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555 Eleventh Street, N.W., Suite 1000
Washington, D.C. 20004-1304
Tel: +202.637.2200 Fax: +202.637.2201
www.lw.com

LATHAM & WATKINS LLP

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DEC 31 2007

Federal Communications Commission
Office of the Secretary

December 31, 2007

PUBLIC VERSION

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

Re: Petition of Hawaiian Telcom, Inc. for Waiver of Sections 54.309 and 54.313(d)(vi) of the Commission's Rules, WC Docket No. 07-

Dear Ms. Dortch:

Pursuant to Section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, Hawaiian Telcom, Inc. ("HT") hereby submits the above-referenced Petition for Waiver ("Petition") of Sections 54.309 and 54.313(d)(vi) of the Commission's rules, 47 C.F.R. §§ 54.309, 54.313(d)(vi). Pursuant to Section 0.459(b) of the Commission's rules, 47 C.F.R. § 0.459(b), HT requests confidential treatment of certain portions of the Petition. In support of this request, HT states as follows:

- (1) **Identification of the specific information for which confidential treatment is sought.** HT requests that the Commission afford confidential treatment to portions of the Petition detailing sensitive aspects of HT's operations and business plans. These portions are redacted in the "public" version of this filing.
- (2) **Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission.** The information for which confidential treatment is sought is being submitted in conjunction with the HT's Petition for Waiver, which is enclosed with this letter. The Petition is submitted in accordance with 47 C.F.R. § 1.3 of the Commission's rules.
- (3) **Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.** The information for which confidential treatment is sought is highly sensitive data regarding (i) HT's operations and business plans and (ii) names and addresses of HT customers that have expressed an interest in purchasing additional services from HT. Public disclosure of this information could place HT at a competitive disadvantage vis-à-vis its competitors, and damage HT's

position in the marketplace. The Commission has recognized that competitive harm can result from the disclosure of confidential business information that gives competitors insight into a company's costs, pricing plans, market strategies, and consumer identities. *See Pan American Satellite Corporation*, FOIA Control Nos. 85-219, 86-38, 86-41 (May, 2 1986).

- (4) **Explanation of the degree to which the information concerns a service that is subject to competition.** The information for which confidential treatment is sought concerns telecommunications and broadband services provided by HT. The market for these services is subject to existing and potential competition from existing competitive local exchange carriers ("CLECs"), cable operators, wireless carriers, and satellite providers.
- (5) **Explanation of how disclosure of the information could result in substantial competitive harm.** A number of service providers compete, or could potentially compete, with HT in the market for telecommunications and broadband services. If the information for which confidential treatment is sought were disclosed, these service providers would be able to access highly sensitive and confidential information regarding HT's operations and business plans. Disclosing this information would give HT's competitors an unfair and unwarranted advantage competing vis-à-vis HT.
- (6) **Identification of any measures taken by the submitting party to prevent unauthorized disclosure.** The information for which confidential treatment is sought is not normally distributed, circulated, or provided to any party outside of HT. The company treats this information as sensitive information; thus only specialized personnel within the company have access to it.
- (7) **Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.** The information for which confidential treatment is sought is not available to the public, and has not previously been disclosed to third parties.
- (8) **Justification of the period during which the submitting party asserts that material should not be available for public disclosure.** HT maintains that the information for which confidential treatment is sought should remain subject to confidential treatment indefinitely. Even historical data can be used to track trends or business decisions, and this information could then be used against the petitioner.
- (9) **Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.** HT notes that the information for which confidential treatment is sought falls under Exemption 4 of the Freedom of Information Act (FOIA), insofar as this information is (i) commercial or financial in nature; (ii) obtained by a person outside government; and (iii) privileged and confidential. *See Washington Post Co. v. U.S. Department of Health and Human Services*, 690 F.2d 525 (D.C. Cir. 1982)

Pursuant to Section 1.51(c) of the Commission's rules, enclosed are an original and four copies of each of the Confidential and Public versions of this Petition. Please date-stamp and return to me the additional copies provided for that purpose. Should you have any questions concerning this filing, please contact the undersigned.

Very truly yours,

/s/ Richard Cameron

Karen Brinkmann
Richard R. Cameron
Jarrett S. Taubman

Attorneys for Hawaiian Telcom, Inc.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
)

HAWAIIAN TELCOM, INC.)

WCB Docket No. _____)

Petition for Waiver of Sections 54.309 and)
54.313(d)(vi) of the Commission's Rules)
_____)

PETITION FOR WAIVER

Karen Brinkmann
Richard R. Cameron
Jarrett S. Taubman
Latham & Watkins LLP
555 Eleventh St., N.W., Suite 1000
Washington, D.C. 20004-1304
(202) 637-2200

Its Attorneys

December 31, 2007

SUMMARY

In this Petition, Hawaiian Telcom, Inc. ("HT") requests a five-year waiver of Section 54.309 of the Commission's rules, 47 C.F.R. § 54.309, and a one-time waiver of Section 54.313(d)(vi) of the Commission's rules, 47 C.F.R. § 54.313(d)(vi), to permit HT to receive federal universal service support from the Commission's non-rural high-cost support mechanism ("High Cost Model Support" or "HCMS") by comparing its costs to the national cost benchmark on a wire-center-by-wire-center basis, immediately upon grant of this Petition.

These waivers are justified because HT faces special circumstances and the waivers would serve the public interest. HT faces operating challenges not faced by any other carrier in the nation, including: (i) the unique challenges of providing service to a state that is geographically isolated, comprised entirely of islands separated by deep ocean channels, characterized by dramatic changes in topography, climate, and character across very short distances, and vulnerable to a broad range of natural and man-made disasters; (ii) the unique vulnerabilities extending from Hawaii's remote location, strategic importance, and consequent vulnerability to foreign attack; (iii) the highly dispersed nature of the state's population outside of the single population center in Honolulu; and (iv) HT's lack of alternative funding sources for network investment. Despite these obstacles, as the only telecommunications service provider with carrier of last resort responsibilities in Hawaii, HT must provide service throughout the state upon request.

The requested waivers would unquestionably provide public interest benefits by enabling HT to overcome these challenges and deploy modern, robust telecommunications infrastructure, provide significant public safety benefits by increasing the redundancy of the state's E-911 system, and dramatically expand the availability of broadband in the most remote reaches of the

state. These benefits would especially favor Hawaii's historically underserved and economically challenged population – particularly native Hawaiians – without unduly burdening federal universal service mechanisms. Accordingly, HT respectfully requests the expeditious grant of the requested waivers.

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
HAWAIIAN TELCOM, INC.) WCB Docket No. _____
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Petition for Waiver of Sections 54.309 and)
54.313(d)(vi) of the Commission's Rules)
_____)

PETITION FOR WAIVER

Hawaiian Telcom, Inc. ("HT"), pursuant to Section 1.3 of the Commission's rules,¹ hereby petitions the Commission for a five-year waiver of Section 54.309 of the Commission's rules, and a one-time waiver of Section 54.313(d)(vi) of the Commission's rules.² Specifically, HT requests that the Commission direct the Universal Service Administrative Company ("USAC") to determine HT's eligibility to receive High Cost Model Support ("HCMS") by averaging its line costs on a wire center-by-wire center basis, instead of on a statewide basis as provided in Section 54.309.³ HT also requests a waiver of Section 54.313(d)(vi) of the Commission's rules, to the extent necessary, to ensure that HT is eligible to receive HCMS immediately upon grant of this Petition, rather than requiring the Hawaii Public Utilities

¹ 47 C.F.R. § 1.3.

² 47 C.F.R. §§ 54.309, 54.313(d)(vi).

³ HT requests a waiver of Section 54.309 solely so that HT's line costs may be compared to the national cost benchmark on a wire center-by-wire center basis to determine HT's eligibility for HCMS funding. HT does not seek any modification of the manner in which the national cost benchmark is itself calculated. In order to avoid any uncertainty, HT requests that the Commission make clear, if it grants this Petition, that the national cost benchmark will continue to be calculated as it is in the *status quo*, such that grant of this Petition would have no impact on the national cost benchmark or the eligibility of other carriers for HCMS funding.

Commission ("HPUC") to first file the certification otherwise required by that rule.⁴ As an eligible telecommunications carrier, HT offers all of the services required by Section 54.101 of the Commission's rules.⁵

I. INTRODUCTION AND BACKGROUND

A. Hawaiian Telecom, Inc.

HT is an incumbent local exchange carrier ("ILEC") operating throughout the State of Hawaii, and is currently estimated to be the tenth largest ILEC in the United States. HT's telecommunications network serves approximately 573,000 switched access lines, 268,000 long distance lines, and 93,000 High-Speed Internet connections. As such, HT is classified as a non-rural carrier because it does not meet any of the criteria established by the definition of a "rural telephone company" in Section 3(37) of the Communications Act, as amended.⁶

HT's loops are traditional copper cables of assorted gauges, combined with Digital Loop Carrier (DLC) electronics where loops are otherwise too long to sustain service. Outside of Oahu, however, HT's loop plant typically includes older, coarser (22 and 24) gauge cables, and approximately 50 percent of pairs have load coils (compared to 16 percent on Oahu). While HT has taken steps to shorten these loops using DLCs, these steps have simply not been enough. HT's highest-cost loops – served by those wire centers that HT believes would be eligible for

⁴ See 47 C.F.R. § 54.313(d)(vi). Section 54.313(d)(vi) establishes streamlined procedures under which newly designated eligible telecommunications carriers ("ETCs") may receive federal universal service support immediately upon their designation. HT has already been designated as an ETC; therefore, it is unclear whether HT would be eligible for streamlined treatment absent a waiver of the language in Section 54.313(d)(vi) that appears to limit such treatment to newly-designated ETCs. Accordingly, HT is requesting a waiver of Section 54.313(d)(vi), out of an abundance of caution, to ensure that Hawaiian residents receive the benefits of increased federal funding without delay.

⁵ See 47 C.F.R. § 54.101.

⁶ 47 U.S.C. § 153(37).

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HCMS funding if the Petition is granted – are an average of 9.4 years old, and rely on manufacturer-discontinued technology that is too old to support broadband.⁷ In the absence of growth drivers justifying the replacement of this equipment in low-density areas, HT has been replacing this equipment on a case-by-case basis as maintenance problems increase – a costly and piecemeal solution that is both inefficient and insufficient.

HT owns a total of 113 local TDM base and remote unit switches (switches that the industry is increasingly replacing with IP soft switches), located in 86 central offices⁸, and a total of seven tandem switches (five of which are Class 4/5 switches). Many of these switches, particularly outside Honolulu, are running obsolete support software loads that are no longer supported by the manufacturer. Given the age and limited capabilities of the switch hardware, however, the cost of software upgrades is prohibitive.

In 1994, HT established a deep-sea, submarine fiber optic network to connect the islands of Kauai, Oahu, Maui and Hawaii, and augment HT's existing inter-island digital microwave network. Even today, however, the only HT facilities connecting the islands of Molokai and Lanai to the outside world are microwave links. The existing capacity of HT's fiber network and microwave technology severely limits HT's ability to accommodate growth and to launch new services, especially broadband services.

⁷ **[BEGIN CONFIDENTIAL]**

[END CONFIDENTIAL]

⁸ Of these central offices, 39 are located on the island of Oahu, 23 are located on the island of Hawaii, 10 are located on the island of Maui, 9 are located on the island of Kauai, 4 are located on the island of Molokai, and 1 is located on the island of Lanai.

B. Statutory and Regulatory Framework for Universal Service

Section 254(b)(3) of the Act directs the Commission to establish universal service policies that ensure that “[c]onsumers in all regions of the Nation, including . . . those in rural, insular, and high cost areas, . . . have access to telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.”⁹

HCMS is the Commission’s primary vehicle for fulfilling Section 254(b)(3)’s mandate with respect to high-cost areas served by non-rural carriers, such as HT.

Section 54.309 of the Commission’s rules establishes the Commission’s methodology for determining eligibility to receive HCMS funding. First, line costs at each wire center are estimated using a forward-looking economic cost model.¹⁰ These line costs are then averaged on a statewide basis.¹¹ If the statewide average in a given state exceeds the national average by two standard deviations or more (the “national cost benchmark”), that state qualifies for support.¹² Support is then allocated among all wire centers in the qualifying state that generate costs per line that exceed the national cost benchmark.¹³

C. Failure of the Framework as Applied to HT

In Hawaii’s case, the statewide averaging of line costs required by Section 54.309 frustrates the purposes of high-cost support because it fails to fully account for the unique challenges faced by HT. Indeed, under this methodology, HT receives *no* HCMS funding, despite the high costs of service in the vast majority of Hawaii, the vital need for support to

⁹ 47 U.S.C. § 254(b)(3).

¹⁰ 47 C.F.R. § 54.309(a)(i).

¹¹ *Id.*

¹² 47 C.F.R. § 54.309(a)(iv).

¹³ 47 C.F.R. § 54.309(b).

modernize HT's telecommunications infrastructure, and the increasing service demands of HT's customers. Among the factors not fully accounted for by Section 54.309's methodology are: (i) the unique challenges of providing service to a state that is geographically isolated, comprised entirely of islands separated by deep ocean channels, characterized by dramatic changes in topography, climate, and character across very short distances, and vulnerable to a broad range of natural and man-made disasters; (ii) the unique vulnerabilities extending from Hawaii's remote location, strategic importance, and consequent vulnerability to foreign attack; (iii) the highly dispersed nature of the state's population outside of the single population center in Honolulu; and (iv) HT's lack of alternative funding sources for network investment.

The requested waivers would unquestionably provide public interest benefits by enabling HT to overcome these challenges and deploy modern, robust telecommunications infrastructure, provide significant public safety benefits by enhancing the resiliency of the state's E-911 system, and provide greater availability of broadband. These benefits would especially favor Hawaii's historically underserved and economically challenged population – particularly native Hawaiians – without unduly burdening the federal universal service mechanisms.

II. DISCUSSION

Generally, the Commission may waive its rules for "good cause shown."¹⁴ More specifically, the Commission may exercise its discretion to waive a rule where special circumstances warrant a deviation from the general rule and such deviation will serve the public interest, or where the particular facts make strict compliance inconsistent with the public

¹⁴ 47 C.F.R. § 1.3.

interest.¹⁵ As discussed below, HT's request for waivers of Sections 54.309 and 54.313(d)(vi) amply meets this standard.

A. HT Faces Special Circumstances, Extending from Hawaii's Unique Operating Environment, that Justify a Waiver of the Commission's Rules for Determining Carrier Eligibility for HCMS Funding

As discussed below, a multitude of geologic, topographic, demographic, and economic factors combine to justify HT's request for a waiver of the statewide averaging methodology for computing HCMS that is otherwise applicable under Section 54.309 of the Commission's rules.

1. Hawaii's Volcanic Island Structure Creates a Unique, Costly Operating Environment

Hawaii's geographically isolated island structure creates distinct challenges and network complexities for HT that justify determining its eligibility for HCMS funding on a wire-center-by-wire-center basis. Hawaii is the only state in the nation comprised entirely of volcanic islands and cut off from the mainland by thousands of miles of deep ocean waters. Even within the state, Hawaii's six main islands (Kauai, Oahu, Molokai, Lanai, Maui, and Hawaii) are separated by wide and deep ocean channels that reach depths of over 10,000 feet, and span distances of over 100 miles, as shown on the chart attached as Exhibit 1.¹⁶ For example, HT's cable between Kauai and Oahu spans some 120 miles of ocean, 65 miles of which are over 10,000 feet deep. This island structure raises costs and imposes technical obstacles to HT's provision of service.

Hawaii is the only state for which deep sea submarine fiber and microwave links are essential to provide intrastate and interstate transport. Since microwave solutions have limited

¹⁵ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

¹⁶ As shown in the chart, which was created by the National Oceanographic and Atmospheric Administration (NOAA), depths along the cable route reach more than 2500 fathoms (one fathom = six feet).

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bandwidth and distance limitations, and are affected by atmospheric conditions, fiber has proven to be the best choice for providing inter-island connectivity. Fiber faces its own limitations, however. Reliance on fiber requires expensive deep sea submarine cables – facilities normally used for trans-Pacific/Atlantic Ocean crossings – to be placed and maintained between the islands. These facilities are more vulnerable to damage than traditional infrastructure; strong currents, violent ocean storms, tsunamis, volcanic activity, and seaquakes are just some of the events that can disrupt network operations and increase costs. For example, the 2006 earthquake off Taiwan took out several major deep sea fiber cables there. Additionally, because Hawaii is not home to any ships specializing in the placement, repair, and maintenance of deep sea fiber cables, it can take over a week – and possibly months – to take corrective action to restore damaged cables, even in the event of emergency.

HT's inter-island fiber creates additional challenges. The distance between islands and the characteristics of HT's dispersion-shifted fiber (which uses Dense Wave Division Multiplexing technology) mean that each fiber strand can support substantially fewer wavelengths than are supported by conventional single-mode submarine fiber available today, limiting overall capacity. Overcoming these limits is costly; notably, to accommodate increased demands for fiber transport capacity, HT has developed and installed, at great cost, custom-engineered lasers to sustain communications along the Kauai segment of HT's fiber network.

Moreover, even within the confines of each individual island, it is especially difficult to deploy telecommunications infrastructure necessary to serve the sparsely populated areas outside of Honolulu, because conditions are harsh and vary dramatically across small areas.¹⁷ Hawaii's islands are characterized by mountainous, uneven terrain that is inhospitable to

¹⁷ Tellingly, Hawaii is home to eleven of the thirteen climate zones recognized by the Koppen climate classification system.

telecommunications infrastructure; Hawaii is unique among U.S. states in that it has been created entirely through volcanic activity. Some areas present a risk of seismic activity, such that installation of telecommunications equipment in these areas is safe neither for the equipment nor the installer. This was vividly illustrated in October 2006 when a large seaquake totally isolated the town of Kipahulu, located on the island of Maui, for weeks by destroying HT's facilities and compromising roads that could have been used for repairs.

Volcanic activity poses an even greater risk on the island of Hawaii, where people and facilities are subject to the threat of lava flows.¹⁸ The ongoing eruption of Kilauea has already destroyed HT's facilities in the Royal Gardens subdivision and the Kalapana area, and will continue to pose a risk to the Puna district for the foreseeable future. Mauna Loa, another highly active volcano, has lava flows capable of reaching 70 percent of the island.

Apart from the risk of seismic activity and lava flows, the volcanic mountains on each of the islands, such as the snow-capped peaks of Mauna Loa and Mauna Kea that rise nearly 14,000 feet, often dictate the design of HT's network and the ability of remote communities to access and rely on HT's facilities. In the vast majority of cases, it is impossible or impractical to traverse an island over these mountains with terrestrial interoffice fiber facilities, limiting the placement of HT's facilities to coastal regions and isolated corridors between mountain ranges. This limitation, in turn, prevents HT from employing diverse, short routes that avoid known hazards – including lava flows.

By forcing HT to construct coastal facilities, Hawaii's volcanic nature also places those facilities at greater risk of damage from coastal dangers, such as tsunamis and hurricanes. Even absent such a cataclysm, exposure to salt water along Hawaii's coast – which can extend farther inland by the trade winds – further drives up facility costs. Salt rapidly corrodes traditional

¹⁸ See United States Geological Survey, Lava Flow Hazard Zone Maps (Dec. 18, 1997), available at <http://pubs.usgs.gov/gip/hazards/maps.html>.

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galvanized equipment, dramatically shortening its useful life by up to 80 percent, compared to what typically would be expected in inland areas protected from salt exposure. The most problematic locations scattered throughout the islands require HT to use specialized materials, such as stainless steel down guys and messengers, which are much more expensive than conventional, galvanized equipment.¹⁹ HT has also had to build walls around remote DLC devices along the shore to prevent salt spray from corroding the cabinets and electronics, further increasing HT's costs.

The Hawaiian Islands have also been shaped by millions of years of erosion by rain and the thousands of streams present on the islands, which have carved both small gulches and large valleys. These natural boundaries have further isolated already remote communities, while at the same time posing engineering challenges to the design and construction of HT's facilities. Since wireless communications are normally extremely difficult in these areas due to dense forests, deep valleys, and the limited availability of commercial power, HT has been forced to adopt complicated wireline solutions at great cost. For example, in order to serve remote valleys like Kalaupapa²⁰ on the island of Molokai or Waipio on the island of Hawaii, which are inaccessible by land vehicles, HT transports materials by helicopter or constructs materials on-site by hand. HT has also engineered custom facilities to cross the wide spans of the Malua, Laupahoehoe, and Kawalii gulches in order to serve the remote communities along the Hamakua coast on the island

¹⁹ Down guys are critical connections to anchors in the ground that provide strength to poles in situations where a sequence of poles is not in a straight line. Due to a "pull" in one direction, the down guys provide a counter force to keep the pole upright, otherwise the entire pole line is compromised. Messengers are strung between poles and support and hold the cable lashed (i.e. connected) to it. Once a messenger breaks, the cable normally droops and could fall.

²⁰ The Kalaupapa Peninsula is extremely isolated, cut off from the rest of Molokai by sea cliffs rising two thousand feet and otherwise surrounded by ocean. There is no access to the area by ground vehicle, and the only option for transporting heavy equipment to the area on a timely basis is by helicopter, since a barge makes scheduled visits to the area only twice per year. Visitors may access the area via passenger aircraft or private boat, or by riding mules down the steep Kalaupapa Trail from topside Molokai.

of Hawaii; these facilities could not be constructed by conventional means (e.g., using HT vehicles). In other areas, HT cannot use vehicles due to weight limitations.²¹ While the ingenuity of HT's engineers has often allowed HT to identify solutions to such obstacles, such solutions invariably involve considerable expense.

The island of Hawaii is geologically the youngest in the Hawaiian island chain,²² giving rise to additional engineering challenges due to the island's soil composition. Grounding of plant, for example, is more difficult than it is in other areas, as a result of Hawaii's combination of high soil resistivity and soft water. Unlike other mainland sites, Hawaii soils are not usually rich in reactive minerals like calcium carbonate from sedimentary rocks such as limestone. Instead, high soil resistivity is caused by the presence of oxides, which are inert chemical compounds that create poor grounding characteristics. The presence of these oxides makes the grounding of HT's telephone network much more expensive, even requiring soil conditioning in certain cases. Similarly, fresh water, coming primarily from rain, is soft, not hard and mineral-laden like it is in mainland states. Because soft water contains fewer dissolved mineral ions, it does not conduct electricity as well as hard water does. The relative youth of the island of

²¹ For example, vehicle weight limitations on the bridges near Hanalei on the island of Kauai – the only way in or out of this community – have prohibited HT from using construction or maintenance vehicles there.

²² The Hawaiian Islands were produced by the Hawaiian hot spot, which is presently located under the island of Hawaii. In general, the islands become older as one moves northwest along the archipelago from Hawaii in the southeast. The youngest of the volcanoes forming the island of Hawaii are less than 0.5 million years old. In contrast, the volcanoes forming the island of Oahu are several million years old. See Hawaii Center for Volcanology, *The Formation of the Hawaiian Islands* (last updated Apr. 4, 2005), available at http://www.soest.hawaii.edu/GG/HCV/haw_formation.html.

Hawaii also results in higher undergrounding and trenching costs due to the presence of more blue rock.²³

Tsunamis, hurricanes, volcanic activity, landslides, and other hazards do more than threaten HT's facilities; they also threaten to isolate Hawaii's residents, making effective telecommunications services even more critical for Hawaii's remote communities. Even heavy rainfall can cause landslides that prevent vehicular access to remote towns. For example, the towns of Pahala and Naalehu on the island of Hawaii are isolated with every heavy rain, as flooding effectively closes Highway 11 in the same location time after time. HT's facilities often offer the only way to communicate with these communities during and after these rains.

Telecommunications networks in Hawaii therefore need to be built with extraordinarily high levels of redundancy and reliability. When natural or man-made disasters cause HT's network to fail, emergency materials and resources may need to be air- or sea-lifted from neighboring islands or the mainland, making them potentially days or weeks away. For example, following Hurricane Iniki in 1992, restoration efforts for Kauai took well over a year to complete, as much of HT's outside plant infrastructure had to be rebuilt. In areas in which HT's facilities survived, those facilities were critical to safety and restoration efforts island-wide – underscoring the additional benefits that could have been delivered to Hawaii's population with greater network redundancy.

Because of the great variability of climate, terrain, and geologic conditions across each island, and the vital importance of robust and reliable telecommunications infrastructure to

²³ "Blue rock" is an extremely dense and hard form of volcanic rock found in Hawaii. It "is the bane of contractors, especially road builders and pipeline installers, because it is difficult to break. The largest bulldozers and backhoes are regularly humbled by this dense rock, causing contractors to revert to expensive drilling and blasting techniques." See United States Geological Survey, Hawaiian Volcano Observatory, *Lava Rocks Come in Many Colors*, (Oct. 19, 2000), available at http://hvo.wr.usgs.gov/volcanowatch/2000/00_10_19.html.

withstand these hazards to the greatest degree possible, statewide averaging of costs fails to ensure a level of HCMS funding, or any funding for that matter, to HT that accurately reflects the challenges faced by HT or the interests of HT's end-users. As a result of the comparatively young geologic age of the Hawaiian archipelago, the character of the terrain can vary greatly across short distances and, for that matter, continues to change on a yearly – and even daily – basis as a result of ongoing volcanic activity. To adequately capture the need for support created by this dynamic environment, the Commission should direct USAC to determine HT's eligibility to receive HCMS funding on a wire-center-by-wire-center basis, as requested by this Petition.

2. Hawaii's Isolated Location Gives It Unique Strategic Importance and Vulnerability

Located in the middle of the Pacific Ocean over 2,500 miles from the closest point on the mainland United States, Hawaii is the most isolated land mass on the planet. Hawaii's isolation gives Hawaii unique strategic importance, which in turn increases Hawaii's vulnerability and makes loss of service in Hawaii potentially catastrophic. Hawaii's command of the Pacific Ocean and proximity to the Far East means that the U.S. military presence in Hawaii is critical to ensuring stability and security in the Asia Pacific region. The U.S. Pacific Command HQ, located in Hawaii, is responsible for monitoring: (i) over 50 percent of earth's surface, from the west coast of the U.S. mainland to the east coast of Africa, and from the Arctic to Antarctic; (ii) nearly 60 percent of the world's population; (iii) 43 countries, 20 territories and possessions, and 10 U.S. territories; (iv) the world's largest armed forces (other than the U.S.) in the People's Republic of China, Russia, India, North Korea and South Korea; and (v) compliance with five of the seven worldwide U.S. mutual defense treaties: U.S.-Republic of the Philippines (Mutual Defense Treaty, 1952); ANZUS (Australia - New Zealand - U.S., 1952); U.S.-Republic of Korea (Mutual Defense Treaty, 1954); South East Asia Collective Defense (U.S. - France - Australia -

New Zealand - Thailand - Philippines, 1955); U.S.-Japan (Mutual Defense Treaty, 1960). These responsibilities only increase the importance of ubiquitous, redundant, and reliable communications capabilities in Hawaii.

History has also demonstrated that Hawaii's location makes it a key strategic element to our national defense and homeland security effort, as well as a potential lightning rod for attack. Robust, redundant, hardened communications infrastructure is therefore vital to the state's public safety and national security efforts. The federal government therefore has a distinct interest in ensuring the integrity of Hawaii's telecommunications networks. This interest alone is adequate justification for granting this Petition.

3. Outside of Honolulu, Hawaii's Highly Dispersed Population is Difficult and Expensive to Serve

With the exception of the densely populated city of Honolulu, Hawaii's population is highly dispersed and difficult to serve. The island of Oahu, which comprises approximately 9 percent of Hawaii's land mass, houses over 72 percent of its population, with the vast majority located in a single city, Honolulu. The remaining islands comprise approximately 91 percent of Hawaii's land mass, but house only about 28 percent of its population.²⁴ Outside of Honolulu, therefore, the state's population density is generally extremely low.²⁵

The same is true with respect to geographic loop density. **[BEGIN CONFIDENTIAL]**

²⁴ See HAWAII DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM, 2006 STATE OF HAWAII DATA BOOK, Table 1.05 (2006) ("2006 HAWAII DATA BOOK").

²⁵ 2006 HAWAII DATA BOOK, Table 1.11.

[END CONFIDENTIAL]

The size of HT's very few high-density wire centers overwhelms and obscures the challenges faced by HT in serving end-users in the vast majority of its wire centers across the state.

The low loop densities associated with many of HT's wire centers can be attributed, in part, to the development of real estate subdivisions in relatively remote areas of Hawaii, many of which have never grown in size to the extent originally projected. Beginning in the 1950's, subdivisions were created on thousands of large acreage lots in relatively remote areas, without adequate infrastructure by today's standards. These areas lack potable water systems, electricity, sewer facilities and telecommunications systems. Many of these subdivisions have substandard private roads that are not maintained by the local or state governments, lack commercial electricity, are filled with dense foliage, and face other challenges not found in urban and suburban areas.

For example, the Puna district on the island of Hawaii, despite a land mass that is equivalent to that of the island of Oahu, lacks any meaningful infrastructure to serve its inhabitants. HT has just four central offices to serve this area (Oahu is served by 39), serving a

population of approximately 31,000²⁶, requiring long individual customer loops exceeding 35,000 feet in length. Nevertheless, a resident could move into any of approximately 46,000 lots in the Puna district and HT, as the carrier of last resort, would be required to provide service to that individual despite the extremely high cost of doing so.

As a result of this population dispersion, HT faces many of the same challenges faced by rural carriers²⁷ – even though HT is not a rural carrier and therefore is ineligible for funding from the rural high-cost mechanism (because of Hawaii's overall population). Notwithstanding, the dispersion of Hawaii's population, coupled with the other factors discussed above, creates significant challenges that HT must overcome; these challenges justify the grant of this Petition to permit HT to receive HCMS funding. To serve customers in the Puna district with modern, robust telecommunications infrastructure capable of providing the full range of telecommunications and broadband services that customers demand today, for example, HT would need to place remote equipment at various points throughout a 91 square mile area, without the benefit of paved roads or commercial power, and negotiate and pay for easements along those privately owned roads that do exist. Without federal support, the cost of such upgrades is prohibitive.

4. HT Lacks Alternative Funding Sources

Many traditional sources of funding on which carriers serving remote populations or high-cost areas often rely are unavailable to HT. *First*, unlike most other carriers serving remote, high-cost or island areas, HT is classified as a non-rural carrier and is therefore ineligible for

²⁶ See Leila Fujimori, *Social Ills Common in Rural Puna District*, HONOLULU STAR-BULLETIN (Feb. 17, 2005), available at <http://starbulletin.com/2005/02/17/news/story3.html>.

²⁷ See, e.g., Rural Task Force Report # 2 at 23 (2000), available at http://www.wutc.wa.gov/rtf/old/RTFPub_Backup20051020.nsf/?OpenDatabase (“As population density declines, costs tend to rise.”).

support from the federal universal service support mechanisms available to rural carriers, such as High Cost Loop Support (HCLS), Local Switching Support, safety net and safety valve support.

Second, HT is unable to take advantage of Rural Utilities Service financing and other traditional sources of financing for network expansion and improvements. HT's existing financing agreements impose strict restrictions on HT's ability to incur additional debt or to incur additional liens on its assets (a typical condition of Rural Utilities Service financing). Moreover, pursuing commercial loans to expand the infrastructure in the areas for which HT is seeking HCMS funding is not economically feasible, because of the high cost of the infrastructure and the low numbers of customers it would serve.

Third, although the Hawaii Public Utilities Commission has put in place a framework to govern intrastate universal service support,²⁸ no funds have been collected or distributed using this mechanism. Further, given the increasing competition from competitive telecommunications service providers, chiefly in Honolulu, implicit support for remote areas of the state cannot be sustained.

Hawaii, therefore, has fallen through a proverbial crack in the universal service system. By granting the requested waiver, the Commission will help to repair this crack and ensure that the people of Hawaii, and especially native Hawaiians, receive the benefit of modern telecommunications infrastructure, affordable telecommunications service, and greater availability of broadband.

B. A Grant of this Petition Would Have Numerous Public Interest Benefits for Hawaii Residents

While the unique challenges faced by HT provide sufficient justification for waiving Section 54.309, grant of the requested waiver would also yield tangible public interest benefits

²⁸ See Hawaii Administrative Rule 6-81.

for Hawaii's residents. As discussed below, grant of the requested waivers would permit HT to upgrade its facilities while charging affordable rates, and would lay the foundation for increased broadband penetration – particularly in the remote portions of Hawaii – and improved public safety communications, while recognizing the needs of Hawaii's traditionally underserved native population.

1. Grant of this Petition Would Better Enable HT to Overcome the Challenges of Operating in Hawaii

Federal universal service support is essential if HT is to realize the next phase of its effort to improve service in Hawaii by upgrading its network in the most remote and sparsely-populated portions of the state. It was not until the 1990's that HT's predecessor, Verizon Hawaii, completed upgrading its facilities to offer virtually universal single-party service throughout the state. Even following that upgrade, however, HT continues to serve tens of thousands of customers with long loops and legacy equipment that cannot provide advanced telecommunications services or support broadband. Tellingly, a group of Molokai residents recently filed a petition with the HPUC noting the inability of these residents to access online services using HT's existing facilities.²⁹ HT has also received similar complaints from customers in the Paauilo Mauka area on the north coast of the island of Hawaii.³⁰

HT requires federal support to modernize its infrastructure in remote portions of the state. Absent such support, it is simply uneconomical to build the infrastructure necessary to improve basic telecommunications and provide advanced telecommunications services, because HT would be unable to recoup the necessary investment to upgrade its facilities while charging affordable rates. The availability of new universal service funds, though, would enable HT to

²⁹ See Molokai Petition, attached as Exhibit 2.

³⁰ See Letter from Richard V. Abbott to Harvey Plummer (Feb 21, 2006), attached as Exhibit 3.

construct new network and loop infrastructure to unserved areas or underserved areas³¹, update existing facilities, improve quality of service, maintain affordable rates, and educate and solicit potential first-time telephone customers.

2. Grant of this Petition Would Yield Significant Public Safety Benefits

Hawaii's existing E-911 network relies on a number of circuits between Oahu and the other Hawaiian Islands. While these circuits are sufficient to support E-911 operations, federal universal service support would enable HT to provide additional redundancy and enhance the resiliency of its network. Major disasters such as hurricanes, earthquakes, and tsunamis have the potential to create massive damage to the network, but redundant capabilities would improve HT's ability to maintain service during these events and to shorten restoration time.

Additional support would also permit HT to limit exposure created by the fact that core E-911 switches and the Automatic Location Information Switching Adjunct (ALISA) database is centralized on Oahu for service statewide. As a result, E-911 capabilities for the other islands could be compromised if inter-island facilities were to be lost for any reason.³² Without connectivity to the core E-911 switches and ALISA, the network would not be able to deliver automatic location information to the PSAP, reducing the effectiveness of E-911 service. With federal funding, HT would be able to expand its network to reduce or eliminate these vulnerabilities, and provide local governments with more options in addressing their emergency needs (such as access to off-site data storage and various information services). HT would also

³¹ Among other things, HT would use funds to shorten loops lengths in wire centers that would qualify for HCMS funding. The longest of these loops exceed 100 kft in length.

³² In such circumstances, 911 calls would be transmitted via a 7-digit voice-only backup (i.e. basic 911) to the respective island's PSAP, except for Lanai 911 calls, which would be transmitted to the Lanai police department.

be able to diversify its routing options, construct redundant facilities, and otherwise “harden” its network to make E-911 connectivity more robust.

In addition to E-911 functionality, federal universal service support would help to improve Hawaii’s disaster response and recovery capabilities. In an emergency, the physical separation of Hawaii’s islands limits the ability of first responders to coordinate relief efforts. Additional redundancy would reinforce the resiliency of the network and would ensure that Hawaii’s communications capabilities enable, rather than hinder, relief efforts. These benefits would not only help local government and emergency responders, but would also benefit the military.³³

3. Grant of this Petition Would Disproportionately Benefit the Historically Underserved and Economically Challenged Native Hawaiian Population

The Commission has recognized its special responsibility for fostering service deployment and increasing penetration among economically depressed and historically underserved populations – particularly native populations. For example, the Commission has adopted measures to improve access to telecommunications services and increase subscribership on tribal lands through modifications of the Lifeline and Link-Up programs.³⁴ The Commission also established the tribal lands bidding credit after noting the barriers to service rollout in these areas, including “geographic remoteness, sparse population clusters, low income levels and high unemployment rates,” and recognizing its duty to increase penetration in these areas because

³³ The military maintains its own PSAPs in Hawaii due to the extensive military presence there.

³⁴ See *Federal-State Joint Board on Universal Service*, Twelfth Report and Order, 15 FCC Rcd 12208 (2000).

“basic telecommunications is essential to effective participation in today's rapidly changing economy.”³⁵

The factors that gave rise to this duty in the tribal lands context give rise to a similar duty with respect to the native Hawaiian population.³⁶ This duty is particularly pronounced in Hawaii, which, unlike other island areas such as Puerto Rico and the U.S. Virgin Islands, is home to a substantial native population. Native Hawaiians and other Pacific Islanders comprise approximately 23.3 percent of Hawaii's total population.³⁷ However, this population is not evenly distributed throughout the state. Those areas with the greatest percentage of Native Hawaiian inhabitants tend to be those that are most remote and that have the lowest population densities. For example, 60.9 percent of the population of Molokai – the least populated of the major islands – is Native Hawaiian, while less than 17.5 percent of the population of Oahu falls into this category.³⁸ Thus, HT faces disproportionately large operational challenges and high

³⁵ *Extending Wireless Telecommunications Services To Tribal Lands*, 15 FCC Rcd 11794, at ¶ 11 (2000).

³⁶ In 1998 the Commission granted a waiver to permit Sandwich Isles Communications, Inc. (“SIC”) to receive rural high-cost support through the HCLS mechanism with which to serve portions of the Hawaiian Home Lands (“HHL”) where there were no facilities or service in 1997. *See Sandwich Isles Communications*, 13 FCC Rcd 2407 (1998), *recon. pending*. This limitation excludes the majority of native Hawaiians, many of whom either choose not to live on the HHL or do not qualify to live there because they do not have sufficient quanta of native blood.

Grant of this Petition would not impact the support currently provided to SIC, nor is the relief sought in this Petition limited in scope to the geographic areas or customers for which SIC receives support. This Petition seeks a waiver to facilitate funding through the non-rural HCMS funding mechanism with which to serve all high-cost areas of Hawaii – including many areas with dense native populations that are not on the HHL. The areas that HT wishes to serve and the service that HT wishes to provide are thus more expansive than what is covered by the waiver previously granted to SIC.

³⁷ *See* 2006 HAWAII DATA BOOK, Table 1.36.

³⁸ *See* AUKAI REYNOLDS, OFFICE OF HAWAIIAN AFFAIRS, DATABOOK 2006. Percentages were computed by dividing reported Hawaiian population per island (see *id.* at 21-4), which was

costs in serving Hawaii's native population. Coupled with disproportionately high poverty rates in these areas,³⁹ this is a recipe for low penetration that cannot be overcome without federal assistance.

Granting the requested waivers would recognize the federal government's obligation to Hawaii's native population, which faces disproportionately high costs of service, by channeling funds to those areas that are not only highest-cost, but that also have disproportionately high native populations and poverty rates. The majority of the wire centers that would qualify for HCMS if the Commission grants the requested waiver have substantially higher native Hawaiian populations, poverty rates, or both, than do Honolulu or the State of Hawaii as a whole.⁴⁰

4. Grant of this Petition Would Help to Increase Broadband Availability in Hawaii

As an ancillary benefit of the waivers HT requests, federal HCMS funding would permit HT to increase broadband penetration in Hawaii, particularly on the more remote islands.

[BEGIN CONFIDENTIAL]

extracted from 2000 Hawaiian population statistics, by the total population of each island per 2000 Census data.

³⁹ For example, approximately 21.4 percent of the residents of Molokai are below the poverty line. *See* HAWAII DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM, HAWAII STATE DATA CENTER REPORT, Table 3 (last modified Feb. 2, 2006).

⁴⁰ In fact, many of these wire centers have roughly twice the percentage of native Hawaiians and poverty levels and several have roughly quadruple the percentage of native Hawaiians. *See* Hawaii Census 2000 Data, *available at* <http://www.hawaii.gov/dbedt/info/census/Folder.2005-10-13.2927/> (providing population, demographic, and income data for each Census Designated Place associated with an HT wire center).

[END CONFIDENTIAL] To Hawaiian Telcom's knowledge, in many of the wire centers covered by this request, no provider currently offers broadband service. In those wire centers where such service is available from another provider, it is generally provided via wireless technology, is available only to a portion of the customers in that wire center, and is much slower in speed than the service HT proposes to offer. As demonstrated by the attached

petitions (see Exhibits 2 and 3), HT's customers in the areas covered by these petitions strongly desire additional broadband options and faster service than what is currently available.

5. Grant of this Petition Would Not Place a Significant Burden on the Universal Service Fund

Grant of the requested waivers would not place a significant burden on the universal service fund. *First*, HT's preliminary analysis of its line costs, as averaged on a wire center-by-wire center basis, reveal that Hawaii would receive support of approximately \$6 million from the HCMS funding mechanism. In other contexts in which the Commission has considered requests to waive rules impacting the distribution of universal service support, it has applied a "one-percent guideline" to ensure that grant of the waiver would not have an adverse impact on the universal service fund.⁴¹ \$6 million amounts to approximately 0.3 percent of the universal service fund – far lower than the Commission's one-percent threshold – and approximately 0.5 percent of the funds used for high-cost support.⁴² Moreover, a grant of this Petition would have no effect on the levels of support currently provided to other non-rural carriers, because HT's line counts and costs are already incorporated into the Commission HCMS model, and such grant would not affect the computation of the national cost benchmark used to determine funding eligibility.⁴³ HT is already classified as a non-rural carrier, such that grant of the instant waiver

⁴¹ See *US WEST Communications, Inc., and Eagle Telecommunications, Inc.*, Memorandum Opinion and Order, 10 FCC Rcd 1771, at ¶¶ 14-17 (1995); *US WEST Communications, Inc., and Eagle Telecommunications, Inc.*, Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd 4644 (1997).

⁴² Projected disbursements for the fourth quarter of 2007 are \$1,140,410,000 for high-cost support and \$1,924,920,000 for total universal service support. See *Public Notice: Proposed Fourth Quarter 2007 Universal Service Contribution Factor*, DA 07-3928 (Sep. 13, 2007).

⁴³ See *supra*, n.3 (clarifying that HT does not seek any change in the methodology for computing the national cost benchmark or support for any other carrier).

request would not create data collection problems or undermine the integrity of HCMS model data.⁴⁴

Second, HT's request for waiver of Section 54.309 is time-limited, and would cover only the five years immediately following grant of the requested waiver. As such, by granting the request the Commission would not create an open-ended funding obligation. Rather, the Commission would provide HT a limited period within which to accomplish achievable infrastructure development, the success of which can be measured against clear milestones. A grant of this waiver would also be consistent with the recent recommendations of the Federal-State Joint Board on Universal Service to provide non-rural high-cost support on a more granular basis,⁴⁵ and for broadband.⁴⁶

Third, given the unique circumstances facing HT, grant of the requested waivers would not provide a precedent for similar waiver requests from other carriers, for no other carrier would face the combination of challenges faced by HT. Hawaii is the only state that is entirely comprised of islands, which are separated not only from each other but from the mainland by deep ocean waters. Further, since this Petition is premised on the *unique* operational challenges facing HT, including the myriad of challenges extending from Hawaii's volcanic nature, no other carrier could make a similar showing. Accordingly, the Commission need not be concerned about any further expansion of its HCMS funding obligation.

⁴⁴ Compare *Iowa Telecom Petition for Forbearance Under 47 USC §160(c) from the Universal Service High-Cost Loop Support Mechanism*, 22 FCC Rcd 15801 (2007) (noting difficulties that would arise if Commission exercised forbearance authority to make rural carrier eligible for non-rural support).

⁴⁵ *High-Cost Universal Service Support*, WC Docket No. 05-337, Recommended Decision, FCC 07J-4 (rel. Nov. 20, 2007) at ¶ 41.

⁴⁶ *Id.* at ¶¶ 12-15.

6. Grant of the Requested Waiver of Section 54.313(d)(vi) Would Ensure that Hawaii Residents Receive the Benefits of Increased Funding Without Delay

Section 54.313(d) of the Commission's rules provides that "[i]n order for a non-rural incumbent local exchange carrier in a particular State . . . to receive federal high-cost support, the State must file an annual certification . . . with both [USAC] and the Commission."⁴⁷ Section 54.313(d) further ties a carrier's receipt of funding to date on which this certification is submitted, potentially delaying funding for more than six months following the submission of the certification.⁴⁸

The Commission has recognized that it is in the public interest for newly-designated ETCs to begin receiving support quickly, to ensure that the benefits of support are realized as rapidly as possible.⁴⁹ As such, the Commission adopted a process to minimize administrative delay associated with the commencement of support, under which newly-designated ETCs may begin receiving support as of the date of their designation, provided that they provide a required certification and line count data within 60 days thereafter.⁵⁰ This process, set forth in Section 54.313(d)(vi), provides that "[n]otwithstanding the deadlines in paragraph (d) of this section, a carrier shall be eligible to receive support . . . as of the effective date of its designation as an

⁴⁷ 47 C.F.R. § 54.313(d).

⁴⁸ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 05-46, 20 FCC Rcd 6371, at ¶ 89.

⁴⁹ *Id.* at ¶ 92.

⁵⁰ *Id.* ("We conclude that in order to provide universal service support to newly designated ETCs on a timely basis, ETCs shall be eligible for support as of their ETC designation date, provided that the required certifications and line-count data are filed within 60 days of the carrier's ETC designation date. As suggested by commenters, including USAC, revising the certification and line count deadline rules will enable customers of newly designated ETCs to begin to receive the benefits of universal service support as of the ETC's designation date.").

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eligible telecommunications carrier . . . provided that it files the certification . . . within 60 days of the effective date of the carrier's designation as an eligible telecommunications carrier.”⁵¹

Because HT is an ILEC that has already been designated as an ETC, even though it currently receives no support, it is unclear whether the streamlined process set forth in Section 54.313(d)(vi) would apply, if the Commission were to grant this Petition. Accordingly, of an abundance of caution, HT requests a waiver of the provisions of Section 54.313(d)(vi) that limit its applicability only to newly-designated ETCs. In granting a waiver of Section 54.313(d)(vi), the Commission would clarify that HT may receive support upon grant of this Petition, notwithstanding the fact that it has already been designated an ETC. Consistent with the intent of the rule, such a waiver would ensure that the people of Hawaii receive the benefits of federal universal service support discussed in this Petition without delay.

Grant of this request would be consistent with previous instances in which the Commission has waived deadlines by Section 54.313 to enable ILECs that were newly-eligible for HCMS funding to receive support immediately.⁵² As the Commission has recognized, in cases where a carrier could not have met, under any circumstances, the certification filing deadline because it was not eligible for support as of that deadline, it would be onerous and contrary to the public interest to deny receipt of universal service support for months. In such cases “special circumstances outweigh any processing difficulties that USAC may face[.]”⁵³

⁵¹ 47 C.F.R. § 54.313(d)(vi).

⁵² See, e.g., *Qwest Corporation*, 20 FCC Rcd 19200 (2005).

⁵³ *Id.*

III. CONCLUSION

For the foregoing reasons, HT requests that the Commission expeditiously grant the requested waivers of Sections 54.309 and 54.313(d)(vi), to permit it to receive federal HCMS calculated on a wire-center-by-wire-center basis, beginning immediately upon grant of this Petition, for a period of five years.

Respectfully submitted,

HAWAIIAN TELCOM, INC.

/s/ Richard Cameron

Karen Brinkmann
Richard R. Cameron
Jarrett S. Taubman
Latham & Watkins LLP
555 Eleventh St., N.W., Suite 1000
Washington, D.C. 20004-1304
(202) 637-2200

Its Attorneys

December 31, 2007

Exhibit 1
Map of Hawaiian Islands

SOUNDINGS IN FATHOMS

HAWAIIAN ISLANDS

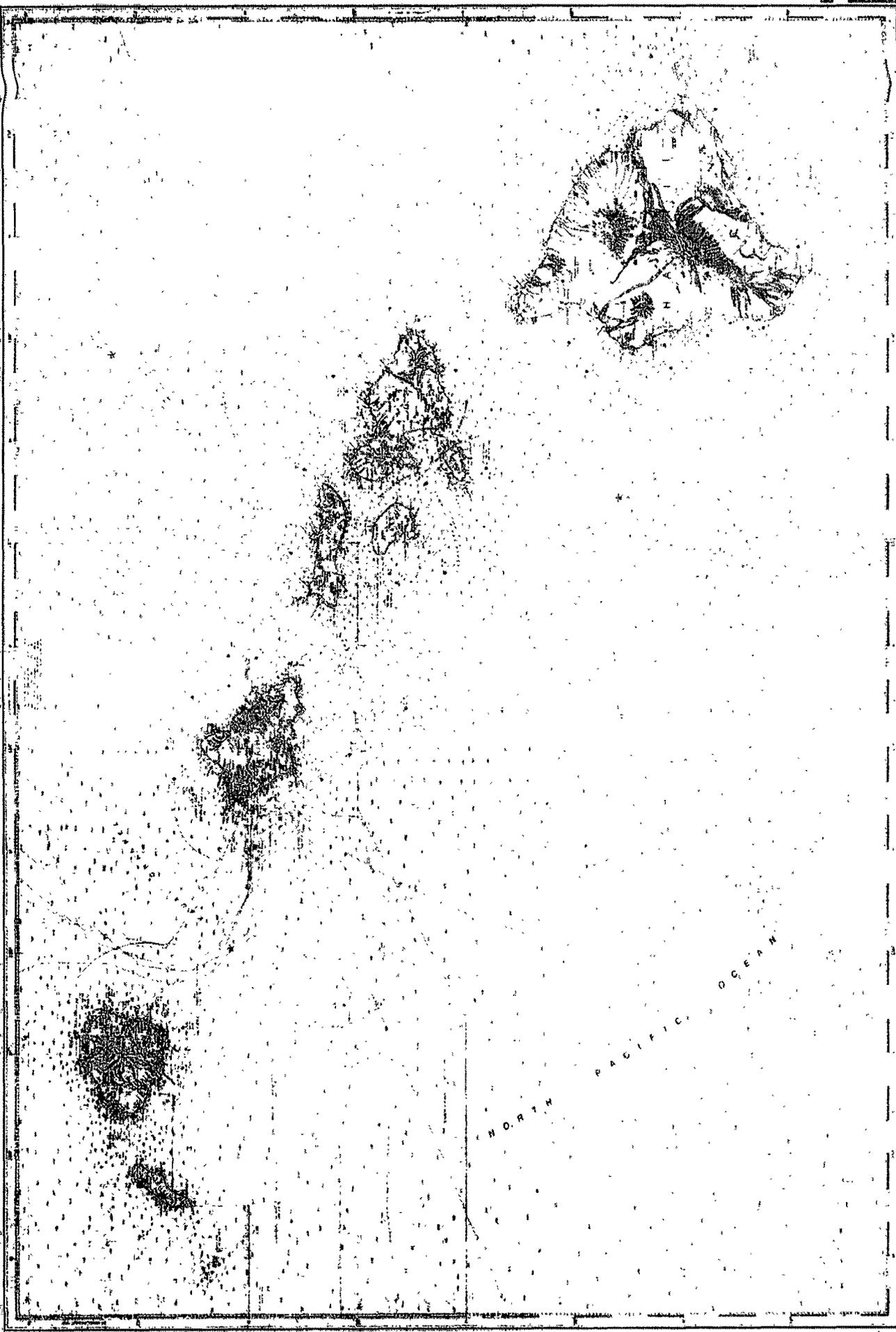


Exhibit 2
Molokai Petition

Pacific Lightnet Communications
1132 Bishop St. Suite 800
Honolulu HI 96813-2822

Hawaiian Telecom
P.O. Box 2200
Honolulu HI 96841

Hawaii Public Utilities Commission
465 S. King St. Room 103
Honolulu HI 96813

Dept. Of Commerce & Consumer Affairs
335 Merchant St. Room 326
Honolulu HI 96813

Re: East Moloka'i Telephone/internet Service Deficiencies

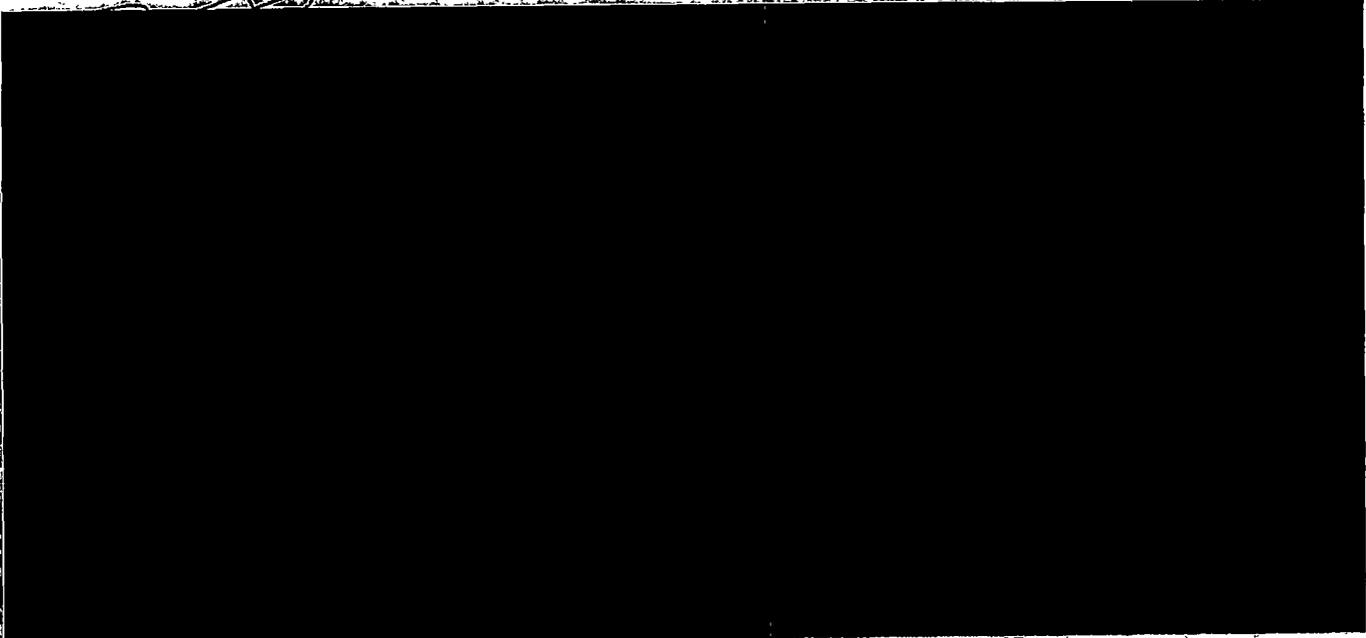
The undersigned are customers of Pacific Lightnet (Hawaii Online) and Hawaiian Telecom, and all are users of internet dial-up service. In most cases, due to location we do not have access to any other internet service.

The Hawaii Online dial-up service is nearly nonfunctional in our locality. We experience inordinate delays in merely connecting to our server, and usually have many failures before we are able to connect. After connecting, we are subject to repeated cutoffs in service, often while in the middle of attempting to transact online business. This happens even with secure sites, raising the fear that confidential information may be compromised. Even when not being cut off, the service is incredibly slow.

Computer specialists assure us that our equipment is not at fault. The likely culprit is antiquated or inadequate phone lines or switching equipment, because our phone service is so rife with static that ordinary voice transmissions often border on inaudible. Yet the phone company insists it has no responsibility for computer transmissions (even though a clear phone connection could solve the problem) and the internet provider simply points the finger at the phone company (even though it should have some leverage to get this problem solved).

We want High Speed!

And we go on paying monthly fees for service we aren't getting. We would like a response, and some corrective action. You may reply to either of the first two addresses below. Mahalo!

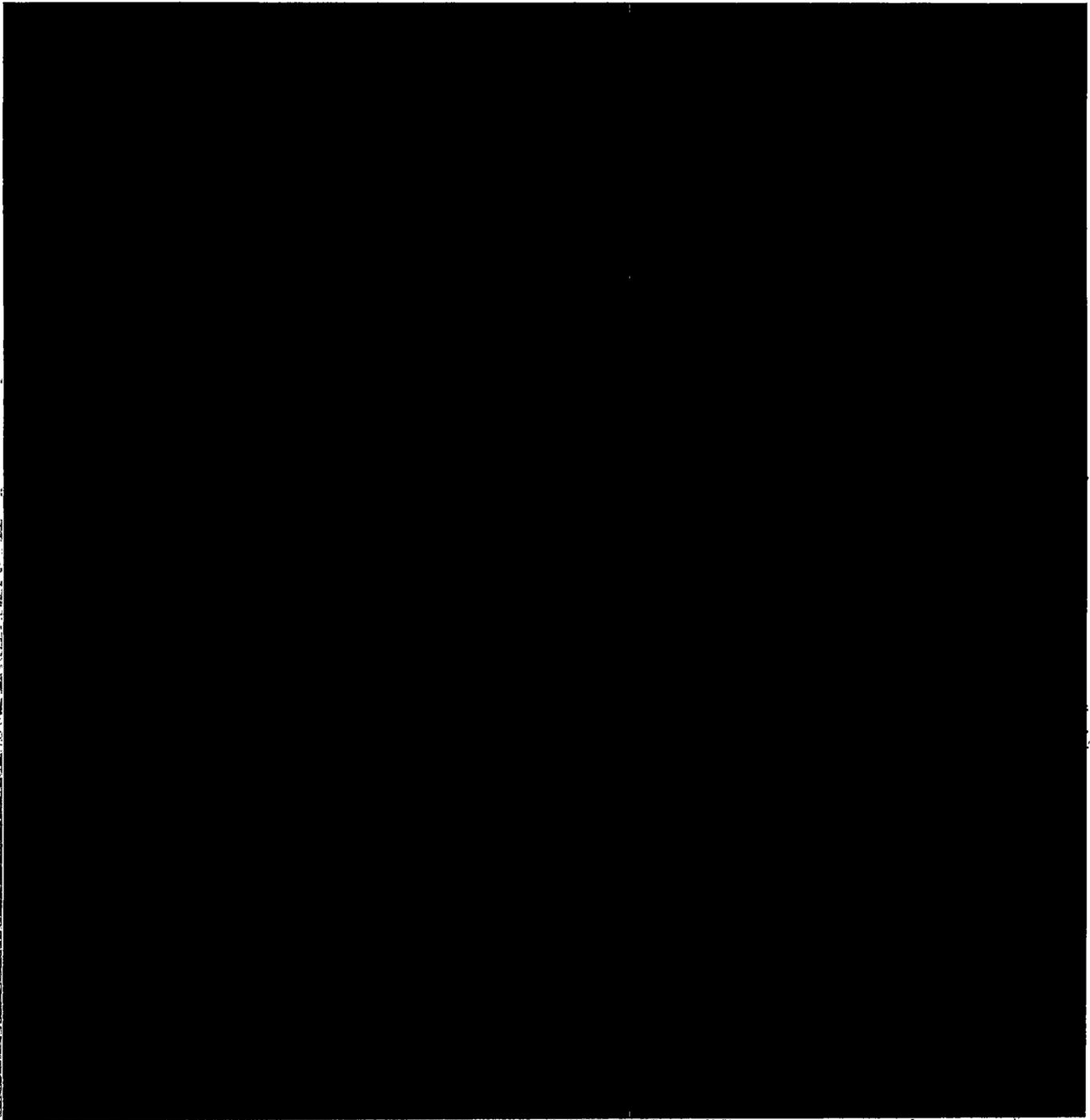


RE: East Molokai Telephone/Internet Deficiencies (Signature: Page 2)

(Signature)

(Name in Print)

(Address)



RE: East Molokai Telephone/Internet Deficiencies (Signature: Page 3)

(Signature)

(Name in Print)

(Address)

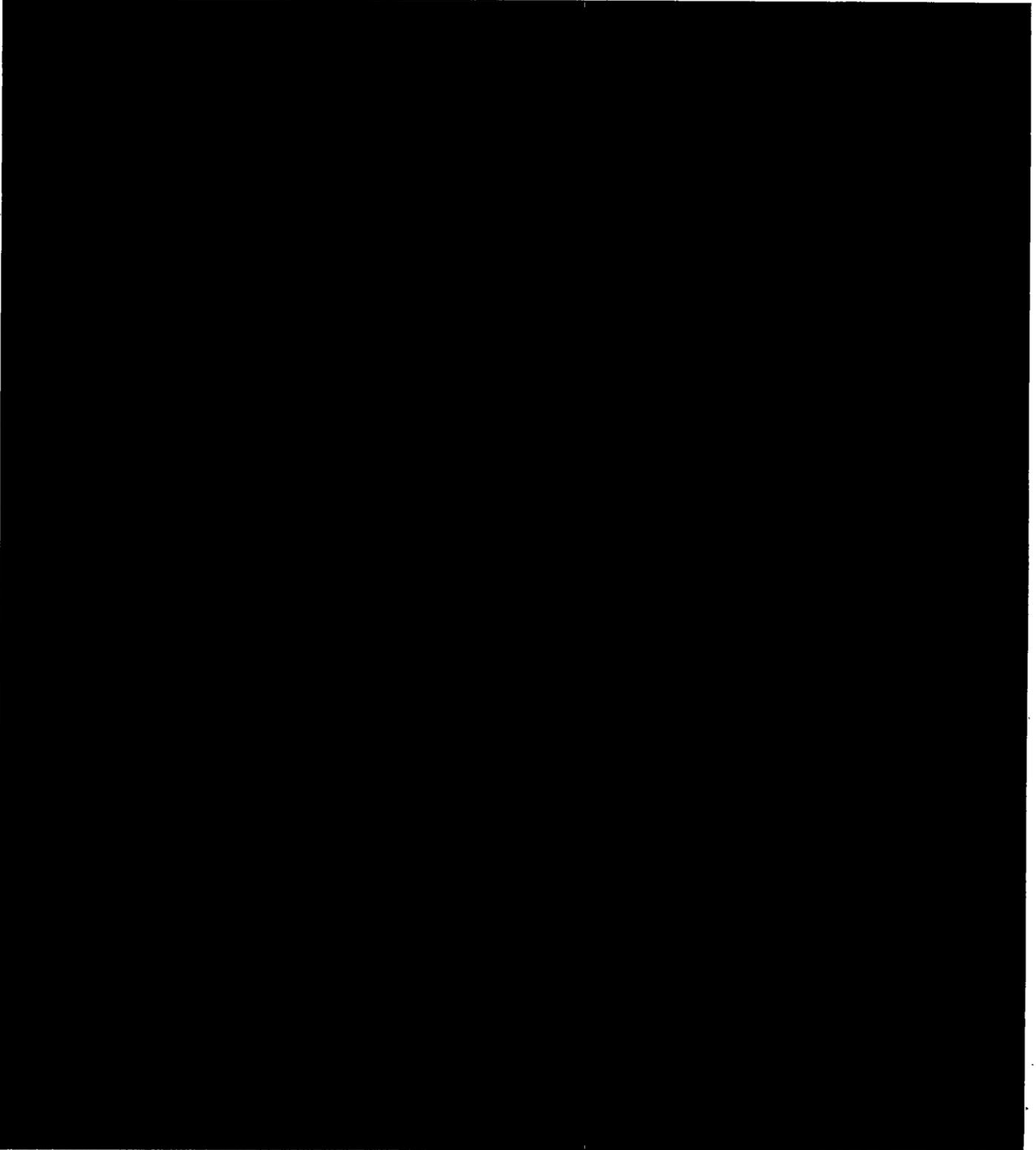


Exhibit 3
Letter from Richard V. Abbott to Harvey Plummer

FEB 21 2005

P.O. Box 1442
Honokaa, HI 96727

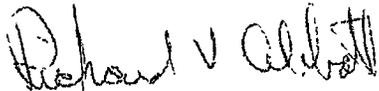
February 17, 2006

Harvey Plummer
Hawaiian Telecom
P.O. Box 2200
Honolulu, HI 96841

Dear Mr. Plummer

Attached, please find our request to improve the quality levels in infrastructure and service in the Paauilo Mauka area. The signatures submitted to you represent only a small portion of the residents who need this service.

Thank you for your consideration.



Richard V. Abbott


Hawaiian Telecom
Harvey Plummer
Operations

Petition to improve phone line service or adjust phone rates

Introduction

With the arrival of the Internet in the 1990s, access to this new tool has assumed huge importance. Without adequate connections to advanced telecommunications infrastructure and services, rural communities such as Paauilo Mauka are not able to fully participate in this information economy. Several studies have explored the link between economic development and the presence of different levels of telecommunications infrastructure, most concluding a positive relationship between access to telecommunications capabilities and improvement in certain economic and quality of life issues.¹ The change in universal service policies under 1996 federal legislation recognizes the importance of the Internet for education and information access, and catapulted the ability to use it to national significance.

Current Status

Currently customers in the Paauilo Mauka area are paying the same phone rates for basic telephone service as all other customers outside of this area yet we have a lesser quality of phone service. Using V94 dial-up modems people outside of our area are able to connect at 56 kbps, the current state of art for dial-up service. We in the Paauilo Mauka area are limited to 33.6 kbps due to either inferior line quality or too many AtoD/DtoA conversions between our homes and the phone company.

People in the 775 prefix are able to utilize advanced telecommunications (DSL) service. People living next door in the 776 prefix struggle with maximum of 33.6 kbps on a good day, and many days the connection is slower.

Requested Remedy

We urge you to do what it takes to improve the quality of the telecommunications infrastructure in the Paauilo Mauka area. If we cannot reach equal quality levels in infrastructure and service, perhaps our rates should be adjusted to compensate for the lower quality of infrastructure and service.

¹ E. Parker, H. Hudson, D. Dillman, S. Strover and F. Williams (1995). Electronic Byways: state policies for rural development through telecommunications. Washington: The Aspen Institute.

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