



PUBLIC NOTICE

Federal Communications Commission
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WIRELINE COMPETITION BUREAU SEEKS COMMENT ON THE DEPARTMENT OF HAWAIIAN HOME LAND'S REQUEST FOR GUIDANCE ON WHETHER SANDWICH ISLES, INC.'S EXCLUSIVE LICENSE TO SERVE THE HAWAIIAN HOME LANDS CONFLICTS WITH SECTION 253(a) OF THE COMMUNICATIONS ACT

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

Comment Date: February 20, 2017

Reply Comment Date: February 27, 2017

By this Public Notice, we request comment on the Department of Hawaiian Home Lands' (DHHL) request for guidance regarding Sandwich Isles, Inc.'s (Sandwich Isles) exclusive license and whether it conflicts with Section 253(a) of the Communications Act, 47 U.S.C. § 253(a).

On Feb. 3, 2017, DHHL filed a letter with the Commission requesting guidance on whether terms of the exclusive license it provided "in perpetuity" to Waimana Enterprises, Inc., the parent company of Sandwich Isles, and a subsequent, partial assignment of that license directly to Sandwich Isles, to provide telecommunications services to the Hawaiian home lands conflicts with Section 253(a).¹ Section 253(a) states that, "[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service."²

In the *Sandwich Isles Improper Payments Order*, the Commission concluded that Sandwich Isles improperly received payments of over \$27,270,390 from the federal high-cost support mechanisms for repeated violations of the Commission's rules.³ In light of these findings, the Commission directed the Wireline Competition Bureau (Bureau) to seek comment on whether the Commission should terminate a previously granted study area boundary waiver providing Sandwich Isles status as an incumbent local exchange company for purposes of receiving high-cost support, which would make it ineligible to receive such support.⁴ In response to the Bureau's Public Notice, the DHHL filed its letter requesting that any wrong doing on the part of Sandwich Isles not diminish the availability of universal service high-cost

¹ See Letter from John M.K. Masagatani, Chairman, Hawaiian Homes Commission, to Honorable Ajit Pai, Chairman, FCC, WC Docket No. 10-90, CC Docket No. 96-45 (filed Feb. 3, 2017) (DHHL Letter).

² 47 U.S.C. § 253(a).

³ See generally, *Sandwich Isles Communications Ins.*, WC Docket No. 10-90, 31 FCC Rcd 12999 (2016) (*Sandwich Isles Improper Payments Order*).

⁴ *Id.* at 13016-17, 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)).

support to the Hawaiian home lands.⁵ As part of DHHL's comments regarding the availability of federal universal service support to the Hawaiian home lands, it requested guidance on whether the terms of the exclusive license it provided to Sandwich Isles conflicts with Section 253(a) of the Communications Act.

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 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

⁵ DHHL Letter at 2; *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*, Public Notice, WC Docket No. 10-90; CC Docket No. 96-45, 31 FCC Rcd 13326 (WCB 2016).

⁶ 47 CFR §§ 1.1200 *et seq.*

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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