



November 30, 2011

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

Re: November 28, 2011 Ex Parte Meeting
Sandwich Isles Communications, Inc. Petition for Reconsideration
Wireline Competition Bureau, Docket No. 09-133

Dear Ms. Dortch:

On November 28, 2011, Albert Hee and Janeen Olds of Sandwich Isles Communications, Inc. ("SIC"), and Gregory Gill of Venable LLP, met with Lisa Hone, Wireline Advisor to Commissioner Michael J. Copps and then with Angela Kronenberg, Wireline Legal Advisor to Commissioner Mignon L. Clyburn, and on November 29, 2011, Mr. Hee and Ms. Olds along with Walter Raheb of Roberts Raheb & Gradler LLC, met with Angela Giancarlo, Chief of Staff and Senior Legal Advisor to Commissioner Robert M. McDowell, regarding SIC's pending Petition for Reconsideration filed on October 29, 2010, and the Federal Communications Commission's ("FCC") recently issued Connect America Fund Order, issued on November 18, 2011 (the "CAF Order"). Specifically SIC discussed the uncertainty the two orders have and will create regarding the immediate and long term viability of providing communications services to Hawaiian Home Lands ("HHL").

The underlying issue in the Declaratory Order issued on September 29, 2010 and its subsequent Petition for Reconsideration is whether certain undersea cable lease costs incurred by SIC may be recovered through the National Exchange Carrier Association ("NECA") pooling process as existed at the time the costs were incurred. In reversing its prior decision, NECA failed to follow the rules as set forth in the NECA Cost Issues Manual (the "Manual"). The Manual "reflect[s] NECA's interpretation of the FCC's rules"; is the result of NECA's Safeguards Audit; and, its use is mandatory by both NECA and its member Exchange Carriers. As a member exchange carrier, SIC reasonably relied on such rules being followed by NECA.

The Manual makes clear the necessity of predictable support in providing communications service to areas where it is not economically viable otherwise. Article IV of Section 1 of the Manual specifically sets forth the procedure for the resolution of the underlying issue including, if necessary, clarification by the FCC. NECA's failure to follow the resolution procedure in reversing its prior year's inclusion of the undersea lease costs prejudiced SIC by immediately withholding support and thereby placing the continued provision of communications service to HHL in jeopardy. In effect, NECA created a new rule only applicable to Hawaii. A copy of Section 1 and 9 of the Manual were left with each of Ms. Hone and Ms. Kronenberg, and are attached to this Ex Parte Notice.



Marlene H. Dortch, Secretary
Federal Communications Commission
November 30, 2011
Page 2

Discussion also ensued about the impact of the CAF Order. SIC strongly supports the inclusion of HHLs in the definition of Tribal Lands. SIC has concerns about the waiver mechanism under which SIC (and other carriers) may seek relief from some or all of the CAF Order's reforms. Specifically, the Waiver mechanism provides for a maximum cap based on the amount an exchange carrier has received previously and is discretionary.

The waiver cap for providing service to HHL will be determined by the petition for reconsideration. Under the current order, the continued provision of communications services is questionable. Furthermore, the CAF Order clearly states all decisions regarding a waiver are discretionary. Given NECA's clear demonstration of its inability or unwillingness to follow mandatory written rules and the Wireline Bureau's reluctance to enforce the mandatory rules, in effect the CAF Order has reversed the results of the Safeguard Audit and allows NECA to act arbitrarily.

Within the last 30 days, NECA has advised SIC, through its cost consultants, that despite the current rules regarding the treatment of revenues derived from facilities not supported by NECA's pool, NECA intends to reduce the amount of pool revenues paid to SIC by the amount of revenues received for the use of unsupported facilities, including \$2M lease fees paid by Time Warner Cable for the use of the unsupported portion of the undersea cable. Equally troubling is that the CAF waiver process appears to encourage this type of discretionary action.

Accordingly, if the intent of the CAF Order was to insure that communications services are available to tribal and/or high cost rural areas through the waiver mechanism, such actions fall short of predictable and sufficient support needed to borrow the funds necessary to build the facilities in areas known to be uneconomic.

Should you have any questions or need any other information then please advise the undersigned.

Very truly yours,

ALBERT S.N. HEE
JANEEN-ANN A. OLDS

Sandwich Isles Communications, Inc.

cc: Lisa Hone
Angela Kronenberg
Angela Giancarlo

Attachment Withheld Pursuant to the Protective Order in WC Docket No. 09-133