BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

---- In the Matter of the ----	)	
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PUBLIC UTILITIES COMMISSION	)	
	)	
Instituting a Proceeding Regarding Hawaiian Telcom, Inc.'s Service Quality and Performance Levels and Standards in Relation To Its Retail and Wholesale Customers.	)	**Docket No. 2006-0400**

TIME WARNER TELECOM OF HAWAII, L.P., dba OCEANIC COMMUNICATIONS' STATEMENT OF POSITION

EXHIBITS A - C

and

CERTIFICATE OF SERVICE

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Attachment MDP-44

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TIME WARNER TELECOM OF HAWAII, L.P., dba OCEANIC COMMUNICATIONS ("Oceanic"), by and through its attorneys, WATANABE ING & KOMEIJI LLP, hereby respectfully submits its Statement of Position

DATED: Honolulu, Hawaii, June 21, 2007.

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TIME WARNER TELECOM OF HAWAII, L.P., dba OCEANIC COMMUNICATIONS' STATEMENT OF POSITION

TIME WARNER TELCOM OF HAWAII, L.P., dba OCEANIC COMMUNICATIONS ("TWTC"), hereby submits its Statement of Position ("Statement" of "SOP") in accordance with the procedural schedule approved by the Public Utilities Commission (the "Commission" or the "PUC") in Order No. 23162 in this docket.

I. Introduction

It has now been over one year since the April 2006 cut-over from the Verizon back-office systems to the new systems and processes developed by Hawaiian Telcom, Inc. ("HT"). By any measure, the conversion of HT's back-office systems and processes was a failure. Many of the most important new back-office systems and processes were not operational at cut-over, and some are still not operational. As a result of these failures, HT has fired its original systems integrator, Bearing Point ("BE"), and has received extensive customer complaints and negative press.

In its SOP, HT has admitted to many of the problems that existed and continue to exist. However, HT attempts to downplay these problems by pointing to alleged benefits of the Merger Transaction. These benefits are overstated, at best. Further, they do not begin to make up for the harm caused to HT's retail and wholesale consumers resulting from the conversion. The harm to TWTC has been substantial in terms of missed or delayed deadlines, increased costs due to the diversion of resources to address and fix the problems, and damage to its reputation with its customers. Not only should HT be required to compensate its retail and wholesale customers for the harm it has caused, the Commission should also impose additional regulatory safeguards, including additional service measurements and penalties, to minimize the impact of the Merger Transaction on the Hawaii telecommunications market in the future.

HT has asked that the Commission consider the effect of the transition on its customers, and what should be done to address any negative impacts, separately from what standards should apply in the future. HT further asserts that because the collaborative sessions are going forward, no further action is required with respect to its wholesale customers. TWTC strongly disagrees. HT has still not completed the conversion of its back office systems, and may not for some time. The Commission should impose standards, benchmarks and penalties to insure that these systems, once completed, function as they should and that HT's wholesale customers are compensated if they do not. Further, the Commission should establish additional means of regulatory oversight to ensure that HT manages its business operations to the benefit of the State and its retail and wholesale customers and to ensure that HT provides the benefits promised when it sought the approval of the Merger Transaction.

II. Procedural Background

In Docket No. 04-0140, the Commission approved a merger transaction (the "Merger Transaction") which resulted in Verizon Hawaii, Inc., being owned by affiliates of TC Group L.L.C. dba The Carlyle Group. Verizon Hawaii, Inc., is now known as Hawaiian Telcom, Inc. ("HT").

TWTC intervened in that proceeding based upon its concern about how the proposed Merger Transaction would impact the provisioning of wholesale back-office systems, operations and procedures, and the effect that any resulting changes to these systems, operations and procedures would have upon TWTC, its local telecommunications services and its customers. In order to partially address TWTC's concerns about these matters, Paradise Mergersub, Inc., and TWTC entered into a Stipulation dated January 5, 2005 (the "Stipulation").

In Decision and Order No. 21696, the Commission found that the terms and conditions of the Stipulation, as amended by additional conditions imposed by the Commission, were necessary to help ensure that HT's wholesale services were not adversely affected by the proposed Merger Transaction. The Commission further found that the Stipulation, as amended by additional conditions imposed by the Commission, was reasonable and in the public interest. [1]

The Stipulation addresses a number of issues related to HT's back-office systems and procedures. These include general standards applicable to the systems and processes to be implemented by HT, as well as specific requirements for electronic interfaces, organizational interfaces, and operational processes and procedures. The Stipulation contains the following general standard for HT's back-office systems and processes:

> **The systems and processes to be implemented by Hawaiian Telcom will have the same or similar functionality as those presently provided to TWTC by VZH's mainland affiliates ("Verizon") for wholesale services in Hawaii.[2]**

The cut-over from Verizon's systems occurred on April 1, 2006. Up to and following the cut-over, it was increasingly apparent to TWTC and the other wholesale customer representatives in the "collaborative meetings" that there were numerous and serious deficiencies with the back office systems and processes, and that they did not comply with the Stipulation. After two months' worth of experience under the new "systems" and after numerous meetings with HT executives responsible for running their operations, on June 21, 2006, TWTC filed its Request for Investigation and Independent Audit and for Extension of Stipulation (the "Request for Investigation")[3] in Docket No. 04-0140. In that filing, TWTC tried to describe in detail the extensive problems with HT's new systems and requested that the Commission investigate HT's systems cut-over and its compliance with the Stipulation. In Order No. 22590 filed on June 30,

[1] Decision and Order No. 21696 at 46.

[2] Stipulation at 2.

[3] A copy of the Request for Investigation is attached hereto as Exhibit A.

2006, the Commission ordered that the Stipulation be extended until further order of the Commission. Issue Nos. 1.a through 1.e set forth in Order No. 23162 in this docket allow for the parties to address many of the issues raised in the Request for Investigation in this proceeding.

III. Discussion

Issue 1: To what extent has the Merger Transaction affected Hawaiian Telcom's retail and wholesale customers?

In addressing this issue in its SOP, HT has focused on purported benefits of the Merger Transaction. HT not only overstates the alleged benefits but has also "backslided" on each of these benefits, demonstrating by its decisions and actions since April 2006 that HT may not intend to keep its promises made to gain approval for the Merger Transaction.

Among other claimed benefits, HT states that much of the transition occurred well, "including, most importantly, network functionality." It is important to understand that the "network functionality" referred to by HT consists of the ability to use a data line or make a phone call over a service that existed before April 2006. This functionality was not dependent upon a successful transition of HT's back office systems. This "network functionality" is simply the continued functioning of systems that were in place at the time of the Merger Transaction, and HT should not be congratulated for not disrupting its running network with the systems cut-over.

The "back office" systems that had to be recreated by HT and which have created extensive problems are the subject of this proceeding, and are entirely separate. In the case of wholesale customers, the "back office" systems include ordering and provisions systems that are required for a CLEC to provide services to its customers, and these systems did not and do not work well. The fact that the network continued to operate does not diminish the problems associated with the back-office systems.

To begin, TWTC addresses the impacts of the Merger Transaction as they relate to the overstated benefits claimed by HT in its SOP.

1. HT's Senior Leadership and Job Opportunities.

HT states in its SOP that a major benefit of the Merger Transaction is that it is led by a management team that is locally based, and that its local focus has created job opportunities. In fact, most of the upper management team was unfamiliar with the Hawaii telecommunication market before they began with HT. There has also been significant turnover in the upper management of HT. HT has replaced its Chief Financial Officer, Chief Information Officer and Chief Market Officer since the cut-over in April 2006, impacting three of the nine senior leadership positions highlighted on HT's website and all of the "c-level" positions except the Chief Executive Officer, Michael Ruley. The personnel turn-over has not by any measure been limited to the senior ranks. Approximately [redacted] of the total employee population originally hired by HT are no longer with the company.[4] On top of such substantial turn-over, HT will be further reducing its number of employees as a result of decisions to outsource various functions.

HT has already decided to outsource its Directory Assistance services and its team of 36 employees to a financially suspect company called MetroOne.[5] Directory Services are an established "unbundled network element" which the Commission has found to be a critical necessity for competition to flourish in the state. Yet, HT unilaterally decided to outsource these important, and well-working services to a company that, as of April 2, 2007, reported to the SEC that it did not have the cash to fund its remaining operations through 2007.

[4] Confidential response to CA-IR-3.

[5] According to a newspaper article and MetroOne's SEC 10-K, attached hereto as Exhibit B, MetroOne has experienced serious financial problems, and its auditors have warned of "substantial doubt" it will survive.

TWTC is also aware of HT's decision to outsource at least its processing of Access Service Requests ("ASRs") to a Texas company called Creative Support Solutions. ASRs are the primary vehicle by which wholesale customers such TWTC request critical special access services to connect customers to TWTC's network. In each case, the transition to non-HT employees has created additional work for HT's wholesale customers.

The complete scope of outsourcing is not known to TWTC, since it is only aware of those cases where HT has elected to inform its wholesale customers. Nonetheless, HT's managerial trend towards reducing employee overhead costs and outsourcing critical job functions to other companies has clearly been established. It is only reasonable to expect HT to continue down this path, backsliding further from its commitment to create local jobs for local people.

2. Capital Investment.

HT's claim that it is making greater investments in its regulated services than Verizon would have made is speculative and suspect. First, HT's investments in building "fiber to the premises" and in high speed broadband services are being made primarily in order to allow it to provide unregulated internet access services and perhaps even IPTV services. These upgrades are not being made for the benefit of its regulated local exchange services. Second, HT points to it plans to upgrade its central offices to IP-based soft-switches. The entire telecommunications industry has moved to this technology, and even HT has acknowledged that Verizon had plans to make these upgrades as well.[6] While HT stated that it was not aware of any Verizon plans to do so in the near term (2005-2008), HT's own plans for this upgrade will not begin until 2008,[7] making transparent its false claims of this investment "benefit." Third, HT's successful

[6] Response to TWTC-IR-2.b.
[7] Response to TWTC-IR-2.b.

installation of new SS7 network elements was required, as it replaced the network elements that Verizon elected to retain in the Merger Transaction.

Finally, HT's recent decisions to out-source services such as Directory Assistance indicate an increased likelihood that HT will continue to focus its investments in pursuing unregulated revenue sources instead of providing better local exchange services. TWTC understands that one of the reasons HT decided to outsource its directory assistance service to MetroOne is that [redacted] With HT's significant financial losses reported in its SEC filings and its recently downgraded debt ratings, HT will only find it more difficult to meet its speculative promises for increased investment over time.

3. Increased consumer offerings and community involvement.

HT points to its increased consumer offerings as one of the benefits of the transaction.[8] However, nearly all of these new enhanced services relate to unregulated and internet-based services.[9]

HT also touts its decision to pass along universal service charge savings to its internet access consumers. HT's decision to comply with an FCC ruling that eliminated the requirement for such charges cannot be reasonably considered a benefit. It would instead be very surprising if HT made a decision not to eliminate the charge.

Further, in seeking approval for the Merger Transaction, HT promised not to raise rates, and then broke this promise almost immediately when it decided to begin to charge consumers

[8] HT SOP at 13-14.

[9] Response to CA-IR-6.

the general excise tax that was not previously passed on to customers.[10] While HT refused to provide the amounts it has collected as a result of this change, press reports estimate that HT will profit by some $3.3 million per year as a result of this change.[11] TWTC believes this policy change is entirely contrary to the spirit, if not the letter, of HT's pledge not to raise rates. This decision by HT should be reviewed by the Commission, and HT should be required to give its customers refunds, if the Commission finds that it violates the commitments HT made in seeking approval of the Merger Transaction.

In conclusion, the benefits claimed by HT are overstated and illusory. HT has not only failed to keep its promises but has consciously backslided on its commitments.

Issue 1.a.: Were Hawaiian Telcom's new back-office systems fully functional when it cut-over from Verizon's systems on April 1, 2006, and, if not, what was the basis for Hawaii Telcom's decision to cut over to its new systems on April 1, 2006?

1. HT's back office systems were not fully functional.

HT's systems were clearly not fully functional when it cut over from Verizon's systems on April 1, 2006. In fact, they are still not fully functional, more than a year after cut-over. According to HT's SOP, there were 200+ deliverables defined in the Master Services Agreement between HT and BE. As of February 2007, over 10 months after cut-over, only 140 of those deliverables had been accepted by HT.[12] TWTC's Request for Investigation, attached as Exhibit A, further describes the systems and processes most significant to wholesale customers that were

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[10] See Honolulu Advertiser Article dated August 24, 2006, attached hereto as Exhibit C. See also Supplemental Response to TWTC-IR-3.a., in which HT states that charging GET did not increase "service rates" but did not deny that it has begun to charge customers for this tax. This has the effect of increasing their total bill.

[11] Response to TWTC-IR-3. The Honolulu Advertiser article cited in footnote 11 estimates that HT is collecting at least $279,000 per month as a result of this change.

[12] HT SOP at 24.

not functional as of cut-over. HT's failure to answer to this question directly in its SOP is a transparent attempt to avoid the question.

2. Selection of Bearing Point.

HT has attempted to justify its decisions to select BE as its systems integrator. It is now clear that BE did not have the ability to develop HT's back office systems, and that it failed in that job. Upon questioning, it appears that [redacted].[13] Accenture, HT's current system integrator, chose not to participate in the original selection process.[14] Thus, selection of BE was a poor one made based on availability rather than expertise.

3. Rapid Application Development.

HT has also tried to justify its decision to use a Rapid Application Development ("RAD") process, which HT claims is an industry standard process used to build and deploy systems faster than a more traditional development process. However, HT was not able or willing to identify any other ILEC back office systems that were developed using a RAD process.[15] HT also stated that it did not even inquire of BE whether BE knew of any ILEC or other telecommunications carrier back-office systems developed using RAD.[16] Given the scope of the conversion in this case, and the apparent lack of any precedent for the use of this process in developing back office systems, the use of the RAD process was risky, at best.

Further, the scope of the conversion and potential for problems associated with the conversion should have cautioned against using a method of accelerated development. When

[13] Supplemental response to TWTC-IR-7.d and e.

[14] Response to PLNI-IR-37.

[15] Response to PLNI-IR-8.a.

[16] Response to PLNI-IR-44.

asked whether HT was aware of any other incumbent LEC that had performed a complete conversion of back-office systems on the same scale as attempted by HT and BE, HT identified only two, Valor Telecommunications and Iowa Telecom.[17] HT further acknowledged that these companies encountered serious problems with their conversions, [redacted].[18] Other problems included [redacted]. Id. All of these problems have also been experienced by HT, and should have been anticipated based upon the problems encountered by the only two other ILECs who have attempted similar conversions. Given its prior knowledge of the other companies' experiences, HT's decision to go forward with similar plans to replace its entire suite of critical back-office systems should be cause for serious concern about HT's management's decision making processes, motivations and commitment to promises made in seeking approval for the Merger Transaction.

Finally, HT claims that Verizon required it to flash cut rather than develop the systems in a phased approach.[19] However, this does not excuse the Carlyle Group from agreeing to terms that would prevent it from successfully converting the systems and complying with the requirements of the Commission.

[17] Response to TWTC-IR-8.b.

[18] Response to TWTC-IR-38.

[19] Response to CA-IR-9.d; TWTC-IR-10(a).

4. Reasonableness of process leading to conversion.

The Stipulation expressly provided:

> If the new systems and/or processes are not fully tested and operational at the scheduled time for implementation, Hawaiian Telcom will continue to use Verizon's systems and/or processes but only to the extent of the term of the Transition Services Agreement entered into between MergerSub and the GTE/Verizon Entities, unless otherwise ordered by the Commission.[20]

HT has acknowledged that it would have been allowed to remain on the Verizon systems until November 30, 2006,[21] and that the systems were not fully operational as of April 1, 2006.[22] HT's decision to proceed with cut-over on April 1, 2006, was therefore unreasonable and was contrary to the Stipulation.

According to HT, BE presented it with a demonstration of the CRM order management application in late November 2005 in anticipation of the February 1, 2006, cut-over date. This test showed there were significant problems with the systems and led to a decision to delay cut-over for "at least another 60 days."[23]

HT states that its decision to proceed with cut-over on April 1, 2006, was based on a combination of factors, including the initial two month extension, test results being presented, and, surprisingly, its contingency planning.[24] HT also states that it was provided testing information that indicated "substantial functionality" would be available at cut-over.[25] It appears, however, that testing prior to April 1, 2006, showed that the systems were not ready.

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[20] Stipulation at 2 (emphasis added).

[21] Response to TWTC-IR-16.b.

[22] HT's SOP at 74.

[23] HT SOP at 26-27.

[24] Response to TWTC-IR-43.

[25] HT SOP at 31.

For instance, HT states that during the period of January 31, 2006, through March 29, 2006, testing showed that it took several hours to complete an E2E service order, and that the CRM was experiencing difficulty with orders "falling out" of the ordering, provisioning and billing process.[26] Further, HT acknowledged that it was aware that as of cut-over, there would not be flow-through for complex business products, and automation for certain products was not anticipated to begin until July 2006, several months after cut-over.[27] With respect to wholesale products, HT knew that the following functions would not be available on an automated basis as of cut-over: [redacted].[28] HT therefore clearly knew that its systems would not be fully operational prior to cut-over.

The extent of the contingency process also strongly suggests that HT knew that the systems would not be fully, or even mostly, functional at cut-over. The process included development of alternative webforms, the addition of over 150 outsourced employees and contractors, development of temporary processes to continue business without systems and extensive meetings.[29] The extent of contingency planning goes well beyond what would be expected if HT thought that its back office systems would be functioning as they should have been at cut-over.

TWTC is very concerned by the fact that HT states that it did not compute what it would have cost to continue on the Verizon systems, although it would have been at a higher rate than it

[26] HT SOP at 27-28. HT states that it did not collect the "fall-out" rate during testing (Response to TWTC-IR-12), so it is not clear how significant this problem was.

[27] Responses to TWTC-IR 13.b and TWTC-IR-41.

[28] Confidential response to CA-IR-14.

[29] HT SOP at 29-30.

was until that point.[30] Further, BE's assurances that system performance would improve in production, on which HT apparently relied, were given in November 2005 -- not before the decision to proceed with the April 1 cut-over.[31] Finally, it appears that HT's "go, no-go" decision prior to April 1, 2006, was directed at its contingency process, not at any additional extension of the cut-over date. HT states that "if the contingency team did not feel that the applications could support Hawaiian Telcom's customers at the point of the go, no-go decision, the contingency plans were to be implemented."[32]

HT did not seriously consider a further extension of the cut-over date, even though it knew the new systems were not fully operational and that it was required under the Stipulation to continue on the Verizon systems. Such a blatant disregard for the Commission's decision and order, and the conditions to its approval of the Merger Transaction cannot be over-emphasized and indicate that additional regulatory oversight of HT's managerial conduct is essential if the State of Hawaii, and HT's retail and wholesale customers are to have any chance of benefiting from the Merger Transaction, rather than continuing to be harmed by it.

Finally, during the collaborative sessions leading up to cut-over, HT left the CLECs with every impression that it did not have the ability to further extend cut-over under its agreement with Verizon, even as the CLEC representatives in the collaborative meetings expressed their significant concerns about the readiness of the new systems, the inadequate processes developed for the new systems and the complete lack of any documentation associated with the new

[30] Response to TWTC-IR-16.

[31] Response to PLNI-IR-14. Further, these assurances were fairly limited and related to the readiness of the system on February 1, 2006, not April 1, 2006, i.e. "Bearing Point's leadership expressed to the board an '80% confidence' level that Bearing Point would meet the February 1, 2006, cut-over date, subject to ongoing testing." (Response to PLNI-IR-14.a).

[32] Response to PLNI-IR-47.a.

systems. HT's failure to continue on the Verizon systems, or to even consider this option, was unreasonable and in breach of the Stipulation.

Issue 1.b: What was the impact on Hawaiian Telcom's retail and wholesale customers from Hawaiian Telcom's decision to cut-over from Verizon's back office systems on April 1, 2006?

1. Continued function of the network.

HT stresses the point that network operations have continued to perform well during and after cut-over. TWTC's concern at the time of the Merger Transaction was not that the network would fail to continue to work, but that the back-office systems would not function as well as Verizon's systems. A large part of the network (i.e., all of the switches, software and network in Hawaii) was conveyed to HT unchanged.[33] Thus, there is little reason to believe that these portions of the network would not continue to function as before.

However, TWTC notes that there have been functional problems with HT's network since the cut-over. Caller identification services have experienced problems, competing carriers have had difficultly at times completing calls over HT's network, and customers have been accidentally disconnected as a result of HT's system and process failures. Further, as HT acknowledges, it has not had the ability to report all of the existing service measurements to the PUC since cut-over. The post-conversion results of a number of service measures that HT has been able to report were well below the objectives for the period of April through December 2006.[34]

Finally, HT belabors to point out the positive performance of its network during the earthquake. While TWTC does not disagree with this assessment, it should be noted that all of

[33] Response to CA-IR-16.a.

[34] HT SOP at 41.

the Hawaii wireline telecommunications carriers performed well following the earthquake and that problems experienced by telecommunications carriers, including HT, were not the result of the earthquake but were instead the result of the prolonged power outages.

2. Impacts of the Cut-over on Wholesale Customers and the Collaborative Process.

a. System and process failures.

TWTC believes the commission has a good record of the significant problems and system and process failures that have resulted from HT's decision to cut-over to its inadequate systems. HT's descriptions of the issues and system problems, particularly those experienced by its retail customers after cut-over described on pages 50 through 59 of the SOP, appear to be fairly complete. With respect to the issues faced by wholesale customers following cut-over, TWTC's Request for Investigation (attached as Exhibit A) also described in detail the extent to which the new systems failed to meet the specific requirements of the Stipulation. In total, the Commission has substantial evidence relating the problems with the April 2006 cut-over.

b. Collaborative Process.

HT is correct that the collaborative process with its wholesale customers has helped to bring about resolution of many of the problems that existed following cut-over. However, HT seems to suggest that the schedule for remedying various issues was jointly developed by HT and the CLECs. While the CLECs requested that resolution of certain issues be prioritized, TWTC has never agreed that the length of time it has taken, and will continue to take, to fix the problems is acceptable. All of the systems should have been fully functional at cut-over.

Further, HT seems to ignore the fact that the collaborative process -- including its scope and duration -- is a necessary burden imposed on TWTC and the other wholesale carriers to help identify and mitigate the significant problems resulting from HT's systems cut-over. The

CLECs' participation in the collaborative process is necessary to reduce the impacts of HT's troubles on the CLEC's customers and operations, and while certainly productive, such meetings have cost the CLECs enormously in terms of man-hours dedicated to addressing HT's problems and to ensuring that HT processes wholesale orders in an acceptable and timely manner.

c. Remaining problems.

HT states that [redacted].[35] The exhibits supporting these claims are based on the working documents used in the collaborative process. They include varying levels of detail and sometimes complicated and unique nomenclature related to HT's back-office systems. These supporting data are not easily digested, even by those familiar with the telecommunications industry and the collaborative meetings. While the number of remaining problems may seem a small number, TWTC emphasizes that substantial work remains to be done and that this work may take years to get HT's systems to the level of functionality that Verizon provided before the cut-over.

In addressing and then attempting to set aside the problems, HT attempts to tout its successes in fixing problems encountered by the wholesale customers. For example, HT points to its success in including the order number in the Firm Order Confirmation ("FOC"), a problem the CLECs had to bring to HT's attention in the first place. While this particular issue was indeed resolved relatively quickly,[36] TWTC contends it never should have been an issue in the first place. HT's attempts to claim victory in fixing the components of the poorly conceived and

[35] HT SOP at 64.

[36] TWTC notes that the HT staff that is forced to work with the flawed systems has been and continues to be extremely responsive to any problems TWTC brings to their attention. HT's staff has been quick to investigate the causes of the problems encountered and to develop work-around solutions to mitigate the process and system failings. TWTC appreciates and commends HT's wholesale services group for its dedication and professionalism since the April 2006 cutover.

developed systems is not only pointless but is also troubling given the amount of resources and effort the parties of this proceeding have spent in addressing HT's failures.

i. TWTC's pending priorities.

HT's systems development remains incomplete in significant areas that are very important to TWTC. These include ASR mechanization, the creation of a repair portal, improved directory listing processes, and improved billing and payment processes.

ASR Mechanization. Ordering and provisioning for ASRs continues to be handled by manual processes that are now performed by Texas-based Creative Support Solutions, and no firm date for full ASR automation has been provided by HT.[37] While TWTC understands that HT plans to develop an electronic interface for ASRs for DS1s,[38] it appears that HT intends to continue manual processing of other ASR functions, including DS3s.[39] There is a substantial difference between the mechanized, automated "flow-through" functionality provided by Verizon and the manual contingency process employed by HT today. In addition to greater order processing efficiency, flow-though systems greatly reduce the extent of human interaction, and thus reduce the number of inadvertent human errors. Automated flow-though functionality, which took Verizon years to fully develop, is exactly what HT promised in its stipulation with TWTC.

The Commission should share TWTC's serious concerns regarding HT's intention to live up to the requirements of the Stipulation. As noted above, the Stipulation requires that "[t]he

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[37] Response to TWTC-IR-13.c (stating that ASR is still under review by HT and Accenture, and the date when changes are to be made to this functionality are still under review).

[38] Response to CA-SIR-9 (stating that ASR automation functionality has been broken up into many phases, with the first state (ASR mechanization for DS1s) planned to be completed in May 2007). TWTC notes that this May 2007 date has passed, and there is still no mechanized process for such orders.

[39] Response to PLNI-IR-16 (stating that flow though is not applicable to products ordered via ASRs which are by nature manual due to their complexity).

systems and processes to be implemented by Hawaiian Telcom will have the same or similar functionality as those presently provided to TWTC by [Verizon]." However, when asked when HT will be able to provide wholesale customers with the same or similar functionality as provided by Verizon prior to cutover, HT stated that "the functionality that is expected following the completion of Accenture's work is what the Company has identified as what it will need to operating going forward, **which may or may not be similar to the functionality within the Verizon system.**"[40]

On further questioning, HT stated that it intended to fulfill any difference in functionality with manual or other processes so that customers are not impacted.[41] The Stipulation requires the same or similar functionality as was provided by Verizon, and HT's agreement to comply with the Stipulation was a condition to the Commission's order approving the Merger Transaction. HT cannot unilaterally decide to modify its requirements, and its stated intention to do so further highlights the need for the Commission to create additional means of regulatory oversight to hold HT to the promises it made in seeking approval for the Merger Transaction.

Repair Portal. HT also has committed to the development of a repair portal for wholesale services. The repair portal would allow carriers to perform simple system inquiries in the course of trouble shooting a customer service issue. A repair portal could provide benefits and efficiencies to both HT and its wholesale customers. At this time, HT still does not have a proposed date for the delivery of its promised repair portal.

Directory Listings. HT's listings processes continue to cause problems. Since HT relies on its vendor, LM Berry, to produce and distribute its listings data, it is critical that three different parties' data bases include current and accurate data: the CLEC's, HT's and LM

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[40] Response to TWTC-IR-25.e (emphasis added).

[41] Response to TWTC-IR-47.a.

Berry's data. Since cutover, HT processes the CLECs' listings orders manually, essentially printing TWTC's orders and forwarding them LM Berry. TWTC has experienced problems with data not getting into LM Berry data bases properly. Further, TWTC remains extremely concerned as to how and when HT's data bases will be updated to contain current and accurate information, so that all three companies' data bases match.

Billing and Payment Issues. According to HT's responses to various information requests, billing issues continue to persist, and both retail and wholesale customers continue to experience significant billing problems. HT has described its continuing retail billing problems, as follows: order flow cancellation issues; incorrect rate charges, automatic contract renewal, incorrect cancellation of billing services on accounts; and missed billing causing back billing.[42] HT has estimated there have been [redacted] instances in which accounts experienced continued billing after an order that should have resulted in cessation of billing, resulting in [redacted] in overbillings.[43] Further, as a result of its billing issues, HT has issued approximately [redacted] in bulk adjustments.[44] HT has also continued to experience the following wholesale billing issues: continued billing for HT's services after services have been ported and problems in billings for ARS orders.[45] When HT's billing problems effect retail customers that have transitioned to another carrier, it can create a misimpression that the new carrier has somehow made a mistake and can damage the carrier's reputation.

In addition to issues related to HT's bills to TWTC, HT also appears to have significant problems processing payments for invoices received from other carriers. One of TWTC's largest

[42] Response to TWTC-IR-23.c.

[43] Response to PLNI-IR-30.b and c.

[44] Response to TWTC-IR-23.f.

[45] Response to PLNI-IR-31.b.

monthly invoices to HT relates to reciprocal compensation for local traffic. TWTC has no confidence in HT's processes to timely pay such invoices despite the fact that TWTC has been forced to escalate its requests for payments to the highest executives every month since the transition. In each case, HT responds to the escalation and pays it bill (on average some 38 days late since April 2006), but it has not yet addressed the basis for the delays. TWTC is concerned that if HT experiences significant cash flow problems, such process issues could get worse.

TWTC believes that a primary root of these ASR processing, repair portal and billing problems may be the poorly conceived and developed CRM system that is the most basic repository of HT's customer-related data. Based on TWTC's understanding of the inter-relationships between HT's myriad of systems, TWTC has concluded that the flawed design of the CRM system has created a faulty foundation upon which many of HT's systems must rely. TWTC is concerned that it will have to continue to be engaged in some form of a collaborative "find it and fix it" environment with HT until such time that its CRM system is fundamentally refined and stabilized through a process that could take years to complete. TWTC is also concerned that such refinements to the CRM system may also cause additional work for wholesale customers in the future.

ii. Additional Issues.

TWTC has experienced additional, new issues since its Request for Investigation and since HT's SOP was filed in this proceeding. The issues have been relatively minor compared to those resulting from the cutover and have fortunately impacted a small number of orders, thanks to the responsiveness of HT's wholesale group. Nonetheless, they have caused additional work for TWTC and have impacted some of TWTC's orders. There are two primary causes of the new problems: HT and Accenture's on-going work on the back-office systems and HT's decisions to outsource critical services and functions.

As HT and Accenture work to refine and fix the flawed systems supplied by BE, they must necessarily work on the systems being used by wholesale customers, and on occasion their work has created new problems. For example, some of TWTC's service requests were rejected by the HT systems even though TWTC submitted them just as it had before. The cause for the rejections turned out to be an "upgrade" that inadvertently broke functionality that was working before. It is reasonable to assume that additional problems may occur as HT and Accenture continue their efforts to improve and stabilize the HT systems and processes.

HT's decision to out-source its processing of ASRs to Creative Support Solutions also caused initial problems, which are, hopefully, temporary problems associated with the transition. Nonetheless, TWTC found that the new company was not set up to receive TWTC's order-related emails nor was it properly trained on processes for certain activities. Again, it is reasonable to assume that additional problems may occur if HT decides for financial or other reasons to out-source more of its processes and functions to other companies.

Finally, since the transition from Verizon to HT, TWTC has experienced significant problems in receiving timely responses and approvals to its requests for pole attachments and conduit placements. As a facilities-based competitor, TWTC's ability to expand its fiber optic network to additional customers is critical to its success in the Hawaii market. Under the Pole Attachment Agreement between TWTC and HT, HT is required to respond to TWTC's requests within 45 days. Since the transition, HT has not given timely, meaningful responses. HT has blamed the delays on new, vague processes imposed by its joint pole owner, Hawaiian Electric. TWTC has no control over the relationship between Hawaiian Electric and HT, but has, nonetheless, been forced to wait as long as a year to get approvals to expand its network. Such delays directly reduce the extent and benefits of telecommunications competition in the state.

d. Impact on TWTC.

The impact of the failures of HT's back office systems and processes on TWTC has been substantial. These impacts include loss of revenues due to delays in placing or filling service orders and the dedication of significant personnel time to monitoring HT's processing of orders, escalating problems to HT management's attention, and working with HT and the collaborative group to identify and fix issues. TWTC's reputation with its customers and potential customers has also been challenged when HT's failures result in TWTC not being able to meet its promised delivery dates to TWTC customers.

3. HT's Efforts to Mitigate Negative Consequences of Cut-Over.

HT has described at length the measures it took to mitigate the negative consequences of cut-over. The measures taken by HT simply highlight the extent of the problems with the back-office systems, as well as the fact that HT knew prior to cut-over that the systems would not be fully functional. HT's SOP attempts to put in the past the extensive impacts of HT's system conversion on the Hawaiian telecommunications market. As TWTC has demonstrated, the problems continue and can be reasonably expected to continue into the future.

HT's decision to disengage BE further confirms the extent of the problems with the system. According to HT, [redacted][46] Further, the extent of the problems is evident from the amount of the settlement negotiated between BE and HT. Under the Settlement Agreement, BE agreed to pay

[46] HT SOP at 74.

HT at least $52 million, in addition to undisclosed amounts paid by BE's insurers and forgiveness of an undisclosed amount of BE invoices to HT.[47]

TWTC notes that we would not be in this situation if HT had done a better job of managing its business and its vendors. HT decision to hire Accenture does not in any way diminish the significant harm HT has done to the Hawaii telecommunications market in its efforts to become its own stand-alone company and to try to meet the Carlyle Group's expectations for profit.

Issue 1.c: Should the Commission require that Hawaiian Telcom conduct an independent audit of the operational readiness of its back-office systems, processes and documentation and, if so, when should the audit be performed?

The Commission should require an independent audit of the operational readiness of HT's back-office systems. Given the problems with the new systems to date, the complexity of the systems and processes, and HT's failure to comply with its agreements regarding the systems in the past, such an audit is essential.

HT argues that it will be quickly apparent to the parties if there is a lack of operational readiness. That is not necessarily the case. HT has invested significant efforts to create work-around and contingency processes to operate better using its flawed systems. The wholesale customers have neither the access to information required to understand the full extent of the manual processes HT relies on today, nor were the wholesale customers provided sufficient access to the Verizon systems and documentation to compare HT's underlying functionality to Verizon's. HT committed to matching the Verizon-set standard, HT failed to deliver on its commitment, and HT should now be required to declare affirmatively that it has completed its work. The only way such a declaration would have meaning is if it is proven by an unbiased and

[47] See Settlement Agreement dated February 6, 2007 by and between HT, Carlyle and BE, a portion of which is available on the SEC website.

independent third party. TWTC and other parties should not have to continue to bear the burden of determining whether HT's systems are functioning as required.

The Commission should require that HT inform the Commission and the parties when HT believes that the back-office systems, processes and documentation are completed and fully functional. The Commission should then require HT to pay for an independent audit to confirm the operational readiness of the systems and processes, and the completeness of the associated documentation. Finally, the results of the audit should be provided to the Commission, the Consumer Advocate and the parties to this proceeding. If the audit finds flaws in HT's systems, such as "hidden" manual processes where Verizon relied on automated systems, for example, then the audit process should be repeated as many times as required until HT can finally prove that it has met its commitments and the conditions imposed by Commission in its approval of the Merger Transaction.

Issue 1.d.: What remedies should the Commission impose to mitigate any negative impacts of the Merger Transaction on Hawaiian Telcom's retail and wholesale customers?

HT states that because it is proactively addressing impacts that its customers are or were experiencing, it is not necessary for the Commission to require any additional remedies.[48] HT's position ignores the substantial impacts on its customers as a result of the system failures. As noted above, the impacts to TWTC include loss of revenue due to order delays, the costs of additional personnel time and damage to its reputation.

TWTC believes that HT should be required to compensate TWTC for the damages it has incurred as a result of HT's failure to comply with the Stipulation. At a minimum, such compensation should include appropriate compensation for each order that was delayed, mishandled or required additional resources to process in a timely manner.

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[48] HT SOP at 84.

As discussed above, TWTC also recommends that the Commission require HT to refund to its customers the additional $3.3 million per year in revenues that HT is receiving as a result of its decision to pass through the general excise tax to its customers.

Issue 1.e: What other action, if any, should the Commission take to ensure that Hawaiian Telcom complies with the Stipulation entered into by and between Paradise Mergersub, Inc., and Time Warner and approved by the Commission (and made applicable to Pacific LightNet) in Decision and Order No. 21696?

Given HT's failure to comply with the Stipulation and its statements suggesting that it may not intend to comply in the future, TWTC believes that the Commission must take additional actions to ensure compliance and to ensure that HT's future business decisions do not impact wholesale or retail customers again in new, significant ways.

First, the Commission should impose performance standards, benchmarks and penalties for all services, functions and systems that have been impacted by the Merger Transaction, including services ordered by ASRs and LSRs and on billing issues such as accuracy, timely dispute resolution and bill payment. Such standards and penalties are addressed in more detail below.

Second, the Commission should establish a process for continued participation and input by interested parties. To this end, the collaborative meetings should continue as necessary, and the parties should be encouraged to bring their concerns to the Commission's attention.

Third, the Commission should investigate and address the causes for HT's inability to approve pole and conduit requests in a timely manner.

Fourth, the Commission should actively oversee HT's transition to the new back-office systems and the operational changes that result from this transition. The many failures in HT's transition to new back-office systems have resulted in serious financial impacts to HT, including the recent decrease in its bond rating. Because of these impacts and any resulting financial pressure on the company, HT has begun to sell off profitable portions of its business, fire some of its employees, reduce its investment in regulated services, and outsource critical services and functions to other companies. All of these actions are contrary to its representations when it sought approval of the Merger Transaction. The Commission needs to actively oversee HT's operations to assure that these changes do not negatively impact Hawaii consumers.

HT should not be permitted to operate its business in a manner contrary to delivering the benefits it promised. TWTC proposes that the Commission require HT to seek specific additional approvals for decisions related to employment decreases, investment plans (particularly as such plans prioritize spending between retail and wholesale functions, and between regulated and non-regulated services), outsourcing initiatives, and other matters that relate directly to the conditions upon which the Commission granted its approval of the Merger Transaction. That process should allow affected parties such as TWTC to review and provide comments. Simply put, the Commission should establish safeguards to protect against HT's management continuing its established record of making decisions that directly harm the local telecommunication market.

Issues 2, 4 and 5: Are current retail service quality standards and wholesale performance standards appropriate and sufficient measures of the quality of Hawaiian Telcom's services? Should Hawaiian Telcom's performance standards for wholesale customers be revised? Is there a need for Hawaii specific performance standards? Should there be a mechanism or procedure to impose reasonable and appropriate penalties and fines if Hawaiian Telcom fails to meet established retail service quality standards or wholesale performance standards? How should they be established? What factors should be considered? Should there be a mechanism or procedures to waive such penalties and fines and what conditions should exist for such wavier?

The current wholesale performance standards, as contained in the JPSA,[49] are not sufficient for the Commission and wholesale customers to rely upon to ensure that HT performs as well as it should. As demonstrated by HT's failures since April 2006, the measures do little to encourage the company to improve its performance. Further, TWTC notes that HT's flawed systems cannot even report on the measurements in place under the JPSA, despite the regulatory requirements on HT to do so. It is not clear to TWTC when, if at all, HT plans to be able to report on the measurements required by the Commission today. Based on the reports HT has provided to TWTC, HT is only able to report on 22 of the 44 measurements required under the JPSA.[50]

TWTC believes that performance measurements are most valuable to wholesale customers and the Commission when (a) HT has the ability to measure and report on the specific activities in a timely manner, and (b) such measures are accompanied by appropriate benchmarks, and penalties for failure to meet such benchmarks. TWTC believes, for example, that if meaningful penalties had been in place for retail and wholesale services prior to the cut-over, HT's management may have had more incentive to continue on the Verizon systems (as it promised to do in its Stipulation) in order to allow BE more time to further develop its systems for HT. Such incentives may have greatly reduced the pain caused by HT's premature cut-over from the Verizon systems.

TWTC also believes that proper performance measurements should be as useful to the wholesale carriers and to the Commission as they are to HT for managing its business. That is, properly established performance measurements and benchmarks should benefit HT by reporting

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[49] The so-called "Joint Partial Settlement Agreement" was originally developed in California and was last modified and recertified by the Commission in Order No. 20561, filed on October 7, 2003.

[50] Specifically, TWTC understands that HT's systems can only report on JPSA measurement numbers 1-5, 10, 16, 17, 24, 25, 28, 30-34, 39-42, 44 and 45.

on and highlighting activities for which the company's performance is substandard. This is particularly critical for activities that benefit competitors and which foster better competition in Hawaii.

TWTC proposes that specific performance standards, benchmarks and penalties be established in this proceeding for those functions and metrics most critical to competition to succeed in Hawaii. These activities include (at a minimum):

1. Timely receipt of Firm Order Confirmations
2. On-time performance for delivery of services
3. Minimized delays for past due services
4. Minimized "mean time to repair" for non-functioning services
5. Minimized repeat trouble report rates for non-functioning services
6. Billing accuracy
7. Timely billing dispute resolution
8. Timely receipt of invoice payments

TWTC proposes that these metrics apply to services requested by both LSR and ASR orders and that the level of penalties established for failing to meet appropriate set benchmark be substantial enough, in total, to give HT an incentive to improve its service delivery performance. Finally, TWTC recognizes that *its* list of appropriate metrics is based on TWTC's specific requests and needs, and that other carriers may have additional, reasonable metrics that align to their business interests. Given this fact, HT's reporting difficulties, and the complicated list of "JPSA" metrics already in place, TWTC believes that the proper and fair establishment of metrics and penalties might best be attempted in the collaborative sessions scheduled for the week of July 30 in this Docket.

Issues 3 and 6: Should any new standards, requirements and programs (including one on vegetation management) related to retail service be developed and imposed on Hawaiian Telcom?

As discussed above, TWTC has proposed that the Commission establish safeguards in the form of additional regulatory oversight to prevent HT's management team from repeating or making worse the harm it has already inflicted on the Hawaii telecommunications market. TWTC has also addressed the need for additional performance standards, benchmarks and penalties to better measure HT's performance and financially encourage HT to operate better. TWTC believes that accomplishing these steps would improve the current dynamics dramatically, especially in light of HT's managerial missteps since it took over the Hawaii operations from Verizon.

However, TWTC must respond to HT's allegation that "today the market is extremely competitive." HT's does not provide any meaningful data to support this contention, and it mistakenly includes data from the wireless market without any showing that the wireline competition is related at all to the use of wireless services. HT also suggests that companies such as Vonage add to the competitive scene in Hawaii when that company does not even offer services to customers in the 808 area code. Further, HT generalizes competition across the enterprise markets and the mass consumer market without regard for the differences between them.

HT suggests that its existing regulatory regime was "established prior to the development of a competitive market and were based on the general principle that regulation is a necessary substitute for competition."[51] TWTC concurs that much of Hawaii regulations are appropriately based on the basic premise that "asymmetrical market power requires asymmetrical regulation."

[51] HT SOP at 86.

However, HT misrepresents reality if it is suggesting that, today, HT does not still retain significantly greater market power than any other telecommunications carrier in Hawaii. The lack of any data directly supporting such a contention should be enough to dismiss such a suggestion.

If one were to look at Hawaii's market data for the local telecommunications market, one would undoubtedly find that HT continues to dominate both the residential and business sectors in all relevant categories -- number of customers, number of lines, revenues, buildings connected to its own network, miles of fiber, etc. Competitive telecom carriers like TWTC work very hard to increase revenues and provide more services by winning customers' business literally one customer at a time. However, given HT's (and its predecessors') 100-year-plus head start and its protection from virtually all forms of competition until the last 10 to 15 years, it should not be surprising to anyone that HT remains the dominant power in the Hawaii market today.

Further, HT appears to characterize "most, if not all, of Hawaiian Telcom's existing regulatory standards, requirements and programs" as dated. While some limited subset (discussed below) may indeed be based on old technologies, the majority of HT's regulatory regime was crafted within the last decade and was the result of significant efforts by the parties to this proceeding and the Commission (and by other competitors that have since departed the market). HT discredits these efforts by suggesting they have become dated based on its unfounded assertion that "the telecommunications market in Hawaii has evolved dramatically."

TWTC respectfully suggests that Commission dismiss as baseless and irrelevant the entire section of HT's Position Statement which claims the existence of an "extremely competitive" market in Hawaii.

Issue 6: Should any current standard, requirement, or program related to retail or wholesale service be relaxed or eliminated?

For the most part, HT has proposed to relax the standards that currently apply to its services. Given HT's troubled systems conversation and the resulting level of retail and wholesale customer dissatisfaction, TWTC does not believe this is the appropriate time for HT to propose reduced performance standards. HT should first demonstrate that it can measure, accurately report and meet existing standards using its own systems and processes.

TWTC does agree with HT to the extent that it suggests eliminating standards that were developed for a technology that is no longer in use. In reviewing HT's Position Statement (and despite the exaggerated rhetoric in HT's conclusion), it appears that HT has made just one such recommendation -- the elimination of the Hawaii Continuity Test Failure Report. Indeed, TWTC is persuaded by HT's argument that this COTS report was designed for step-by-step switches which TWTC understands are no longer in use within HT's network. Thus, this measure can be eliminated without causing harm to the local telecommunications market.

IV. CONCLUSION

In conclusion, TWTC appreciates the opportunity to state its position on the issues in the proceeding and respectfully requests that the Commission grant the relief described above.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on this date, a copy of the foregoing document was duly served, via hand delivery, email or U.S. Mail, upon the following at their last known address:

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Dated: Honolulu, Hawaii, June 21, 2007.

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