE PRESIDENT OF
COMPLIANCE & REGULATORY
AFFAIRS
LINGO TELECOM OF THE WEST,
LLC
dba BIRCH COMMUNICATIONS
alex.valencia@lingo.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

Certificate of Service

Page 6

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

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

KAREN HYDE
MOBILITIE MANAGEMENT, LLC
kmh@compliancegroup.com

WILLIAM L. POPE
PRESIDENT
NETWORK COMMUNICATIONS
INTERNATIONAL CORP.
dba NCIC INMATE COMMUNICATIONS
stephanie.jackson@ncic.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

INNA VINOGRADOV
QUANTUMSHIFT
COMMUNICATIONS, INC.
dba VCOM SOLUTIONS
inna@icommlaw.com

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

Certificate of Service

Page 7

RICHARD ZHENG
PRESIDENT
SERVPAC INCORPORATED
rzheng@servpac.com

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

OPERATOR SERVICE COMPANY, LLC
regcompliance@telecompliance.net

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

PUBLIC COMMUNICATIONS SERVICES,
INC.
scockerham@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

SQF, LLC
nbournakel@tilsontech.com

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

Certificate of Service

Page 8

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

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

DAVID ALDWORTH
PRESIDENT
TELIAX, INC.
daldworth@teliax.com

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

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

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

MARK LEAFSTEDT
CEO
TOTAL HOLDINGS INC.
dba GTC COMMUNICATIONS
legal@mygtc.com

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

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

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

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

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

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

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

JONATHAN BARDSLEY
WINDSTREAM COMMUNICATIONS,
LLC
Karen.Rosenberger@windstream.com

Certificate of Service
Page 9

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

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

ACCESS POINT, INC.
mike.winston@gtt.net

MARK HAMILTON
AVAYA CLOUD INC.
markhamilton@avaya.com

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

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

ANTHONY SOLOMON
FLASH WIRELESS, LLC
jeff.myers@acninc.com

LANCE STEINHART
GLOBAL CONNECTION INC. OF
AMERICA
dba STANDUP WIRELESS
info@telecomcounsel.com

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

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

BCN TELECOM, INC. (COR)
[contact@nationwideregulatory
ycompliance.com](mailto:contact@nationwideregulatorycompliance.com)

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

ALISON MINEA
DISH WIRELESS L.L.C.
alison.minea@dish.com

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

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

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

HELLO MOBILE TELECOM LLC
req@qlinkmobile.com

Certificate of Service
Page 10

SAM OLAWAIYE
INREACH INC.
tax.dept@garmin.com

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

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

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

JOSE L. SOLANA
PRESIDENT
PINNACLE TELECOMMUNICATIONS
GROUP, LLC
joe@gsaudits.com

MELISSA DRISKELL
REGULATORY MANAGER
PURETALK HOLDINGS, LLC
melissa.driskell@telrite.com

PAUL LAPIER
IM TELECOM, LLC
dba INFINITI MOBILE
plapier@infinitimobile.com

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

LUNAR LABS, INC.
info@joinlunar.com

MITEL CLOUD SERVICES, INC.
(COR)
scockerham@telecompliance.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

REPUBLIC WIRELESS, INC.
regulatory@republicwireless.com

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

HEATHER DOBSON
SPECTRUM MOBILE, LLC
taxregulatory@charter.com

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

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

CHRISTINA MEYERING
TING INC.
cmeyering@tu cows.com

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

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

BETH BRANDENSTEIN
THE PEOPLE'S OPERATOR USA, LLC
beth@gsaudits.com

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

AMANDA GUCICH
ROK MOBILE, INC.
promano@rokmobile.com

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

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

JONATHON FRANCIS
WING TEL INC.
jonathon@wingalpha.com

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

SUSAN COCKERHAM
365 WIRELESS LLC
scockerham@telecompliance.net

TACHIBANA ENTERPRISES, LLC
sli@tachibana.com

MELISSA DRISKELL
REGULATORY MANAGER
TELRITE CORPORATION
melissa.driskell@telrite.com

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

EILEEN BAYERS
THE LIGHT PHONE, INC.
eileen@thelightphone.com

GERALD GUARDIOLA
CRICKET WIRELESS LLC
gg009y@att.com

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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

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

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

JOHN WILDE
HAWAII - AMERICAN WATER
COMPANY (HAWAII KAI
OPERATIONS)
jaclyn.nartell@amwater.com

HAWAII - AMERICAN WATER
COMPANY (MAUNA LANI
OPERATIONS)
MORIHARA LAU & FONG

Counsel for HAWAII -
AMERICAN WATER COMPANY
(MAUNA LANI OPERATIONS)

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Page 13

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

JOSEPH GIANNINI
DIRECTOR-HOSPITALITY
ACCOUNTING
TURTLE BAY WASTEWATER
TREATMENT, LLC
jgiannini@revantage.com

HOLLY GANDIA
HOH UTILITIES, LLC
holly@mskauai.com

ROBERT STOUT
ACCOUNTING MGR.
WAIKOLOA SANITARY SEWER
COMPANY, INC.
dba WEST HAWAII SEWER
COMPANY
Rstout@hawaiiwaterservice.com

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

CANDICE MEYER
WAIMEA WASTEWATER COMPANY,
INC.
mey.c@pri-hi.com

JAY M. UYEDA
VP OF DEVELOPMENT
KAUPULEHU WASTE WATER COMPANY
juyeda@hualalairesort.com

JOHN K. NEWTON
AQUA PUHI, LLC
dba PUHI SEWER & WATER
COMPANY
pswmail@aquengineers.com

ROBERT STOUT
KEAUHOU COMMUNITY SERVICES, INC.
Rstout@hawaiiwaterservice.com

LINDSAY CRAWFORD
SENIOR MANAGER OF PLANNING &
ENGINEERING
KUKUI'ULA SOUTH SHORE COMMUNITY
SERVICES LLC
lcrawford@kukuiula.com

MITCH SILVER
KALAELOA WATER CO., LLC
alex.dosen@huntcompanies.com

MANELE WATER RESOURCES, LLC
gtokuda@pulamalani.com

ROBERT STOUT
ACCOUNTING MANAGER
KONA WATER SERVICE COMPANY,
INC.
Rstout@hawaiiwaterservice.com

LISA M. MARSH
MOSCO, INC.
tsvetin@molokairanch.com

Certificate of Service
Page 14

BRAD SUIZU
SECRETARY & MANAGER
PRINCEVILLE UTILITIES COMPANY,
INC.
bsuizu@princeville.com

SHARI SAKAMOTO
PUNALU'U WATER & SANITATION
CORP.
shari.sakamoto@robertshawaii.com

KISAN JO
SOUTH KOHALA WATER CORPORATION
d.hwang@princehawaii.com

ROBERT STOUT
ACCOUNTING MANAGER
WAIKOLOA RESORT UTILITIES, INC.
dba WEST HAWAII UTILITY COMPANY
Rstout@hawaiiwaterservice.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

KATHERINE DRAGO
PRESIDENT
HAWAIIAN BEACHES WATER COMPANY,
INC.
kateprescott78@hotmail.com

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

JAY M. UYEDA
VP OF DEVELOPMENT
KAUPULEHU WATER COMPANY
juyeda@hualairesort.com

JOHN R. ORD
CHIEF FINANCIAL OFFICER
KEALIA WATER COMPANY
HOLDINGS LLC
kealiamail@aquaeengineers.com

TOM HITCH
PRESIDENT
KILAUEA IRRIGATION CO.,
INC.
tomahitch@earthlink.net

WILLIAM L. MOORE
KRWC CORP. - KOHALA RANCH
WATER COMPANY
billmoore@hawaii.rr.com

LANCE K. PAGADOR
LAIE WATER COMPANY, INC.
pagadorl@hawaiireserves.com

GARRET TOKUDA
LANAI WATER CO., INC.
gtokuda@pulamalani.com

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

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Page 15

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

LISA M. MARSH
CONTROLLER
MOLOKAI PUBLIC UTILITIES, INC.
tsvetin@molokairanch.com

TAYLOR MOWER
NORTH SHORE WATER COMPANY, LLC
tmower@kennedywilson.com

GLENN TREMBLE
VP OPERATIONS MANAGER
LOWALU WATER COMPANY, INC.
glenn@westmauiland.com

ROBERT STOUT
ACCOUNTING MANAGER
WAIKOLOA WATER COMPANY, INC.
dba WEST HAWAII WATER COMPANY
Rstout@hawaiiwaterservice.com

LISA M. MARSH
WAI'OLA O MOLOKAI, INC.
tsvetin@molokairanch.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@ksglaw.com
jas@ksglaw.com

KRIS N. NAKAGAWA
LIANNA FIGUEROA
MORIHARA LAU & FONG
KNakagawa@moriharagroup.com
lfigueroa@moriharagroup.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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