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December 13, 2013

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

USAC
Vice President of the High Cost and Low Income Division
2000 L Street, NW, Suite 200
Washington, DC 20036

Re: CC Docket No. 96-45/WC Docket No. 10-90, Annual State-Certification of Support for Eligible Telecommunications Carriers Pursuant to 47 Code of Federal Regulations ("C.F.R.") Section 54.314

Hawaiian Telcom, Inc. ("HTI"), a local exchange carrier; Sandwich Isles Communications, Inc. ("SIC"), a local exchange carrier; Coral Wireless, LLC, dba Mobi PCS ("Mobi"), a commercial mobile radio service provider; and Pa Makani LLC, dba Sandwich Isles Wireless ("SIW"), a commercial mobile radio service provider, are designated as eligible telecommunications carriers ("ETC") in the State of Hawaii ("Hawaii").[1]

Designated ETCs may receive federal universal service fund ("USF") high-cost support ("High-Cost Support"), and a "carrier that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended" as provided under Section 254 (e) of the Telecommunications Act of 1996 ("Intended Use of USF Support").

[1] The Commission designated: HTI as an ETC on December 4, 1997 in Decision and Order No. 16111 in Docket No. 1997-0363; SIC as an ETC on December 9, 1998, in Decision and Order No. 16737 in Docket No. 1998-0317; Mobi as an ETC on February 23, 2007 in Decision and Order No. 23275 in Docket No. 2005-0300.

The Hawaii Public Utilities Commission ("Commission") has established and updated annual certification requirements applicable to Hawaii ETCs in Decision and Order ("D&O") No. 30932, in Docket No. 2011-0052 issued on December 28, 2012.

By D&O No. 31134, the Commission opened Docket No. 2013-0066 to, "...determine whether state designated [ETCs] in [Hawaii] participating in the high-cost support program of the [USF] should be certified by the [Commission] in 2013 pursuant to 47 C.F.R. Section 54.314 (a)." Docket No. 2013-0066 consolidates the 2013 ETC high-cost certifications and included all ETCs receiving high-cost USF support as parties, Mobi, HTI, SIC, SIW, and T-Mobile West LLC ("T-Mobile"). T-Mobile, originally a party to the docket, gave notice on April 29, 2013 that it would not be filing its annual certification requirements report because it would not be seeking High-Cost Support in 2014. The Commission, in D&O No. 31556, approved T-Mobile's application for relinquishment of the High-Cost Support element of its ETC designation in Hawaii, effective December 31, 2013, and T-Mobile's request to retain its ETC designation in Hawaii for the limited purpose of providing qualifying low-income consumers reduced charges under the USF Lifeline program.

HTI, SIC, Mobi, and SIW state that they shall use federal universal service support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, consistent with the Intended Use of USF Support and that they will comply with all requirements to be eligible for High-Cost Support.

The Commission considered and approved each ETC's annual certification in Docket No. 2013-0066 in D&O No. 31745 on December 12, 2013, as listed in the table below.

2013 Commission Approved ETC Certifications

Applicant	SAC
HTI	623100
SIC	623021
Mobi	629002
SIW	629004

Pursuant to 47 C.F.R. § 54.314(a), the Commission hereby certifies to the Federal Communications Commission and the Universal Service Administrative Company that the telecommunications carriers listed above are eligible to receive High-Cost Support, and that all High-Cost Support provided to these carriers in Hawaii was used in the

preceding calendar year (2012) and will be used in the coming calendar year (2014) only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. See the enclosed D&O No. 31745.

If this letter does not fully satisfy the requirements for state certification of carriers to receive federal universal service support, we respectfully request a waiver of the December 16, 2013 deadline to correct any deficiencies.

Please contact Brooke K. Kane, Administrative Director, at (808) 586-2020 to address any questions on this matter.

Sincerely,

Hermina Morita
Chair

BP: sr

Enclosures

c: Jeffrey T. Ono, Division of Consumer Advocacy (w/ enc.)
Steven P. Golden, HTI (w/o enc.)
Clifford K. Higa, Esq., SIC and SIW (w/o enc.)
William W. Milks, Esq., Mobi (w/o enc.)

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

----In the Matter of----	)	
	)	
PUBLIC UTILITIES COMMISSION	)	DOCKET NO. 2013-0066
	)	
Instituting a Proceeding to Investigate Whether Designated Eligible Telecommunications Carriers Participating in the High-Cost Program of the Universal Service Fund Should be Certified By the Commission Pursuant to 47 Code of Federal Regulations § 54.314(a).	)	

DECISION AND ORDER NO. 31745

FILED
2013 DEC 12 P 3:22
PUBLIC UTILITIES COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

----In the Matter of----	)	
	)	
PUBLIC UTILITIES COMMISSION	)	Docket No. 2013-0066
	)	
Instituting a Proceeding to Investigate Whether Designated Eligible Telecommunications Carriers Participating in the High-Cost Program of the Universal Service Fund Should be Certified By the Commission Pursuant to 47 Code of Federal Regulations § 54.314(a).	)	Decision and Order No. 31745

DECISION AND ORDER

By this Decision and Order,[1] the commission determines that the ETC Parties have each sufficiently complied with

[1]The "Parties" to this proceeding are (1) HAWAIIAN TELCOM, INC. ("HTI"); (2) SANDWICH ISLES COMMUNICATIONS, INC., ("SIC"); (3) CORAL WIRELESS, LLC, dba MOBI PCS ("Mobi"); (4) SIC's affiliate PA MAKANI LLC, dba SANDWICH ISLES WIRELESS ("PA MAKANI" or "SIW"); and (5) the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"). See Order No. 31134 Initiating Investigation, filed on March 27, 2013 ("Order Initiating Investigation") at 9. The commission had also named T-Mobile West Corporation ("T-Mobile") as a party to this proceeding; however, by a filing made on April 29, 2013, T-Mobile informed the commission that it will not be submitting its annual certification report. Thus, T-Mobile was automatically excused as a party to this docket. See Order Initiating Investigation at 7. No persons moved to intervene or participate without intervention in this docket. See Hawaii Administrative Rules ("HAR") § 6-61-57(3). Going forward, HTI, SIC, Mobi, and Pa Makani are collectively referred to as the "ETC Parties."

the annual eligible telecommunications carrier ("ETC") certification requirements established by the commission in Decision and Order No. 30932, filed on December 28, 2012, in Docket No. 2011-0052 ("Annual Certification Requirements") and certifies to the Federal Communications Commission ("FCC") and the Universal Administrative Company ("USAC") that the ETCs in the State of Hawaii ("State") participating in the federal high-cost support program of the universal service fund ("USF") (i.e., HTI, SIC, Mobi, and Pa Makani) have been or will be using such support for the purposes for the which the support is intended, consistent with 47 Code of Federal Regulations ("C.F.R.") § 54.314(a).

I.

Background

On March 27, 2013, the commission instituted this investigation to determine whether state designated ETCs in the State participating in the high-cost support program of the USF should be certified by the commission in 2013, pursuant to 47 C.F.R. § 54.314(a).[2] As the commission noted in that order, the federal rules require state commissions that desire ETCs to receive USF high-cost support to annually submit a certification to the FCC and the USF administrator, USAC, that the ETCs have

[2]See Order Initiating Investigation at 1.

used and will use the support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.[3]

Initially, in the Order Initiating Investigation,[4] based on certain FCC filing deadlines including the October 1, 2013 federal deadline for state certification of USF high-cost support program recipients, the commission established procedural deadlines for this proceeding and required the Parties to submit a stipulated procedural order with the established deadlines for the commission's review and approval.[5] Consistent with the commission's directive, the Parties submitted their proposed stipulated procedural order on May 14, 2013, which the commission approved by issuing Stipulated Procedural Order No. 31249 on May 17, 2013, which included a Stipulated Regulatory Schedule.

Subsequently, on June 10, 2013, the FCC adopted and released Order DA 13-1348 in WC Docket No. 10-90 ("DA 13-1348"), which provides a limited waiver of the July 1, 2013 annual report filing deadline under 47 C.F.R. § 54.313(j) for ETCs, and

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[3]See id. at 2. See also 47 C.F.R. § 54.314(a).

[4]On April 4, 2013, the commission, on its own motion, issued a protective order to govern the classification, acquisition, and use of trade secrets and other confidential information produced in this docket. See Protective Order No. 31145, filed On April 4, 2013.

[5]See Order Initiating Investigation at 10-11.

a corresponding limited waiver of the October 1, 2013 deadline for state certification of high-cost support recipients.[6] In that order, the FCC stated that it would release a Public Notice announcing: (1) the new deadline for ETCs to submit their annual reports; and (2) the deadline for states or ETCs to file their 47 C.F.R. § 54.314 certifications.

On July 26, 2013, the commission issued Order No. 31373, amending the Stipulated Regulatory Schedule to specifically correspond to the FCC's new deadlines to be announced in the Public Notice referenced in DA 13-1348.

On August 6, 2013, the FCC established the deadline of October 15, 2013, for ETCs to file high-cost and low-income annual reports, and established the deadline of December 16, 2013, for states and ETCs to submit their certifications, pursuant to 47 C.F.R. § 54.314.[7]

On September 25, 2013, and October 28, 2013, the commission received letters from Jobie M. K. Masagatani, Chairman of the Department of Hawaiian Home Lands ("DHHL") and

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[6]See Order No. 31373 Amending Stipulated Regulatory Schedule, filed on July 26, 2013 ("Order No. 31373") at 3 (citing to DA 13-1348 ¶¶ 4 and 6).

[7]See FCC's Public Notice DA 13-1707, WC Docket Nos. 10-90 and 11-42, released on August 6, 2013. Subsequently, the FCC revised the deadline for ETCs to submit their annual reports to October 30, 2013, however, no such corresponding extension was announced for the filing of state and ETC certifications.

Kamana`opono M. Crabbe, Ph.D, Chief Executive Officer of the Office of Hawaiian Affairs ("OHA"), respectively, setting forth statements and concerns related to certain matters of this docket.[8] By transmittal letters dated September 7, 2013, and October 30, 3013, the commission forwarded the ex-parte letters to the Parties, consistent with HAR § 6-61-29(d).

On October 22, 2013, the commission issued "Order No. 31577 Approving Consumer Advocate's Request to Modify Stipulated Regulatory Schedule" revising the procedural schedule to insert specific filing deadlines for the remaining proceedings, among other things.

Consistent with the Stipulated Regulatory Schedule, as amended (as discussed above): (1) the ETC Parties each filed their, Annual Certification Requirements reports, responses to issued information requests ("IRs") and supplemental IRs, as applicable, and filed copies of their annual reporting requirements consistent with 47 C.F.R. § 54.313(i); (2) the Consumer Advocate filed its Statement of Position on November 20, 2013 ("Consumer Advocate's SOP"); and (3) each of the

[8]The DHHL and the OHA did not file appropriate motions to intervene or to participate without intervention in this proceeding, consistent with the commission's rules, and are not parties to this docket. As such, the commission views the letters submitted by the DHHL and the OHA on September 25, 2013, and October 28, 2013, respectively, to be ex-parte comments.

ETC Parties filed their respective responses to the Consumer Advocate's SOP on November 25, 2013.

In sum, the Consumer Advocate in its Statement of Position states that it does not object to the commission certifying the existing state designated ETCs participating in the high-cost support program of the federal USF (i.e., HTI, SIC, Mobi, and Pa Makani") in 2013 pursuant to 47 C.F.R. § 54.314(a).[9] The Consumer Advocate's review regarding each of the ETC Parties' filings and the responses of the ETC Parties are discussed separately in the sections below.

II.

Discussion

By Decision and Order No. 30932, filed on December 28, 2012, in Docket No. 2011-0052 ("Decision and Order No. 30932"), the commission adopted Annual Certification Requirements for State designated ETCs participating in the high-cost program of the USF.[10] These requirements superseded the annual ETC certification requirements previously adopted by the commission on an interim basis in

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[9]See Consumer Advocate's SOP at 1-2.

[10]These requirements do not apply to ETCs designated by the commission for the limited and sole purpose of participating in the USF Lifeline program, known as Lifeline-only ETCs. See Decision and Order No. 30932 at 9-13 and 32.

Docket No. 2011-0052, which amended the commission's formerly adopted ETC certification requirements in Decision and Order No. 22228, filed on January 17, 2006, in Docket No. 05-0243.

The Annual Certification Requirements (individually, "Reporting Requirement") adopted by the commission in Decision and Order No. 30932 are as follows:

A. Federal Reporting Requirements Applicable to All ETCs Other Than Lifeline-Only ETCs:

The following federal reporting requirements shall apply to all ETCs in Hawaii other than Lifeline-only ETCs:

1. Provide a copy of all of the ETC's current year filings to the FCC required by 47 C.F.R. Sections 54.313 (annual reporting requirements for high-cost recipients) and 54.1009 (annual reports).

2. Any carrier affected by the cap shall provide a discussion on whether the carrier has sought or plans to seek a waiver from the $250/line/month cap on universal service support as specified in 47 C.F.R. § 54.302. If a waiver has been requested, provide the status of the waiver.

B. Additional Hawaii Reporting Requirements Applicable to All ETCs Other Than Lifeline-Only ETCs.

The following additional reporting requirements shall apply to all ETCs in Hawaii other than Lifeline-only ETCs:

1. Provide the percentage of all out-of-state troubles cleared within twenty-four hours of the time such troubles are reported. The standard for this is a minimum of ninety-five percent cleared within twenty-four hours.

2. Provide the number of customer trouble reports per one hundred lines per month. The standard for this is no more than six customer trouble reports per one hundred lines per month.

3. Provide a certification that the carrier will promptly notify its customers, and as appropriate, law enforcement and fire agencies that will be affected when its service will be interrupted for scheduled repairs or maintenance, or if the occurrence of an interruption in service is otherwise known to the carrier.

4. Any ETC that is already filing with the commission the information detailed in Paragraphs Nos. 1 to 3, above, on an annual or more frequent basis, is not required to resubmit that information.

Pursuant to 47 C.F.R. § 54.314(a), "[s]tates that desire eligible telecommunications carriers to receive support pursuant to the high-cost program must file an annual certification with the Universal Service Administrator and the FCC stating that all federal high-cost support provided to such carriers within that State was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."

To assist with the identification of the benefactors of federal high-cost support, excluding frozen Interstate Access Support ("IAS") that is not required to be used for deploying broadband services, ETCs shall provide the following information:

1. The number of locations or customers in each wire center or census block within its ETC service area for the previous calendar year and the anticipated number of locations or customers in each wire center or census block for the coming calendar year;

2. The services available to locations or customers in each wire center or census block within its ETC service area for the previous calendar year and the anticipated services available to locations or customers in each wire center or census block for the coming calendar year; and

3. In addition to the information provided on its progress report pursuant to 47 C.F.R. § 54.313(a)(1):

   a. Identify all capital, operating and maintenance expenditures for which the carrier has received universal high-cost support for the previous calendar year, broken down to the wire centers or census blocks, as appropriate.

   b. An update on the status of projects that were planned for the previous calendar year. For each project, provide: the amount of universal high-cost support utilized; a discussion of whether competitive bidding was utilized; a discussion of whether any project related contracts were awarded to entities affiliated to the carrier or in which an officer of the entity is related to an officer of the carrier; a discussion of whether the project plans were changed, and if so, the reasons why; maps detailing the location of the project as well as the wire centers or census blocks of the affected customers; an explanation of the project and how it was used to improve service quality, coverage, or capacity for the intended benefactors; data supporting improvements in service quality, coverage, or capacity. Beginning July 1, 2013, separate progress reports shall be provided for voice and broadband service, to the extent required by federal law.

c. For the coming calendar year, identify all anticipated capital, operating, and maintenance expenditures on projects that the carrier plans to seek federal high-cost support for, broken down to the wire center level or census block, as appropriate;

d. For the coming calendar year, maps detailing the location of the project and the wire center or census block of the affected locations or customers, an explanation of the project and how it will be used to improve service quality, coverage, or capacity for the intended benefactors, and the data supporting the quantification of the benefactors. Beginning June 1, 2013, separate progress reports shall be provided for voice and broadband service to the extent required by federal law; and

e. If in the final year of high-cost support, plans for the following (i.e., future) calendar years are not required.

4. Pursuant to 47 C.F.R. § 54.320, provide a certification that the carrier will retain, for at least ten years, all records required to demonstrate to auditors that the support received was consistent with the universal service high-cost program rules and that these documents will be available upon request to the FCC and any of its bureaus or offices, Universal Service Administrative Company, and their respective auditors.

C. Requirements for an Incumbent Local Exchange Carrier or a Rural Local Exchange Carrier

To confirm whether the carrier is or will charge a limited monthly access recovery charge on its wireline service, carriers are to provide a list of the monthly access recovery charge for each of the carrier's class of service.

Decision and Order No. 30932 at 9-13 (citation omitted).

In addition, the commission required that ETCs providing service on Hawaiian Home Lands provide redacted, non-confidential copies of their annual ETC certification reports to the DHHL and the OHA.[11] The commission's review of each of the ETC Parties' filings submitted for certification to receive USF high-cost support are discussed individually in the sections below.

A.

HTI

HTI is the State's incumbent local exchange carrier ("LEC"). HTI provides a "comprehensive slate" of local and intraLATA telecommunication services, statewide. In 1997, the commission approved HTI's (formerly known as GTE Hawaiian Telephone Company, Incorporated) application for designation as an ETC to receive federal USF support, effective January 1, 1998.[12]

On May 1, 2013, HTI filed its annual certification report for the commission's review.[13] In its report, HTI asserts that its

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[11]See Decision and Order No. 30932 at 32.

[12]See In re GTE Hawaiian Telephone Company, Incorporated, Docket No. 97-0363, Decision and Order No. 16111, filed on December 4, 1997.

[13]See Hawaiian Telcom, Inc.'s Annual Certification Requirements Report for the Year Ending December 31, 2012; Confidential Attachments A-E; Certification of Steven P. Golden;

filing "demonstrates that HTI meets all applicable annual certification requirements."[14] With respect to each requirement, HTI provided the necessary information or indicated how the requirement is not applicable to HTI, at this juncture. For instance, with respect to Reporting Requirement A(2) regarding the $250/line/month cap on USF support as specified in 47 C.F.R. § 54.302, HTI states that it is not affected by the cap and, thus, the reporting requirement is not applicable.[15]

In addition, in response to Reporting Requirements B(4)(1) through B(4)(3), HTI provides information regarding: (1) the number of its locations or customers in each wire center within its service area as Confidential Attachment A; (2) the services available to customers in each wire center within its service area as Confidential Attachment B; (3) all capital, operating and maintenance expenditures for which high-cost support was received, by wire center, as Confidential Attachment C; and (4) updates on the status of projects planned for the pervious calendar year as Confidential Attachment D. Among other things,

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Verification; and Certificate of Service, filed on May 1, 2013 (collectively, "HTI's Report"). Consistent with the commission's requirement, a copy of HTI's Report was served on the DHHL and the OHA. See HTI's Report, Certificate of Service at 1-2.

[14]See HTI's Report at 4.

[15]See id.

included as part of its report, HTI provides the Certification of its Vice President of External Affairs, Steven P. Golden, who provides the necessary certifications regarding notification of planned service interruptions and retention of records in response to Reporting Requirements B(3) and B(4)(4).[16] Finally, in response to Reporting Requirement C (applicable to the incumbent LEC or a rural LEC), HTI states that it initiated an access recovery charge ("ARC") on its wireline services, effective July 3, 2012, and provides its current ARC rates.[17]

In its Statement of Position, the Consumer Advocate states that HTI appears to have complied with all of the requirements for annual certification but for one service related requirement.[18] With respect to that particular requirement, the Consumer Advocate contends that applicability of the requirement may need to be re-evaluated given the changes in Hawaii's and the nation's telecommunications industries.[19] In addition, the Consumer Advocate states the following

> [I]t appears that all federal high cost support provided to HTI was used in 2012 and will be used in 2014 only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

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[16]See HTI's Report, Certification of Steven P. Golden at 1-2.

[17]See HTI's Report at 8.

[18]HTI provided information with respect to this requirement as confidential information; thus, it is not further identified here.

[19]See Consumer Advocate's SOP, Attachment 1 at 3.

Consumer Advocate's SOP, Attachment 1 at 3. The Consumer Advocate provides a detailed summary of its review of HTI's compliance with the Annual Certification Requirements as Attachment 1.1 of its Statement of Position.

In response, HTI states that it does not object to the Consumer Advocate's Statement of Position.[20] Moreover, HTI states that it agrees with the Consumer Advocate's assertion that it appears necessary to re-evaluate the applicability of certain requirements and how they should be measured given the changes in the telecommunications industry and reserves it right to later address this matter through further discussions or filings, as applicable.

Upon review, the commission finds that HTI has sufficiently complied with the Annual Certification Requirements adopted in Decision and Order No. 30932. As noted by the Consumer Advocate, and separately confirmed by the commission, HTI has provided all of the required information and certifications mandated by the commission, as applicable.[21] With respect to the one service requirement which HTI may not have fully satisfied, the commission agrees with the Consumer Advocate's and HTI's assertions that the applicability and how to measure that requirement may need to re-evaluated given the changes in the

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[20]See HTI's Reply to the Division of Consumer Advocacy's Statement of Position, filed on November 25, 2013.

[21]See Consumer Advocate's SOP, Attachment 1.1 at 1-4.

telecommunications industry in the State and nationwide. Thus, at this juncture, the commission will view the service related measurements of the ETC certification requirements to be targets for achievement as opposed to a strict standard, until determined otherwise.

Based on the foregoing, the commission finds and concludes that HTI has sufficiently satisfied the Annual Certification Requirements adopted by the commission in Decision and Order No. 30932, and that certification should be provided to the FCC and USAC that all federal high-cost support provided to HTI was used in 2012 and will be used in 2014 only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, pursuant to 47 C.F.R. § 54.314(a).

B.

SIC

SIC, a rural LEC, is authorized by the commission to provide intrastate telecommunications services in the State on lands administered by the DHHL.[22] In 1998, the commission

[22]See In re Sandwich Isles Communications, Inc., Decision and Order No. 16078, filed on November 14, 1997, in Docket No. 96-0026.

designated SIC as an ETC for the service areas consisting of lands administered by the DHHL.[23]

On May 1, 2013, SIC filed its annual certification report for the commission's evaluation.[24] With respect to each requirement, SIC provided the necessary information or indicated how the requirement is not applicable. In particular, with respect to Reporting Requirement A(2), SIC states that it timely filed a Petition for Waiver of the FCC's Rules implementing the $250/line/month cap on universal service support ("Waiver Request") and that the FCC's ruling was pending.[25] SIC states that it experienced 192 outage tickets of which 166 or 86% were cleared within 24-hours and that it had less than two customer trouble reports per 100 lines per month in response to Reporting Requirements B(1) and B(2).[26] With respect to Report Requirement B(3), SIC "certifies that it notifies customers, and

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[23]See In re Sandwich Isles Communications, Inc., Decision and Order No. 16737, filed on December 9, 1998, in Docket No. 98-0317.

[24]See Submission of Sandwich Isles Communications, Inc.'s Annual Certification as an Eligible Telecommunications Carrier, Attachments 1-8; Certification Statement, Sandwich Isles Communications, Inc., FCC Order No. 01-157 ("Certification Statement"); and Certificate of Service, filed on May 1, 2013 (collectively, "SIC's Report"). Consistent with the commission's requirement, a copy of SIC's Report was served on the DHHL and the OHA. See SIC's Report at 12.

[25]See id. at 5-6.

[26]See id. at 6-7.

as appropriate, law enforcement and fire agencies that will be affected when SIC's service will be interrupted for scheduled repairs or maintenance, or if the occurrence of an interruption in service is otherwise known to SIC."[27] SIC provides information regarding number of its locations and the services it provides within each of its wire centers as Confidential Attachment 1, in response to Reporting Requirements B(4)(1) and B(4)(2).

A detailed description of SIC's capital, operating, and maintenance expenditures and an update of its projects for which SIC received support is set forth on pages 9-11 of its report and associated confidential attachments. Additionally, SIC provides the necessary certification regarding record retention in response to Reporting Requirement B(4)(4), and states that it charges its customers a limited monthly ARC for wireline service for both residential and commercial customers, $0.50 and $1.00 per line, respectively, in response to Reporting Requirement C.[28] Furthermore, included as part of its report, SIC provides the Certification of its President, Albert S.N. Hee, who certifies, among other things, the following:

> All federal universal service support funds received by Sandwich Isles Communications, Inc. during the current calendar year will be used in a manner consistent with Section 254(e); that is,

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[27] Id. at 7-8.

[28] See id. at 11.

> for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The company will continue to comply for the next calendar year in order to be eligible for federal universal service support regardless of the rule under which that support is provided.

SIC's Report, Certification Statement at 1 (footnote omitted).

The Consumer Advocate, in its Statement of Position, determined that SIC appears to have complied with all of the requirements but for Reporting Requirement B(1) regarding the percentage of out-of-service troubles cleared within 24 hours, which has a 95% minimum standard.[29] However, with respect to this service measurement, the Consumer Advocate contends that "[t]he application of the standard is somewhat unclear at this time as: (1) all retail intrastate telecommunications services are considered to be fully competitive as set forth in Hawaii Revised Statute[s] § 269-16.[8]5; and (2) the definition of "basic service" was redefined for Federal USF purposes and is not the same as the definition for State purposes."[30] The Consumer Advocate also states that it anticipates that SIC will likely be able to improve in this area since it has historically reported no service outages as defined in 47 C.F.R. 4.5.[31] The Consumer Advocate also asserts the following:

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[29]See Consumer Advocate's SOP, Attachment 4 at 1.

[30]Id. at 2.

[31]See id.

> [I]t appears that all federal high-cost support provided to SIC were used in 2012 and will be used in 2014 only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. As noted above in 2012, SIC received federal frozen high cost support.

Consumer Advocate's SOP, Attachment 4 at 2.

While making this statement, the Consumer Advocate observed that the FCC has been critical of SIC's expenses consisting of funds being paid to certain affiliated or related companies.[32] However, the Consumer Advocate noted no concerns regarding projects awarded in 2012 and stated that "[a]s it relates to projects in 2013 through 2014, based on response to CA-IR-3, SIC competitively bids all projects except for projects [where] SIC joined a project already in progress."[33] That being said, the Consumer Advocate recommends that SIC develop formal policies and procedures for conducting competitive bidding to help ensure fairness and cost effectiveness.[34] Furthermore, the Consumer Advocate provides a detailed summary of its review of SIC's compliance with the Annual Certification Requirements as Attachment 4.1 of its Statement of Position.

In response, SIC states that it concurs with "the Consumer Advocate's position to not object to the Commission

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[32]See id. at 3.

[33]Id.

[34]See id.

certifying SIC, as SIC has met the requirements to be certified as an ETC."[35] With respect to the standard regarding the percentage of out-of-service troubles cleared in 24 hours, SIC indicates that it has been experiencing some unique challenges due to the remoteness of the areas that it serves and states that it will continue to strive to meet the specified service-quality standard. Finally, SIC states that it "will heed the recommendation of the Consumer Advocate to create formal policies and procedures for conducting competitive bidding, and such recommendation will be implemented by SIC."[36]

Upon review, the commission finds that SIC has sufficiently complied with the Annual Certification Requirements adopted in Decision and Order No. 30932. Based on our independent review of SIC's filings, the commission agrees with the Consumer Advocate's assessment that SIC has provided all of the required information and certifications mandated by the commission, as applicable.[37] However, similar to HTI, it appears that SIC failed to meet a specific service related requirement. As we acknowledged previously regarding HTI's filing, it appears that certain

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[35]Sandwich Isles Communications, Inc.'s Response to the Division of Consumer Advocacy's Statement of Position Dated November 20, 2013, filed on November 25, 2013 ("SIC's Response") at 2.

[36]Id. at 3.

[37]See Consumer Advocate's SOP, Attachment 4.1 at 1-3.

requirements need to be re-evaluated to determine applicability and how to measure them given the changes in the telecommunications industry in the State and nationwide, changes which were well articulated by the Consumer Advocate in its Position Statement, which is discussed above. Accordingly, as we also noted with respect to HTI, at this juncture, the commission will view the service related requirements of the ETC certification requirements to be targets for achievement as opposed to strict standards, until determined otherwise.

In its statement, the Consumer Advocate noted that the FCC was critical of certain SIC expenditures.[38] While the commission shares these concerns, the commission is fully cognizant that the USF high-cost support program is a federal program and that the FCC has to power to withhold USF support and has procedures to investigate and audit expenditures of USF high-cost support recipients. Specifically, the federal rules state that ETCs "authorized to receive universal service high-cost support are subject to random compliance audits and other investigations to ensure compliance with program rules and orders."[39] In an order issued on May 10, 2013, the FCC appears to have addressed its concerns regarding SIC's expenditures by

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[38]See Consumer Advocate's SOP, Attachment 4 at 3.

[39]47 C.F.R. § 54.320(a).

denying SIC's Wavier Request.[40] Furthermore, it appears that SIC may have revised its expenditure practices given that Consumer Advocate noted no specific concerns with SIC's projects awarded in or planned for 2012, 2013 and 2014.[41] Nonetheless, the commission finds the Consumer Advocate's recommendation that SIC develop formal policies and procedures for conducting competitive bidding to ensure fairness and cost effectiveness to be reasonable and appropriate under the circumstances. The commission acknowledges SIC's agreement to implement this recommendation.[42]

Based on the foregoing, the commission finds and concludes that SIC has sufficiently satisfied the Annual Certification Requirements adopted by the commission in Decision and Order No. 30932, and that certification should be provided to the FCC and USAC that all federal high-cost support provided to SIC was used in 2012 and will be used in 2014 only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, pursuant to 47 C.F.R. § 54.314(a). Furthermore, the commission concludes that the Consumer Advocate's recommendation that SIC create formal

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[40]See In re Connect America Fund; Sandwich Isles Communications, Inc. Petition for Waiver of Section 54.302 of the Commission's Rules, Order in WC Docket No. 10-90; DA 13-1067, Adopted and Released on May 10, 2013.

[41]See Consumer Advocate's SOP, Attachment 4 at 3.

[42]See SIC's Response at 3.

policies and procedures for conducting competitive bidding should be adopted. Accordingly, SIC shall be required to file a copy of its written formal policies and procedures for conducting competitive bidding within sixty days of the date of this Decision and Order.

C.

Mobi

Mobi is authorized by the FCC and the commission to provided commercial mobile radio service, or wireless telecommunications service, throughout the State.[43] In 2007, the commission designated Mobi as an ETC for the service areas of HTI and SIC.[44]

On May 1, 2013, Mobi filed its report for annual certification as an ETC and requested that the commission certify to the FCC and USAC that it is eligible to receive USF support in accordance with the FCC's rules.[45] With respect to each

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[43]See In re Coral Wireless, LLC dba Mobi PCS, Decision and Order Nos. 21744 and 23234, filed on April 14, 2005 and January 31, 2007, in Docket Nos. 05-0018 and 2006-0457, respectively.

[44]See In re Coral Wireless, LLC dba Mobi PCS, Decision and Order No. 23275, filed on February 23, 2007, in Docket No. 05-0300.

[45]See 2013 Annual Certification Report of Coral Wireless, LLC dba Mobi PCS, Certification Statement Pursuant to FCC Order No. 01-157, and Certificate of Service (collectively, "Mobi's Report"). Consistent with the commission's requirement, a copy of Mobi's Report was served on the DHHL and the OHA. See Mobi's Report, Certificate of Service at 1.

requirement, Mobi provided the necessary information or indicated how the requirement is not applicable.[46] In response to Reporting Requirements B(1) and B(2), Mobi provides information regarding: (1) the percentage of all out-of service troubles cleared within 24 hours; and (2) the number of customer trouble reports per 100 lines per month as confidential information. Mobi also submitted information regarding the number of customers and the services it provides in each wire center or census block; information regarding its capital, operating, and maintenance expenditures; and an updates of its projects planned for the previous calendar year for which it received USF high-cost support, in response to Reporting Requirements B(4)(1) through B(4)(3), as confidential information.[47] Finally, included as part of its report, Mobi provides the Certification of its Chief Financial Officer, Mark Woelfel, who certifies, among other things, the following:

> All federal universal service support funds received by Mobi PCS during the current calendar year will be used in a manner consistent with Section 254(e); that is, for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The company will continue to comply for the period January 1. 2013, through December 31. 2013, to be eligible for federal universal service support.

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[46]Certain requirements were provided or elaborated on in Mobi's response to issued IRs

[47]See also Mobi's Report, Confidential Attachments A and B.

Mobi's Report, Certification Statement Pursuant to FCC Order No. 01-0157, at 2.

In its Statement of Position, the Consumer Advocate states that "[i]n general, Mobi appears to comply and provide the information required by the Annual Certification Requirements."[48] In addition, the Consumer Advocate articulated the following:

> [I]t appears that all federal frozen high-cost support provided to Mobi were used in 2012 and will be used in 2014 only for the provision, maintenance, and upgrading of facilities and services consistent with its ETC designation. Mobi asserts that the funds expended in 2012 and the funds that will be expended in 2013 and 2014 will be used for its intended purposes[.]

Consumer Advocate's SOP, Attachment 2 at 2. The Consumer Advocate provides a detailed summary of its review of Mobi's compliance with the Annual Certification Requirements as Attachment 2.1 of its Statement of Position.

In response to the Consumer Advocate's statement, Mobi asserts that the "Division's finding that Mobi appears to comply and provide the information required by the Hawaii Public Utilities Commission Annual Certification Requirements is true and correct."[49] In addition, Mobi reiterates its request for

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[48]See Consumer Advocate's SOP, Attachment 2 at 1.

[49]Coral Wireless, LLC dba Mobi PCS Responses to the Division of Consumer Advocacy's Statement of Position, Filed on November 20, 2013, filed on November 25, 2013, at 1.

certification to be eligible to receive federal universal service support in accordance with the federal rules.[50]

Upon review, the commission finds that Mobi has sufficiently satisfied the Annual Certification Requirements adopted in Decision and Order No. 30932. The commission, based on its independent review of Mobi's filings, concurs with the Consumer Advocate's assessment that Mobi has provided all of the required information and certifications mandated by the commission, as applicable.[51] Accordingly, the commission finds and concludes that Mobi has sufficiently satisfied the Annual Certification Requirements adopted by the commission in Decision and Order No. 30932, and that certification should be provided to the FCC and USAC that all federal high-cost support provided to Mobi was used in 2012 and will be used in 2014 only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, pursuant to 47 C.F.R. § 54.314(a).

D.

Pa Makani

Pa Makani, an affiliate of SIC, is authorized by the commission to provide wireless telecommunications services in

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[50]See id.

[51]See Consumer Advocate's SOP, Attachment 2.1 at 1-4.

the State.[52] In 2012, the commission designated Pa Makani as an ETC for SIC's study area.[53]

On May 1, 2013, Pa Makani filed its annual certification report for the commission's evaluation.[54] With respect to each requirement, Pa Makani provided the necessary information or indicated how the requirement is not applicable. In response to A(1), Pa Makani states that it has not applied for a waiver from the $250/line/month cap on universal service support as specified in 47 C.F.R. § 54.302.[55] In addition, among other things, Pa Makani certifies that it notifies customers and agencies of any known planned service interruptions, in response to Reporting Requirement B(3).[56] Pa Makani provides information regarding the number of its locations in each of its wire centers within its

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[52]See In re Pa Makani LLC, dba Sandwich Isles Wireless, Decision and Order, filed on August 4, 2011, in Docket No. 2011-0131.

[53]See In re Pa Makani LLC, dba Sandwich Isles Wireless, Decision and Order No. 30309, filed on April 10, 2012, in Docket No. 2011-0145.

[54]See Submission of Pa Makani LLC dba Sandwich Isles Wireless' Annual Certification as an Eligible Telecommunications Carrier, Attachments 1-7; Certification Statement, Pa Makani LLC dba Sandwich Isles Wireless, FCC Order No. 01-157 ("Certification Statement"); and Certificate of Service, filed on May 1, 2013 (collectively, "Pa Makani's Report"). Consistent with the commission's requirement, a copy of Pa Makani's Report was served on the DHHL and the OHA. See Pa Makani's Report at 10.

[55]See id. at 5.

[56]See id. at 6.

service area in 2012 and those anticipated in 2013, in response to Reporting Requirement B(4)(1), as Confidential Attachment 1. In response to Reporting Requirement B(4)(2), Pa Makani states that it "provides wireless telephone service, texting and data services to all of its locations (as described in Confidential Attachment 1) and anticipates continuing to provide these services to all new locations in the future."[57] With respect to information regarding its capital, operating, and maintenance expenditures, and the status of its projects (previous and planned), in response to Reporting Requirement B(4)(3), Pa Makani refers to Confidential Attachments 2, 5, 6 and 7 of its report and states the following:

> SIW, in partnership with Sandwich Isles Communications, Inc. ("SIC"), continues to work closely with DHHL to jointly plan the deployment of infrastructure for newly developed HHL subdivisions on each of the islands. SIW continues to provide universal service to DHHL beneficiaries at a reasonable price. SIW has not received any universal high-cost support for the previous calendar year as of yet.

Pa Makani's Report at 7.

Pa Makani also provides the necessary certification regarding record retention in response to Reporting Requirement B(4)(4),[58] and includes as part of its report, the Certification

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[57]Id. at 7.

[58]See id. at 8-9.

Albert S.N. Hee (President of Waimana Enterprises Inc., Manager of Pa Makani) who certifies, among other things, the following:

> All federal universal service support funds received by Pa Makani LLC dba Sandwich Isles Wireless during the current calendar year will be used in a manner consistent with Section 254(e); that is, for the provision, maintenance, and upgrading of facilities and services' for which the support is intended. The company will continue to comply for the next calendar year in order to be eligible for federal service support regardless of the rule under which that support is provided.

Pa Makani's Report, Certification Statement at 1-2 (footnote omitted).

The Consumer Advocate, in its Statement of Position, asserts that "it appears that Pa Makani has complied with the Annual Certification Requirements."[59] While noting that Pa Makani appears to have neither received nor used any federal high-cost support in 2012, the Consumer Advocate states that Pa Makani will have the opportunity to participate in the Tribal Mobility Fund Phase I auction which has been rescheduled for February 25, 2014.[60] Among other things, in its review of Pa Makani's anticipated projects as described in Confidential Attachment 6, the Consumer Advocate states that "[g]iven that these projects are all on Hawaiian Homelands properties and that Pa Makani serves the

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[59]See Consumer Advocate's SOP, Attachment 3 at 2.

[60]See id.

residents of Hawaiian Homelands which the FCC has designated as a tribal land, it does appear that Pa Makani's proposed projects for 2014, will be used for the intended benefactors."[61] However, similar to its recommendation regarding SIC (Pa Makani's affiliate), the Consumer Advocate asserts that formal written policies and procedures for conducting competitive bidding would help the commission and the Consumer Advocate to assess whether contracts have been awarded fairly, which, in turn, helps to ensure the cost-effective use of any support received.[62] Furthermore, the Consumer Advocate states the following:

> [C]ontingent on the implementation of formal written policies and procedures for conducting competitive bidding, the Consumer Advocate recommends that the Commission certify to the FCC and USAC, as required under 47 CFR § 54.314(a), that all federal high-cost support provided to Pa Makani were used in 2012 and will be used in 2014 only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

Consumer Advocate's SOP, Attachment 3 at 3. The Consumer Advocate provides a detailed summary of its review of Pa Makani's compliance with the Annual Certification Requirements as Attachment 3.1 of its Statement of Position.

In response, Pa Makani states that it concurs with "the Consumer Advocate's position to not object to certifying SIW,

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[61] Id. (footnote omitted).

[62] See id. at 3.

as SIW has met all of the requirements to be certified as an" ETC.[63] Pa Makani states that it will implement the recommendation of the Consumer Advocate to create formal policies and procedures for conducting competitive bidding.[64] Furthermore, Pa Makani asserts that "any support received shall not only be used for its intended purposes, but will be used cost effectively[.]"[65]

Upon review, the commission finds that Pa Makani has sufficiently satisfied the Annual Certification Requirements adopted in Decision and Order No. 30932. The commission, based on its independent review of Pa Makani's filings, concurs with the Consumer Advocate's assessment that Pa Makani has provided all of the required information and certifications mandated by the commission, as applicable.[66] Given that Pa Makani is affiliated with SIC, the commission finds it reasonable and appropriate to adopt the Consumer Advocate's recommendation that Pa Makani create formal policies and procedures for conducting competitive bidding. With formal policies and procedures in place the commission and

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[63]Pa Makani LLC dba Sandwich Isles Wireless' Response to the Division of Consumer Advocacy's Statement of Position Dated November 20, 2013, filed on November 25, 2013 ("Pa Makani's Response") at 2.

[64]See id.

[65]Id.

[66]See Consumer Advocate's SOP, Attachment 3.1 at 1-4.

the Consumer Advocate can better ensure that projects are awarded in a fair and cost effective manner. The commission acknowledges Pa Makani's agreement to implement the Consumer Advocate's recommendation for formal policies and procedures for conducting competitive bidding.[67]

Based on the foregoing, the commission finds and concludes that Pa Makani has sufficiently satisfied the Annual Certification Requirements adopted by the commission in Decision and Order No. 30932, and that certification should be provided to the FCC and USAC that all federal high-cost support provided to Pa Makani was used in 2012 and will be used in 2014 only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, pursuant to 47 C.F.R. § 54.314(a). In addition, the commission concludes that the Consumer Advocate's recommendation that Pa Makani create formal policies and procedures for conducting competitive bidding should be adopted. Accordingly, Pa Makani shall be required to file a copy of its written formal policies and procedures for conducting competitive bidding within sixty days of the date of this Decision and Order.

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[67]See Pa Makani's Response at 2.

E.

Summary of Findings and Conclusions

In sum, based on the commission's determinations as discussed above, the commission finds and concludes that HTI, SIC, Mobi, and Pa Makani have each sufficiently complied with the Annual Certification Requirements adopted by the commission in Decision and Order No. 30932. The commission further finds and concludes that certification should be provided to the FCC and USAC that all federal high-cost USF support provided to HTI, SIC, Mobi, and Pa Makani was used in 2012 and will be used in 2014 only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, pursuant to 47 C.F.R. § 54.314(a). Moreover, the commission finds that the Consumer Advocate's recommendation for SIC and Pa Makani to develop formal policies and procedures for competitive bidding is reasonable and appropriate, and should be adopted.

III.

Orders

1. HTI, SIC, Mobi, and Pa Makani have sufficiently complied with the Annual Certification Requirements adopted by the commission in Decision and Order No. 30932.

2. Certification is provided to the FCC and USAC that all federal high-cost USF support provided to HTI, SIC, Mobi, and

Pa Makani was used in 2012 and will be used in 2014 only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, pursuant to 47 C.F.R. § 54.314(a).

3. Within sixty days of the date of this Decision and Order, SIC and Pa Makani will each file a copy of their respective written formal policies and procedures for conducting competitive bidding in this docket.

4. This docket is closed unless ordered otherwise by the commission.

DONE at Honolulu, Hawaii DEC 12 2013.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By _____
Hermina Morita, Chair

By _____
Michael E. Champley, Commissioner

By _____
Lorraine H. Akiba, Commissioner

APPROVED AS TO FORM:

_____
Ji Sook Kim
Commission Counsel

2013-0066.do

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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