

November 7, 2017

Ms. Pamela Arluk
Chief, Pricing Competition Division
Wireline Competition Bureau
1445 S.W. Twelfth Street
Washington, D.C. 20554

ELECTRONICALLY FILED in ECFS and ETFS

**Re: Certification of Hawaiian Telcom, Inc. that No Business Data Services are
Provided in Kalawao County, Hawaii, FCC Tariff No. 1, WC Docket No. 16-
143**

Dear Ms. Arluk:

On October 13, 2017, the Pricing Policy Division released the *Price Cap TRP Order*¹ requiring price cap carriers to submit certain data with respect to the business data services offered in their study areas pursuant to the *Business Data Services Order*.² Hawaiian Telcom, Inc. (“Hawaiian Telcom”) will have difficulty providing some of the information requested because no business data services are provided in Kalawao County, Hawaii, the only county in Hawaii that is not classified as competitive. This letter constitutes a certification that HT provides no business data services in Kalawao County.

Kalawao County Facts

Kalawao County, located on a peninsula on the island of Molokai, is a unique county. Much of the terrestrial portion of the County has rugged mountains, and several of the census blocks in the County consist of ocean and uninhabited (indeed uninhabitable) small islands. Most of the population is located in a small area of the County, where Hawaiian Telcom provides only voice, and no business data, services to the residents of the community.

Hawaiian Telcom does not have a central office located in Kalawao County. All services provided by Hawaiian Telcom to Kalawao County are provisioned from a central office located in Maui County, which also serves other portions of the Island of Molokai. Hawaiian Telcom provides voice service to 28 customer locations in the Kalawao County, 24 of which are residential locations. Hawaiian Telcom has not upgraded its network to provide any broadband services to customers in Kalawao County, and it has no last mile broadband connections in any

¹ *Business Data Services in an Internet Protocol Environment*, WC Docket No. 16-143, *et. al.*, DA 17-1009 (Wir. Comp. Bur., rel. Oct. 13, 2017) (“*Price Cap TRP Order*”).

² *Business Data Services in an Internet Protocol Environment*, WC Docket No. 16-143, *et al.*, Report & Order, FCC 17-43 (rel. Apr. 28, 2017) (“*Business Data Services Order*”), *pet. for rev.*, *Ad Hoc Telecommunications Users Comm. v. FCC*, No. 17-2342 (8th Cir., docketed Jun. 19, 2017).

of the 63 census blocks in Kalawao County. Thus, Hawaiian Telcom's existing network facilities are not currently capable of providing any business data services in Kalawao County.

Business Data Services Regulation

The Commission concluded in the *Business Data Services Order*, among other things, that competition from newer Internet Protocol ("IP")-based offerings constrained ILEC-provided Time Division Multiplexed ("TDM") business data services pricing, and therefore established a new regulatory paradigm for business data services. For TDM-based channel termination services below 50 Mbps, such as DS1 and DS3 services,³ the Commission established a county-level competition test.⁴ The Commission published a list of counties that meet the business data services competitive market test.⁵ The list of competitive counties included four out of the five counties in the State of Hawaii. The list did not include Kalawao County, located on the Island of Molokai, because Kalawao County does not technically meet the competitive market test.

The *Price Cap TRP Order* requires, among other things, that a price cap carrier tariff review plan "exclude the demand for special access services in competitive and grandfathered areas from the price cap calculations."⁶ Complying with this requirement would exclude 100 percent of the business data services demand from the four Hawaii counties that are classified as competitive. Because there are no business data services provided by Hawaiian Telcom in the remaining non-competitive county, Kalawao County, this approach makes the tariff review plan data fields yield non-usable results. Hawaiian Telcom's discontinuance of the offer of business data services in Kalawao County would obviate this problem.

Petition for Discontinuance

Given that all currently provided business data services in the four competitive counties in the State of Hawaii will eventually be detariffed pursuant to the *Business Data Services Order*, it makes no sense to maintain HT's business data service tariff provisions in the one remaining county, Kalawao County, in which Hawaiian Telcom does not currently provide, and has no

³ See *id.*, ¶ 86 & note 281 (description of TDM-based services under 50 Mbps).

⁴ 47 C.F.R. § 69.803(b). A county was defined as competitive if "[e]ither 50 percent of the locations with business data services demand within the county are within one half mile of a location served by a competitive provider" or "75 percent of the census blocks within the county are reported to have broadband connection availability by a cable operator."

⁵ Public Notice, *Wireline Competition Bureau Publicly Releases Lists of Counties Where Lower Speed TDM-Based Business Data Services are Deemed Competitive, Non-competitive, or grandfathered*, WC Docket No. 16-143, *et seq.*, DA 17-463 (Wir. Comp. Bur., rel. May 15, 2017), county list published at <https://www.fcc.gov/bds-county-lists> (last viewed May 16, 2017).

⁶ *Price Cap TRP Order*, ¶ 5 (citing 47 C.F.R. § 69.807(a) and (c)).

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plans to provide, business data services. Therefore, to address this issue, HT plans to file, pursuant to 47 U.S.C. § 214(a), an application for discontinuance of the offering of business data services in Kalawao County in the near future.

Under penalty of perjury, I certify that the foregoing is true and correct to the best of my knowledge and belief.

/s/ Steven P. Golden

Steven P. Golden
Vice President External Affairs
Hawaiian Telcom, Inc.

cc: Pamela Arluk
Vienna Jordan