

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
UNIVERSAL BROADBAND COMMUNICATIONS,)
INC., dba BUSINESS SAVINGS PLAN)
)
For a Certificate of Authority to)
Operate as a Reseller of Intrastate)
Telecommunications Services Within)
the State of Hawaii.)
_____)

DOCKET NO. 02-0141

RECEIVED

2002 JUL 24 P 3:40

DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

DECISION AND ORDER NO. 19483

Filed July 24, 2002
At 8:00 o'clock A.M.

Karen Higdon
Chief Clerk of the Commission

ATTEST: A True Copy
CATHERINE SAKATO
Clerk
Public Utilities Commission
State of Hawaii

C Sakato

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
UNIVERSAL BROADBAND COMMUNICATIONS,)
INC., dba BUSINESS SAVINGS PLAN)
For a Certificate of Authority to)
Operate as a Reseller of Intrastate)
Telecommunications Services Within)
the State of Hawaii.)

Docket No. 02-0141

Decision and Order No. 19483

DECISION AND ORDER

I.

By application filed on May 30, 2002, UNIVERSAL BROADBAND COMMUNICATIONS, INC., dba BUSINESS SAVINGS PLAN (Applicant), seeks a certificate of authority (COA) to provide telecommunications services within the State of Hawaii (State) on a resold basis. Applicant makes its request pursuant to Hawaii Administrative Rules (HAR) §§ 6-80-17 and 6-80-18.

A copy of the application was served on the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy (Consumer Advocate). On June 19, 2002, Applicant responded to the commission's information requests. By position statement filed on July 12, 2002, the Consumer Advocate does not object to the issuance of a COA to Applicant.

II.

Applicant, a Nevada corporation, is duly authorized to conduct business in the State as a foreign corporation. As a reseller, it intends to offer and provide intrastate long distance service.

Both Applicant (aka Universal Broadband Communications, Inc.) and Norstar Communications, Inc., utilize the dba Business Savings Plan.¹ Applicant represents that both are separate entities with common ownership.

Applicant further explains that the dba Business Savings Plan is in use by both entities to facilitate the proposed transfer of assets between them. In particular, upon commission approval of the instant COA, both entities intend to enter into an assets purchase agreement, whereby Universal Broadband Communications, Inc. will purchase the direct billing customer base and selected other assets of Norstar Communications, Inc. Applicant will seek commission approval of the assets purchase agreement, pursuant to Hawaii Revised Statutes (HRS) § 269-19.

In response thereto, the Consumer Advocate recommends that Applicant's COA not take effect until: (1) the assets purchase agreement is filed with and approved by the commission; and (2) Norstar Communications, Inc. has surrendered its COA. These actions, the Consumer Advocate reasons, will avoid the confusion of two certificated entities utilizing the same dba.

¹Norstar Communications, Inc., dba Business Saving Plan, is the holder of a commission-issued COA. See Decision and Order No. 18709, filed on July 31, 2001, in Docket No. 01-0097.

III.

Upon review of the application, the commission makes the following findings pursuant to HAR § 6-80-18:

1. Applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the proposed services;

2. Applicant is fit, willing, and able to properly perform the telecommunications services and to conform to the terms, conditions, and rules prescribed or adopted by the commission; and

3. Applicant's proposed telecommunications services are in the public interest.

Accordingly, the commission concludes that Applicant should be granted a COA to operate as a reseller of intrastate telecommunications services.

Based on our review of the proposed tariff and the Consumer Advocate's comments, Applicant should revise its tariff as follows:

1. Utilize the issued and effective dates that are consistent with HAR § 6-80-40.
2. Amend page 13, section 2.7.3, by stating the percentage of interest due for customer deposits, consistent with HAR § 6-80-105.
3. Amend pages 13 - 14, section 2.7.4, consistent with HAR § 6-80-103(b), governing adjustments for out of service conditions.
4. Amend page 15, section 2.7.6.F, by reducing the late payment fee to one per cent, consistent with the fee assessed by the incumbent telecommunications carrier.

5. Amend page 16, section 2.7.8, by incorporating the requirements set forth in HAR §§ 6-80-107(1) and (4), governing trouble reports and complaint procedures.²
6. Amend page 17, section 2.8.3, by incorporating HAR § 6-80-106(c), governing a customer's response to a notice of discontinuance of service.
7. Amend page 17, section 2.8.3.A, by stating that this provision is limited to the non-payment of a past due amount that is not in dispute, consistent with HAR § 6-80-106(b)(1).
8. Amend page 20, section 3.8.2.D, by defining Resp. Org.
9. Amend page 21, section 3.8.6, by: (A) defining PICC; and (B) deleting the second sentence.
10. Amend page 23, section 4.5(3), by describing each of the advanced features listed.
11. Amend page 24, section 4.12, by stating the amount of the universal service fund charge.
12. Amend all provisions relating to Applicant's exemption from or limitation of liability, including indemnification, to include the proviso that in the event of a conflict with State law, State law shall prevail.

The certificate will be issued to Applicant upon its compliance with the requirements set forth in Section IV, below. To minimize any possible confusion surrounding the use of the dba Business Savings Plan, Applicant should: (1) use its full corporate name, followed by its dba, in its business and customer affairs; and (2) state that it is a separate entity from Norstar Communications, Inc. The Consumer Advocate's recommendation that the commission issue Applicant a conditional COA is denied.

²In this respect, the commission's business address and telephone number are: Hawaii Public Utilities Commission, 465 S. King Street #103, Honolulu, HI, 96813, (808) 586-2020.

IV.

THE COMMISSION ORDERS:

1. Applicant is granted a COA to operate as a reseller of intrastate telecommunications services in the State.

2. As the holder of a COA, Applicant shall be subject to all applicable provisions of HRS chapter 269, HAR chapters 6-80 and 6-81, and other applicable State law and commission rules, and any orders that the commission may issue from time to time.

3. Applicant shall file its tariffs in accordance with HAR §§ 6-80-39 and 6-80-40. Applicant's tariffs shall comply with the provisions of HAR chapter 6-80. In the event of a conflict between any tariff provision and State law, State law shall prevail.


4. Applicant shall conform its initial tariff to the applicable provisions of HAR chapter 6-80 by, among other things, incorporating the tariff revisions set forth in section III of this decision and order. An original and eight copies of the initial tariff, with the noted revisions, shall be filed with the commission, and two additional copies shall be served on the Consumer Advocate. Applicant shall ensure that the appropriate effective date is reflected in its tariffs.


5. Within 30 days from the date of this decision and order, Applicant shall pay a public utility fee of \$60, pursuant to HRS § 269-30. The business check shall be made payable to the Hawaii Public Utilities Commission, and sent to the commission's office at 465 S. King Street #103, Honolulu, HI, 96813.


6. In accordance with HAR § 6-80-39, Applicant will not offer, initiate, or provide any telecommunications services within the State, at wholesale or retail, until it complies with the requirements set forth in paragraphs 3 to 5, above.

DONE at Honolulu, Hawaii this 24th day of July, 2002.

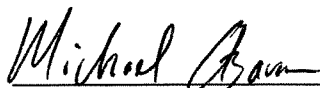
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Wayne H. Kimura, Chairman

By 
Dennis R. Yamada, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Michael Azama
Commission Counsel

02-0141.sl

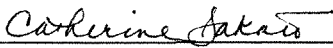
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 19483 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

MONICA BORNE HAAB, ESQ.
NOWALSKY, BRONSTON & GOTHARD
3500 N. Causeway Blvd., Suite 1442
Metairie, LA 70002

Attorney for Applicant UNIVERSAL BROADBAND COMMUNICATIONS,
INC., dba BUSINESS SAVINGS PLAN



Catherine Sakato

DATED: July 24, 2002