



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 16-1421
Released: December 20, 2016

WIRELINE COMPETITION BUREAU SEEKS COMMENT ON THE 2005 WAIVER THAT ALLOWS SANDWICH ISLES TO BE TREATED AS AN INCUMBENT LOCAL EXCHANGE CARRIER FOR PURPOSES OF RECEIVING HIGH-COST UNIVERSAL SERVICE SUPPORT

WC Docket No. 10-90; CC Docket No. 96-45

Comment Date: February 3, 2017

In the *Sandwich Isles Improper Payment Order*, the Commission concluded that Sandwich Isles improperly received payments of over \$27,270,390 from the federal high-cost support mechanisms through repeated violations of the Commission's rules.¹ In light of these findings, the Commission directed Sandwich Isles Communications, Inc. (Sandwich Isles) to submit a response by February 3, 2017 explaining why the Commission should not terminate the previously granted study area boundary waiver providing it status as an incumbent local exchange company for purposes of receiving high-cost support, which would make it ineligible to receive such support.² The Commission observed that when granted in 2005, the waiver "relied on the minimal effect of the requested waiver on the universal service fund, the public interest benefits claimed from anticipated delivery of service to subscribers, the unavailability of service by other parties, and the lack of any record evidence to sustain claims that Sandwich was using universal service support for improper purposes or was not complying with the Commission's accounting, reporting, and auditing rules."³

The Commission also directed the Wireline Competition Bureau (Bureau) to seek comment from the Hawaii Public Utilities Commission (HPUC), the Department of Hawaiian Homelands (DHHL), and all other interested stakeholders on the continued applicability of the study area waiver.⁴ By this public notice, the Bureau seeks such comment. As directed by the *Sandwich Isles Improper Payment Order*, comment is due by February 3, 2017.⁵

¹ See generally *Sandwich Isles Improper Payment Order*, WC Docket No. 10-90, FCC 16-167 at paras. 2, 57 (2016) (*Sandwich Isles Improper Payment Order*).

² See *id.* at para. 58 (citing *Sandwich Isles Communications, Inc., Petition for Waiver of the Definition of "Study Area" Contained in Part 36, Appendix-Glossary and Sections 36.611 and 69.22(hh) of the Commission's Rules*, Order, 20 FCC Rcd 8999 (WCB 2005) (*Bureau Order on Waiver of Study Area Boundary*)).

³ *Id.*

⁴ See *id.* at para. 58.

⁵ In a separate Notice of Apparent Liability, the Commission directed Sandwich Isles to submit a report by February 3, 2017 "explaining why the Commission should not initiate proceedings against SIC to revoke its Commission

The HPUC, DHHL, and any other interested stakeholders may file comments on or before February 3, 2017. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS), or by filing paper copies.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

The proceeding this petition initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.⁶ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed

authorizations, including but not limited to, its Section 214 authorizations,” and directed the Bureau to issue a public notice seeking comment from the HPUC, DHHL, and other stakeholders on that question. *Sandwich Isles Communications, Inc., Waimana Enterprises, Inc., Albert S.N. Hee*, File No. EB-IHD-15-00019603, NAL/Acct. No.: 201732080004, FRN: 0001514090, Notice of Apparent Liability for Forfeiture and Order, FCC 16-165 at para. 84 (2016). The Bureau anticipates issuing that public notice at a later date.

⁶ 47 CFR §§ 1.1200 *et seq.*

consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

For further information, please contact Garnet Hanly, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-0995 or via email at Garnet.Hanly@fcc.gov.

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