

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

In the Matter of)
) WC Docket No. 08-4
Hawaiian Telcom’s Petition for Waiver of) DA 08-131
High-Cost Universal Service Support Rules)

**NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION
REPLY COMMENTS**

The National Telecommunications Cooperative Association (NTCA)¹ files these reply comments in response to initial comments filed February 19, 2008, regarding the Federal Communications Commission (Commission or FCC)’s January 18, 2008, Public Notice seeking comment on a Petition filed December 31, 2007, by Hawaiian Telcom, Inc. (HTI) (Petition).² NTCA joins others in recommending that the Commission reject HTI’s Petition and its request for a five-year waiver of FCC Rules Section 54.309 to allow its universal service support to be calculated on a wire center basis, rather than through statewide averaging, and a one-time waiver of FCC Rules Section 54.314(d)(vi) to allow receipt of high cost support.³ HTI has not

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents over 580 rural rate-of-return regulated incumbent local exchange carriers (ILECs). All of its members are full service local exchange carriers, and many members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended (Act). NTCA members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

² Hawaiian Telcom, Inc., Petition for Waiver of Sections 54.309 and 54.313(d)(vi) of the Commission’s Rules, WC Docket No. 08-4 (filed Dec. 31, 2007) (Petition); the referenced Commission’s Rules are 47 C.F.R. § 54.309 and 47 C.F.R. § 54.313(d)(vi).

³ Pacific Lightnet Comment, p. 4; Vermont PUC, Maine PUC, South Dakota PUC, Nebraska PUC, and West Virginia PUC (Rural States) Joint Comments, p. 1; Verizon Comment, p. 1; Western Telecommunications Alliance

demonstrated that its circumstances are special or that granting the Petition will serve the public interest. The Commission is already addressing long-term USF reform in its three pending Notices of Proposed Rulemakings (NPRMs) and should not grant this Petition.

I. Background.

On December 31, 2007, Hawaiian Telcom, Inc. (HTI), a non-rural incumbent local exchange carrier (ILEC), filed its Petition seeking high cost universal service fund (USF) support through a five-year waiver of Section 54.309 by averaging its line costs on a wire-center-by-wire center basis, instead of on a statewide basis.⁴ HTI also seeks a one-time waiver of Section 54.314(d)(vi) to receive high cost model support immediately upon grant of its petition.⁵ HTI estimates that it would receive about \$6 million annually in high cost support of the Commission grants the Petition.⁶ HTI currently qualifies for Interstate Access Support as a non-rural ILEC. HTI, however, does not currently qualify for non-rural loop support because Hawaii's statewide average forward looking costs fall below the national benchmark established by the Commission.⁷

II. The Commission Should Reject The Petition As Piecemeal USF Reform.

NTCA joins other commenters in opposing the Petition because it does not demonstrate adequate special circumstances that merit unique treatment. As the state public service commissions from Maine, Nebraska, South Dakota, Vermont and West Virginia accurately

and the Organization for the Promotion and Advancement of Small Telecommunications Companies (WTA and OPASTCO) Joint Comments, p. 3; GVNW Comment, p. 9.

⁴ Petition, p. 1.

⁵ *Ibid.*

⁶ *Id.*, p. 23.

⁷ *Id.*, p. 2.

noted, HTI has not adequately demonstrated that its service territory and needs show special circumstances to merit a waiver of the statewide basis calculation rule of Section 54.309.⁸

Providing service in areas of very low population density with mountainous and other significant geophysical features is common throughout much of NTCA members' territories. Some NTCA members offer local exchange service to as few as 44 lines and nearly 50% of NTCA members serve between 1,000 and 5,000 lines.⁹ Population density in most NTCA member service areas is in the 1 to 5 customers per square mile range.¹⁰ The Commission should not view HTI's position as a special case.

Granting HTI's Petition, furthermore, would not serve the public interest. HTI estimates that granting its waiver request would allow it to receive approximately \$6 million per year in high-cost model support.¹¹ Several commenters insightfully observed that this \$6 million figure is actually a quarterly figure and that the true annual impact on the USF high cost program would be about \$24 million.¹² NTCA concurs with Verizon that granting HTI's Petition would "fundamentally alter the way in which non-rural high cost support is determined."¹³ Granting the waiver would create an extremely dangerous precedent as other non-rural ILECs and competitive local exchange carriers (CLECs) would seek additional USF funds by following HTI's example, causing the USF high-cost fund to spiral completely out of control.

⁸ Rural States Joint Comments, p. 2.

⁹ NTCA 2007 Broadband/Internet Availability Survey, p. 5, available at http://www.ntca.org/content_documents/2007NTCABroadbandSurveyReport.pdf.

¹⁰ *Ibid.*

¹¹ Petition, p. 23.

¹² GVNW Comment, pp. 7-8; Sandwich Isles Comment, p. 2, n. 3.

¹³ Verizon Comment, p. 2.

The Universal Service Administrative Company (USAC) estimates that for the 2007 calendar year, USAC disbursed over \$4.2 billion in high cost support out of a total USF disbursement of nearly \$7 billion.¹⁴ Several of the commenters themselves indicated that they, too, would want to share in the same type of support should HTI prevail.¹⁵ It is absolutely necessary for the Commission to control the overall growth of the USF and to ensure the long term sustainability of the fund in order to accomplish the goals of the Telecommunications Act. The Federal-State Joint Board stated in its USF recommendations to the Commission that, “any possible benefit anticipated from increased USF distributions must be weighed against the added burden on consumers.”¹⁶ HTI’s Petition should be rejected as not in the public interest because it will directly and indirectly adversely impact the USF high cost program.

The Commission is desperately trying to find ways to control the explosive growth in the USF high cost fund, as demonstrated by its thorough examination of three proposed rulemakings on USF proposals.¹⁷ Whether to calculate USF high cost support on a wire center basis, or to retain the current statewide basis calculation, is part of the Commission’s USF review through

¹⁴ Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Second Quarter 2008 (rel. Feb. 1, 2008), p. 3.

¹⁵ Pacific Lightnet Comment, p. 2; Puerto Rico Telephone Company, Inc. Comment, p. 1, 8; Embarq Comment, p. 2; Rural States Joint Comments, p. 3.

¹⁶ *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, FCC 08-22 (rel. Jan. 29, 2008) (Joint Board NPRM), ¶ 24.

¹⁷ Joint Board NPRM; *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket no. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, FCC 08-4 (rel. Jan. 29, 2008) (Identical Support Rule NPRM); and *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket no. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, FCC 08-5 (rel. Jan. 29, 2008) (Reverse Auctions NPRM).

the pending USF Reform NPRMs.¹⁸ The Commission should deny HTI's Petition and should decide the wire center/statewide calculation issue in the context of its USF rulemakings.

III. Conclusion.

For these reasons, the Commission should reject the HTI Petition. HTI has not demonstrated that its circumstances are special or that granting the Petition will serve the public interest.

Respectfully submitted,

**NATIONAL TELECOMMUNICATIONS
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March 5, 2008

¹⁸ *In accord*, Sandwich Isles Comment, p. 4; WTA and OPASTCO Joint Comments, p. 2.

CERTIFICATE OF SERVICE

I, Adrienne L. Rolls, certify that a copy of the foregoing Reply Comments of the National Telecommunications Cooperative Association in WC 08-4, DA 08-131, was served on this 5th day of March 2008 by first-class, United States mail, postage prepaid, or via electronic mail to the following persons:

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