May 27, 2016

EX PARTE PRESENTATION

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Sandwich Isles Communications, Inc., Petition for Declaratory Ruling, WC Docket No. 09-133

Dear Ms. Dortch:

On May 25, 2016, on behalf of the National Exchange Carrier Association, Inc. ("NECA"), Regina McNeil, General Counsel, and Robert Deegan, both of NECA, and I spoke by telephone with Deena Shetler, Pamela Arluk, Lynne Engledow, and Rhonda Lien, all of the Wireline Competition Bureau, in the above-captioned proceeding.

In response to questions, NECA has reviewed both the public and confidential versions of the comments filed by Sandwich Communications, Inc. ("SIC") in the above-captioned docket. NECA described its current view on the used and useful nature of the Paniolo cable system lease and related expenses. This position was fully described in NECA Refresh Comments at pages 15-16, 19 (filed Apr. 28, 2016) and NECA Refresh Reply Comments at pages 11-13 (filed May 9, 2016), both pleadings filed in the above-captioned docket.

SIC’s Refresh Reply Comments contain no information that would alter the conclusion reached in NECA’s refresh comments and reply. The only decisionally relevant information contained in SIC’s Refresh Reply Comments that was not previously placed into the record are Exhibits 1 and 2. These exhibits, prepared by SIC, purport to be tariff costs for other carriers for an undersea cable system based on “publicly available information” from the Local Area Transport Tariff Information System.1 SIC attempts to use these exhibits to support its assertion that the $8.1 million revised Paniolo cable system lease cost is reasonably priced. As indicated in NECA’s refresh reply, “These statements are not supported by a declarant, are not of sufficient detail to be useful. . . .” NECA Refresh Reply at 13. What is more, the figures are based on the size of an undersea cable network system

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1 It is unclear how “publicly available information” meets the definition of confidential data that is entitled to be protected in this proceeding.
that SIC asserts it needs to provide service, i.e., “an OC-48 inter-island network in Hawaii, which also seems to be far beyond SIC’s requirements.” *Id.* at 13. Without actual and reasonably projected capacity usage data on the existing cable system, there is no way to evaluate whether a system this large is necessary to provide service to SIC’s relatively small number of customers. Therefore, the alleged tariff pricing data, even if it could be credited as having some evidentiary weight, is insufficient to justify the size of the system SIC selected.

NECA described in its Refresh Reply Comments at 6-7 that SIC’s provision of certain studies in SIC’s refresh comments were conducted in 2008 and 2009, and were not targeted to justifying a network based on capacity SIC needed to provide services to its customers during the last few years. Therefore, these studies do not support SIC’s claimed need for an undersea cable system, even of the size proposed in its $8.1 million revised lease “understanding.”

NECA has formally requested that SIC provide sufficient data to support its inclusion of the Paniolo cable system lease costs in its revenue requirements, but SIC has refused. The only information that NECA has been able to obtain is contained in the docket in this proceeding.

I urged the Commission to take prompt action because the refresh comment period is now complete.

Pursuant to 47 C.F.R. § 1.1206, please include this ex parte filing in the above-referenced docket.

Sincerely,

/s/ Gregory J. Vogt
Gregory J. Vogt
Counsel for National Exchange Carrier Association, Inc.

cc: Deena Shetler
    Pamela Arluk
    Lynne Engledow
    Rhonda Lien