

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"),<sup>1</sup> unless otherwise ordered and subject to the conditions

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<sup>1</sup>"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 services<sup>2</sup> and associated disconnection fees; (2) any and all rules

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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.

<sup>2</sup>The 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 expense<sup>3</sup>) 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

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

<sup>3</sup>By "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").<sup>4</sup> 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).<sup>5</sup>

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

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<sup>4</sup>The 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.

<sup>5</sup>This 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.<sup>6</sup> 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.<sup>7</sup>

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

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<sup>6</sup>See Order No. 40218 at 6.

<sup>7</sup>Order 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.<sup>8</sup> 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.<sup>9</sup> 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

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<sup>8</sup>The 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 15<sup>th</sup> 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.

<sup>9</sup>The 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.<sup>10</sup> 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).<sup>11</sup>

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

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<sup>10</sup>As 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.

<sup>11</sup>This 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

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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](mailto: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](mailto:kevin.katsura@hawaiianelectric.com)

DIAMOND JAKE GIACOMELLI  
SENIOR BUSINESS AND  
REGULATORY ANALYST  
THE GAS COMPANY, LLC  
dba HAWAI'I GAS  
[dgiacomelli@hawaiiigas.com](mailto:dgiacomelli@hawaiiigas.com)  
[regulatoryaffairs@hawaiiigas.com](mailto:regulatoryaffairs@hawaiiigas.com)

STEVEN P. GOLDEN  
HAWAIIAN TELCOM, INC.  
[steven.golden@hawaiiantel.com](mailto:steven.golden@hawaiiantel.com)

JANICE L. ONO  
AREA MANAGER - REGULATORY  
AT&T CORP.  
[Janice.Ono@att.com](mailto:Janice.Ono@att.com)

BREANNE KAHALEWAI  
PRESIDENT  
SANDWICH ISLES COMMUNICATIONS,  
INC.  
[abbyt@sandwichisles.com](mailto:abbyt@sandwichisles.com)

DANIEL MELDAZIS  
ONVOY, LLC  
[taxdepartment@inteligent.com](mailto:taxdepartment@inteligent.com)

ANDREW M. LANCASTER  
MANAGER  
SPRINT COMMUNICATIONS COMPANY  
L.P.  
[Andy.M.Lancaster@sprint.com](mailto:Andy.M.Lancaster@sprint.com)

MIKE METHVIN  
TAX DIRECTOR  
SPOK, INC.  
[matt.ford@spok.com](mailto:matt.ford@spok.com)

ROBERT CLEARY  
VICE PRESIDENT  
800 RESPONSE INFORMATION  
SERVICES LLC  
[bcleary@800response.com](mailto:bcleary@800response.com)

SCOTT ALLEN  
CHIEF FINANCIAL OFFICER  
ACCESSLINE COMMUNICATIONS  
CORPORATION  
dba VOICE TELCO SERVICES  
[sdesgroustilliers@intermedia.net](mailto:sdesgroustilliers@intermedia.net)

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Page 2

JOSEPH T. KOPPY  
CHIEF FINANCIAL OFFICER  
AFFINITY NETWORK INCORPORATED  
[jrenneker@nos.com](mailto:jrenneker@nos.com)

REBECCA WEST  
STAFF MANAGER  
BROADVIEW NETWORKS, INC.  
[becky.west@windstream.com](mailto:becky.west@windstream.com)

ANDRE SIMONE  
CHIEF FINANCIAL OFFICER  
AIRUS, INC.  
[asimone@intelepeer.com](mailto:asimone@intelepeer.com)

SUSAN RAPINZ  
REGULATORY MANAGER  
BROADVOX-CLEC, LLC  
[info@inteserra.com](mailto:info@inteserra.com)

JUDITH A RILEY  
ANPI BUSINESS, LLC  
[jriley@telecompliance.net](mailto:jriley@telecompliance.net)

KATE O'CONNOR  
CHIEF FINANCIAL OFFICER  
BUEHNER-FRY, INC.  
[MBCoker@TheNavisWay.com](mailto:MBCoker@TheNavisWay.com)

LISA JILL FREEMAN  
VP & REGULATORY COMPLIANCE  
OFFICER  
BANDWIDTH.COM CLEC, LLC  
[ljfreeman@bandwidth.com](mailto:ljfreeman@bandwidth.com)

MARY GARRIS  
CENTURYLINK COMMUNICATIONS, LLC  
[mary.garris@centurylink.com](mailto:mary.garris@centurylink.com)

ACN COMMUNICATIONS SERVICES, LLC  
[mark@csilongwood.com](mailto:mark@csilongwood.com)

RICHARD MINEROINO  
COMTECH 21, LLC  
[regulatory@comtech21.com](mailto:regulatory@comtech21.com)

TAMMY FERBER  
CONTROLLER  
AMERIVISION COMMUNICATIONS, INC.  
[tferber@affinity4.com](mailto:tferber@affinity4.com)

JEFF KORN  
CHIEF LEGAL OFFICER  
CREXENDO BUSINESS SOLUTIONS,  
INC.  
[jkorn@storesonline.com](mailto:jkorn@storesonline.com)

JOSEPH O' HARA  
CHIEF FINANCIAL OFFICER  
ANPI, LLC  
[johara@anpisolutions.com](mailto:johara@anpisolutions.com)

MENDEL BIRNBAUM  
VICE PRESIDENT  
DYNALINK COMMUNICATIONS, INC.  
[mendel@dynalinktel.com](mailto:mendel@dynalinktel.com)

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

MARY GARRIS  
BROADWING COMMUNICATIONS, LLC  
[mary.garris@centurylink.com](mailto:mary.garris@centurylink.com)

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Page 3

WENDY HEE  
PRESIDENT  
CLEARCOM, INC.  
[abbyt@sandwichisles.com](mailto:abbyt@sandwichisles.com)

JOSEPH A. NICOTRA  
PRESIDENT  
CONSUMER TELCOM, INC.  
[abloom@idxx.com](mailto:abloom@idxx.com)

FERNANDA BIEHL  
CROWN CASTLE NG WEST LLC  
[PUC.Correspondence@crowncastle.com](mailto:PUC.Correspondence@crowncastle.com)

REBECCA WEST  
STAFF MANAGER  
DELTACOM, LLC  
dba EARTHLINK BUSINESS I  
[becky.west@windstream.com](mailto:becky.west@windstream.com)

GINA LAWRENCE  
eNETWORKS, LLC  
[gina.lawrence@essentia-inc.com](mailto:gina.lawrence@essentia-inc.com)

DANIEL I. TIMM  
CHIEF FINANCIAL OFFICER  
EXTENET SYSTEMS, INC.  
[compliance@util.extenetsystems.com](mailto:compliance@util.extenetsystems.com)

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

MARY GARRIS  
GLOBAL CROSSING  
TELECOMMUNICATIONS, INC.  
[mary.garris@centurylink.com](mailto:mary.garris@centurylink.com)

GINO CAPOZZI  
GODADDY.COM, LLC  
[gcaozzi@godaddy.com](mailto:gcaozzi@godaddy.com)

KIM MCNEANY  
ELECTRIC LIGHTWAVE LLC  
dba INTEGRA TELECOM  
[kim.mcneany@allstream.com](mailto:kim.mcneany@allstream.com)

JERRY WEIKLE, REGULATORY  
ENTELEGENT SOLUTIONS, INC.  
dba ENTELEGENT COMMUNICATIONS  
SOLUTIONS  
[regulatory@entelegent.com](mailto:regulatory@entelegent.com)

JEFF GIANNANTONIO  
FIRST COMMUNICATIONS, LLC  
[jgiannantonio@firstcomm.com](mailto:jgiannantonio@firstcomm.com)

DAN KARDATZKE  
CHIEF FINANCIAL OFFICER  
GC PIVOTAL, LLC  
[regulatory@globalcapacity.com](mailto:regulatory@globalcapacity.com)

GLOBAL TEL\*LINK CORPORATION  
[scockerham@telecompliance.net](mailto:scockerham@telecompliance.net)

JOHN PRINNER  
GRANITE TELECOMMUNICATIONS, LLC  
[taxdept@granitenet.com](mailto:taxdept@granitenet.com)

BRIAN KENNEY  
GRASSHOPPER GROUP, LLC  
[brian.kenney@logmein.com](mailto:brian.kenney@logmein.com)

JARED GRUGETT  
PRESIDENT  
HAWAII DIALOGIX TELECOM, LLC  
[jgrugett@hawaiidt.com](mailto:jgrugett@hawaiidt.com)

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Page 4

CARL BILLEK  
SENIOR REGULATORY COUNSEL  
IDT AMERICA, CORP.  
[carl.billek@idt.net](mailto:carl.billek@idt.net)

KEN DAWSON  
DIRECTOR  
INMATE CALLING SOLUTIONS, LLC  
dba ICSOLUTIONS  
[scastillo@icsolutions.com](mailto:scastillo@icsolutions.com)

RICHARD JOHNSON  
MANAGER, REGULATORY AFFAIRS  
INTRADO SAFETY COMMUNICATIONS,  
INC.  
[regulatory.safetyservices@intrado.com](mailto:regulatory.safetyservices@intrado.com)

MARY GARRIS  
LEVEL 3 COMMUNICATIONS, LLC  
[mary.garris@centurylink.com](mailto:mary.garris@centurylink.com)

JOHN NELSON, PRESIDENT  
HAMILTON RELAY, INC.  
[john.nelson@hamiltontel.com](mailto:john.nelson@hamiltontel.com)

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

INCONTACT, INC.  
[compliance@niceincontact.com](mailto:compliance@niceincontact.com)

CINDY FOSTER  
DIRECTOR  
INTELLETRACE, INC.  
[support@intellectrace.com](mailto:support@intellectrace.com)

LESLIE BEACH, TAX ACCOUNTANT  
INTERNATIONAL TELECOM, LTD.  
[leslieb@kall8.com](mailto:leslieb@kall8.com)

SHANNON BROWN  
MCI COMMUNICATIONS SERVICES,  
INC.  
dba VERIZON BUSINESS SERVICES  
[shannon.brown@verizon.com](mailto:shannon.brown@verizon.com)

RALPH DICHY  
DIRECTOR OF TAX AFFAIRS  
METROPOLITAN TELECOMMUNICATIONS  
OF HAWAII, INC.  
dba METTEL  
[rdichy@mettel.net](mailto:rdichy@mettel.net)

KAREN HYDE  
MOBILITIE, LLC  
[kmh@compliancegroup.com](mailto:kmh@compliancegroup.com)

JIM MCCABE  
VICE PRESIDENT OF OPERATIONS  
NETWORK INNOVATIONS, INC.  
dba NITEL  
[jriley@telecompliance.net](mailto:jriley@telecompliance.net)

DANIEL MELDAZIS  
NEUTRAL TANDEM-HAWAII, LLC  
[taxdepartment@inteliquent.com](mailto: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](mailto:alex.valencia@lingo.com)



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SHANNON BROWN  
MCI METRO ACCESS TRANSMISSION  
SERVICES, LLC  
dba VERIZON ACCESS TRANSMISSION  
SERVICES  
[shannon.brown@verizon.com](mailto:shannon.brown@verizon.com)

AMANDA HUTCHISON HARRIS  
REGULATORY COMPLIANCE OFFICER  
NETWORKIP, LLC  
[regulatory@networkip.net](mailto:regulatory@networkip.net)

GLEN NELSON  
VICE PRESIDENT  
NEW HORIZONS COMMUNICATIONS  
CORP.  
[gnelson@nhcgrp.com](mailto:gnelson@nhcgrp.com)

SUSAN ORNSTEIN  
NEXTGEN COMMUNICATIONS, INC.  
[SST-Compliance@comtechtel.com](mailto:SST-Compliance@comtechtel.com)

JOSEPH T. KOPPY  
CHIEF EXECUTIVE OFFICER  
NOS COMMUNICATIONS, INC.  
[jrenneker@nos.com](mailto:jrenneker@nos.com)

MARK LEAFSTEDT  
CHIEF EXECUTIVE OFFICER  
OPEX COMMUNICATIONS, INC.  
dba TCI LONG DISTANCE  
[regulatory@opexld.com](mailto:regulatory@opexld.com)

SHARON E. PORTER  
PNG TELECOMMUNICATIONS, INC.  
dba POWERNET GLOBAL  
COMMUNICATIONS  
dba CROSSCONNECT  
[tax@powernetco.com](mailto:tax@powernetco.com)

THOMAS P. MARGAVIO  
SBC LONG DISTANCE, LLC  
dba SBC LONG DISTANCE  
dba AT&T LONG DISTANCE  
[tm5886@att.com](mailto:tm5886@att.com)

RICHARD ZHENG  
PRESIDENT  
SERVPAC INCORPORATED  
[rzheng@servpac.com](mailto:rzheng@servpac.com)

TODD LESSER  
PRESIDENT  
NORTH COUNTY COMMUNICATIONS  
CORPORATION  
[nccpuc@nccom.com](mailto:nccpuc@nccom.com)

JOHN DAY  
PRESIDENT  
PACIFIC DATA SYSTEMS  
dba NEXGEN NETWORK SERVICES  
[john@pdsguam.com](mailto:john@pdsguam.com)

PUBLIC COMMUNICATIONS SERVICES,  
INC.  
[scokerham@telecompliance.net](mailto:scokerham@telecompliance.net)

DAVID RODMAN  
PRESIDENT  
RED ROAD TELECOM, LLC  
[david@redroad.com](mailto:david@redroad.com)

MICHAEL S.J. LOZICH  
CORPORATE COUNSEL  
DIRECTOR OF REGULATORY & GOVT.  
AFFAIRS  
SECURUS TECHNOLOGIES, INC.  
[mlozich@securustechnologies.com](mailto: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](mailto:becky.west@windstream.com)

BARBARA MONTE  
TELEPORT COMMUNICATIONS AMERICA,  
LLC  
[bm2571@att.com](mailto:bm2571@att.com)

SUSAN COCKERHAM  
TIME CLOCK SOLUTIONS, LLC  
[scockerham@telecompliance.net](mailto:scockerham@telecompliance.net)

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

ROBERT YOUNG  
PRESIDENT  
U.S. TELECOM LONG DISTANCE, INC.  
[abloom@ldxx.com](mailto:abloom@ldxx.com)

SUSAN COCKERHAM  
VELOCITY THE GREATEST PHONE  
COMPANY EVER, INC.  
[scockerham@telecompliance.net](mailto:scockerham@telecompliance.net)

VERIZON LONG DISTANCE LLC  
dba VERIZON LONG DISTANCE  
[regacct@verizon.com](mailto:regacct@verizon.com)

JANE OMAN  
TDS LONG DISTANCE CORPORATION  
(COA)  
[finance@tdstelecom.com](mailto:finance@tdstelecom.com)

HEATHER DOBSON  
TIME WARNER CABLE BUSINESS LLC  
[heather.dobson@charter.com](mailto:heather.dobson@charter.com)

SUSAN COCKERHAM  
VALUE-ADDED COMMUNICATIONS, INC.  
[scockerham@telecompliance.net](mailto:scockerham@telecompliance.net)

PATRICE DEMARCO  
VERIZON HAWAII INTERNATIONAL,  
INC.  
[patrice.demarco@verizon.com](mailto:patrice.demarco@verizon.com)

DEISY CARRERA  
VERIZON SELECT SERVICES, INC.  
[deisy.carrera@verizon.com](mailto:deisy.carrera@verizon.com)

KEITH CUMMINGS, VP  
VOICECOM TELECOMMUNICATIONS, LLC  
[mark@csilongwood.com](mailto:mark@csilongwood.com)

ANDREW NICKERSON  
DIRECTOR  
WIDE VOICE, LLC  
[erlae@widevoice.com](mailto:erlae@widevoice.com)

WIMACTEL, INC.  
dba INTELICAL OPERATOR  
SERVICES OF NORTH AMERICA  
[jmackenzie@wimactel.com](mailto:jmackenzie@wimactel.com)

JANICE CRUMP  
CHIEF FINANCIAL OFFICER  
WORKING ASSETS FUNDING SERVICE,  
INC.  
dba CREDO LONG DISTANCE  
[compliance@wafs.com](mailto:compliance@wafs.com)

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Page 7

SHARON ADAMS  
GOVERNMENT RELATIONS ANALYST  
XO COMMUNICATIONS SERVICES, LLC  
[sharon.e.adams@verizon.com](mailto:sharon.e.adams@verizon.com)

JOHN PRINNER  
GRANITE TELECOMMUNICATIONS, LLC  
(COR)  
[taxdept@granitenet.com](mailto:taxdept@granitenet.com)

THOMAS PAOLUCCI  
CONTROLLER  
WAVECOM SOLUTIONS CORPORATION  
[Tom.Paolucci@cinbell.com](mailto:Tom.Paolucci@cinbell.com)

CURTIS CHURCH  
AMERICAN BROADBAND AND  
TELECOMMUNICATIONS COMPANY  
[cchurch@ambt.net](mailto:cchurch@ambt.net)

MARY GARRIS  
WILTEL COMMUNICATIONS, LLC  
[mary.garris@centurylink.com](mailto:mary.garris@centurylink.com)

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

REBECCA WEST  
WINDSTREAM COMMUNICATIONS, LLC  
[becky.west@windstream.com](mailto:becky.west@windstream.com)

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

MARK PAVOL  
X2COMM, INC.  
dba DC COMMUNICATIONS  
[mark@x2comm.com](mailto:mark@x2comm.com)

SHANE BRIDGES  
CONTROLLER  
CONSUMER CELLULAR, INCORPORATED  
[tax@consumercellular.com](mailto:tax@consumercellular.com)

MARK PAVOL  
REGULATORY MANAGER  
YMAX COMMUNICATIONS CORP.  
[regulatory@ymaxcorp.com](mailto:regulatory@ymaxcorp.com)

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

BOOMERANG WIRELESS, LLC  
dba ENTOUCH WIRELESS  
[jrcarter@readywireless.com](mailto:jrcarter@readywireless.com)

JARAD BACKLUND  
BUSINESS CONTROLLER  
GOOGLE NORTH AMERICA INC.  
[fi-compliance@google.com](mailto:fi-compliance@google.com)

RAYMOND VALME  
DIAL WORLD COMMUNICATIONS, LLC  
[ray@dialworldcom.com](mailto:ray@dialworldcom.com)

MARK LAMMERT  
FLASH WIRELESS, LLC  
[mark@csilongwood.com](mailto:mark@csilongwood.com)

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

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Page 8

MASAHIRO FURUYA  
EXECUTIVE VP  
KDDI AMERICA, INC.  
[ga@kddia.com](mailto:ga@kddia.com)

CORY VAN ARSDALE  
CHIEF LEGAL OFFICER  
MVNO CONNECT LLC  
[coryv@mvnoc.com](mailto:coryv@mvnoc.com)

AMY RAY  
METROPCS CALIFORNIA, LLC  
[Taxops@T-Mobile.com](mailto:Taxops@T-Mobile.com)

JUSTIN SNYDER  
NATWIRELESS LLC  
dba NATIONAL WIRELESS  
[regulatory@natwireless.com](mailto:regulatory@natwireless.com)

GENNARO ISABELLA  
SENIOR TAX ANALYST  
ONSTAR, LLC  
[tamika.mayes@gm.com](mailto:tamika.mayes@gm.com)

PURETALK HOLDINGS, LLC  
[mark@csilongwood.com](mailto:mark@csilongwood.com)

LISA WILLIS  
K G COMMUNICATIONS, INC.  
[lisa@kgcomm.net](mailto:lisa@kgcomm.net)

GLENN P. STORY  
CHIEF FINANCIAL OFFICER  
PATRIOT MOBILE, LLC  
[glenn@eoscell.com](mailto:glenn@eoscell.com)

RICHARD PELLY  
PLINTRON TECHNOLOGIES USA LLC  
[richardpelly@plintronamericas.com](mailto:richardpelly@plintronamericas.com)

READY WIRELESS, LLC  
dba AFFINITY CELLULAR  
dba CLUB CELLULAR  
[jrcarter@readywireless.com](mailto:jrcarter@readywireless.com)

NATHAN JOHNSON  
CHIEF EXECUTIVE OFFICER  
SAGE TELECOM COMMUNICATIONS, LLC  
dba TRUCONNECT  
[scockerham@telecompliance.net](mailto:scockerham@telecompliance.net)

MEGHAN HAN ZHOU  
DIRECTOR  
SQUARE MOBILE, INC.  
[meghanz@squaremobile.co](mailto:meghanz@squaremobile.co)

STS MEDIA, INC.  
dba FREEDOMPOP  
[orvin@gsaudits.com](mailto:orvin@gsaudits.com)

ENRIQUE LANDIVAR  
TELEFONICA USA, INC.  
[enrique.landivar@telefonica.com](mailto:enrique.landivar@telefonica.com)

ELENA THOMASSON  
TEMPO TELECOM, LLC  
[elena.thomasson@birch.com](mailto:elena.thomasson@birch.com)

SELECTEL, INC.  
dba SELECTEL WIRELESS  
[oflaherty.matt@gmail.com](mailto:oflaherty.matt@gmail.com)

DARRIN PFANNENSTIEL, ESQ.  
STREAM COMMUNICATIONS, LLC  
[darrin.pfannenstiel@streamenergy.net](mailto:darrin.pfannenstiel@streamenergy.net)

TACHIBANA ENTERPRISES, LLC  
[sli@tachibana.com](mailto:sli@tachibana.com)

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Page 9

TELRITE CORPORATION  
[mark@csilongwood.com](mailto:mark@csilongwood.com)

CHRISTINA MEYERING  
TING INC.  
[cmeyering@tu cows.com](mailto:cmeyering@tu cows.com)

CHESLEY DILLION  
VP - CORP. TAX  
TRACFONE WIRELESS, INC.  
dba SAFELINK WIRELESS  
[mmontenegro@tracfone.com](mailto:mmontenegro@tracfone.com)

GARY JOSEPH  
MANAGER  
WIMACTEL, INC. (COR)  
[jmackenzie@goviiz.com](mailto:jmackenzie@goviiz.com)

ANDREW M. LANCASTER  
MANAGER  
VIRGIN MOBILE USA, L.P.  
[andy.m.lancaster@sprint.com](mailto:andy.m.lancaster@sprint.com)

SUSAN COCKERHAM  
365 WIRELESS LLC  
[scockerham@telecompliance.net](mailto:scockerham@telecompliance.net)

STEVE DELGADO  
CONSULTANT - TAX  
CELLCO PARTNERSHIP  
dba VERIZON WIRELESS  
[steve.delgado@gmail.com](mailto:steve.delgado@gmail.com)

GERALD GUARDIOLA  
CRICKET WIRELESS LLC  
[gg009y@att.com](mailto:gg009y@att.com)

GERALD GUARDIOLA  
NEW CINGULAR WIRELESS PCS, LLC  
[gg009y@att.com](mailto:gg009y@att.com)

WENDY HEE  
PA MAKANI LLC  
dba SANDWICH ISLES WIRELESS  
[wendyh@waimana.com](mailto:wendyh@waimana.com)

ANDREW M. LANCASTER  
MANAGER  
SPRINTCOM, INC.  
dba SPRINT PCS  
[andy.m.lancaster@sprint.com](mailto:andy.m.lancaster@sprint.com)

GARY FINKEL  
ALLIANT TECHNOLOGIES, L.L.C.  
[gfinkel@allianttech.com](mailto:gfinkel@allianttech.com)

KIRK IYAMA  
COMCAST OTR1, LLC  
[kirk\\_iyama@cable.comcast.com](mailto:kirk_iyama@cable.comcast.com)

JAMES TATE  
GENERAL MANAGER  
EXCELLUS COMMUNICATIONS, LLC  
[jim.tate@seniortechllc.com](mailto:jim.tate@seniortechllc.com)

MARY T. BULEY  
SENIOR REGULATORY MANAGER  
ONVOY SPECTRUM, LLC  
[mary.buley@onvoy.com](mailto:mary.buley@onvoy.com)

ISSA ASAD  
Q LINK WIRELESS LLC  
[issa@qlinkwireless.com](mailto:issa@qlinkwireless.com)

AMY RAY  
T-MOBILE WEST LLC  
dba T-MOBILE  
[Amy.Ray@T-Mobile.com](mailto:Amy.Ray@T-Mobile.com)

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Page 10

GARY GRINHAM  
UVNV, INC.  
dba MINT MOBILE  
[ggrinham@ultra.me](mailto:ggrinham@ultra.me)

BLAIR ROSENTHAL  
ASSISTANT GENERAL COUNSEL  
VODAFONE US INC.  
[blair.rosenthal@vodafone.com](mailto:blair.rosenthal@vodafone.com)

STEVE DELGADO  
VISIBLE SERVICE LLC  
[steve.delgado@verizon.com](mailto:steve.delgado@verizon.com)

ANDREW M. LANCASTER  
MANAGER  
ASSURANCE WIRELESS USA LP  
[Andy.m.lancaster@sprint.com](mailto:Andy.m.lancaster@sprint.com)

MATTHEW SANTINI, CEO  
COMLINK TOTAL SOLUTIONS CORP.  
[matt@comlinksmb.com](mailto:matt@comlinksmb.com)

TINA ALLEN  
EASY TELEPHONE SERVICES COMPANY  
[tallen@telecomservicebureau.com](mailto:tallen@telecomservicebureau.com)

GREG COLE  
GABB WIRELESS, INC.  
[Greg.cole@gabbwireless.com](mailto:Greg.cole@gabbwireless.com)

BETH BRANDENSTEIN  
LYCAMOBILE USA, INC.  
[beth@gsaudits.com](mailto:beth@gsaudits.com)

DAVID SARVER  
CEO  
SARVER CORPORATION  
[sales@sarvercorp.com](mailto:sales@sarvercorp.com)

JASON NARRELL  
STX Group, LLC  
[regulatory@twigby.com](mailto:regulatory@twigby.com)

THOMAS SELBY, VICE PRESIDENT  
ATC MAKENA WWTP SERVICES CORP.  
[tselby@makenagbc.com](mailto:tselby@makenagbc.com)

ROBERT STOUT  
ACCOUNTING MGR.  
HAWAII WATER SERVICE COMPANY,  
INC. - PUKALANI WASTEWATER  
DISTRICT  
[rstout@hawaiiwaterservice.com](mailto:rstout@hawaiiwaterservice.com)

PAULUS SUBRATA  
VICE PRESIDENT  
KAPALUA WASTE TREATMENT COMPANY  
[psubrata@mlpmaui.com](mailto:psubrata@mlpmaui.com)

OLIVIA MAKI  
HANA WATER SYSTEMS, LLC - SOUTH  
[omaki@biologicalcapital.com](mailto:omaki@biologicalcapital.com)

OLIVIA MAKI  
HANA WATERSYSTEMS, LLC - NORTH  
[omaki@biologicalcapital.com](mailto:omaki@biologicalcapital.com)

ROBERT STOUT  
ACCOUNTING MANAGER  
HAWAII WATER SERVICE COMPANY,  
INC. - KAA NAPALI OPERATION  
[Rstout@hawaiiwaterservice.com](mailto:Rstout@hawaiiwaterservice.com)

PAULUS SUBRATA  
VICE PRESIDENT  
KAPALUA WATER COMPANY  
[psubrata@mlpmaui.com](mailto:psubrata@mlpmaui.com)

Certificate of Service

Page 11

GLENN TREMBLE  
MANAGER  
LAUNIUPOKO IRRIGATION COMPANY,  
INC.  
[glenn@westmauiland.com](mailto:glenn@westmauiland.com)

GLENN TREMBEL  
VP OPERATIONS  
LAUNIUPOKO WATER COMPANY, INC.  
[glenn@westmauiland.com](mailto:glenn@westmauiland.com)

OLOWALU WATER COMPANY, INC.  
[glenn@westmauiland.com](mailto:glenn@westmauiland.com)

ROBERT E. STRAND, ESQ.  
CARLSMITH BALL LLP  
[rstrand@carlsmith.com](mailto:rstrand@carlsmith.com)

PETER Y. KIKUTA  
THOMAS W. WILLIAMS  
GOODSILL ANDERSON QUINN & STIFEL  
LLP  
[pkikuta@goodsill.com](mailto:pkikuta@goodsill.com)  
[twilliams@goodsill.com](mailto:twilliams@goodsill.com)

BRUCE NAKAMURA  
JOSEPH A. STEWART  
KOBAYASHI SUGITA & GODA  
[ban@ksqlaw.com](mailto:ban@ksqlaw.com)  
[jas@ksqlaw.com](mailto: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](mailto:Kent.Morihara@stratlaw.com)  
[Lianna.Figueroa@stratlaw.com](mailto:Lianna.Figueroa@stratlaw.com)  
[Jamie.Yoshikane@stratlaw.com](mailto:Jamie.Yoshikane@stratlaw.com)  
[Peter.kikuta@stratlaw.com](mailto:Peter.kikuta@stratlaw.com)

SANDRA-ANN Y.H. WONG  
ATTORNEY AT LAW, A LAW  
CORPORATION  
[sawonglaw@hawaii.rr.com](mailto:sawonglaw@hawaii.rr.com)

DOUGLAS CODIGA  
SCHLACK ITO, LLC  
[dcodiga@schlackito.com](mailto:dcodiga@schlackito.com)

PAMELA J. LARSON  
DAVID Y. NAKASHIMA  
JEFFREY T. ONO  
WATANABE ING LLP  
[PLarson@wik.com](mailto:PLarson@wik.com)  
[DNakashima@wik.com](mailto:DNakashima@wik.com)  
[JOno@wik.com](mailto:JOno@wik.com)

DEAN T. YAMAMOTO  
WIL T. YAMAMOTO  
CARLITO CALIBOSO  
YAMAMOTO CALIBOSO, LLLC  
[DYamamoto@ychawaii.com](mailto:DYamamoto@ychawaii.com)  
[WYamamoto@ychawaii.com](mailto:WYamamoto@ychawaii.com)  
[CCaliboso@ychawaii.com](mailto:CCaliboso@ychawaii.com)

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