

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of))
VERIZON HAWAII INC.)) Docket No. 02-0116
))
For Approval of a Pole Attachment)) Decision and Order No. 19491
And Conduit Occupancy Licensing))
Agreement with Pacific LightNet,))
Inc.))
_____))

DECISION AND ORDER

I.

By application filed on May 6, 2002, VERIZON HAWAII INC. (Verizon Hawaii) seeks commission approval of a pole attachment and conduit occupancy licensing agreement (Agreement) and an amendment to the Agreement (Amendment), each of which was negotiated with PACIFIC LIGHTNET, INC. (Pacific LightNet). Verizon Hawaii makes its request in accordance with 47 United States Code (U.S.C.) § 252(e) and Hawaii Administrative Rules (HAR) § 6-80-78.

Copies of the application, Agreement, and Amendment were served on the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy.

In accordance with 47 U.S.C. § 252(e), if a State commission does not act to approve or reject a negotiated agreement within 90 days after the agreement is submitted to the commission, "the agreement shall be deemed approved."¹

¹Accord HAR § 6-80-78(c).

The 90-day deadline governing the commission's review is on or about August 4, 2002.

II.

Verizon Hawaii is a corporation duly organized and existing under and by virtue of the laws of the State of Hawaii (State), and engaged in the provision of varied telecommunications services to its customers and the general public within its chartered territory in the State. Verizon Hawaii is an incumbent local exchange carrier as defined by 47 U.S.C. § 252.

Pacific LightNet is a certified facilities-based carrier and reseller of telecommunications services in the State,² and a telecommunications carrier as defined by 47 U.S.C. § 252.

The Agreement governs Pacific LightNet's non-exclusive, revocable license to occupy, place and maintain attachments on Verizon Hawaii's poles or in Verizon Hawaii's conduits for the purpose of providing cable television and/or telecommunications service. The initial term of the Agreement was from May 17, 2000 to February 7, 2002.³ The Amendment revises Exhibit A to the Agreement and establishes the Agreement's ocean access fees.

²See Decision and Order No. 18868, filed on August 31, 2001, in Docket No. 01-0157.

³Thereafter, the Agreement shall continue in effect for consecutive one-year terms until cancelled or terminated as provided for in the Agreement.

The Agreement and Amendment were consummated through voluntary negotiations between the parties, as contemplated by 47 U.S.C. § 252(a). The commission, in its review of the Agreement and Amendment, is governed by 47 U.S.C. § 252(e) and HAR § 6-80-78. These sections provide that the commission may reject a negotiated agreement only if:

1. The agreement, or any portion of the agreement, discriminates against a telecommunications carrier that is not a party to the agreement; or
2. The implementation of the agreement, or any portion of the agreement, is not consistent with the public interest, convenience, and necessity.

Upon review, the commission finds that the Agreement and Amendment thereto do not discriminate against other telecommunications carriers and the implementation of the Agreement, as amended, is consistent with the public interest, convenience, and necessity. Thus, the commission will approve the Agreement, as amended.

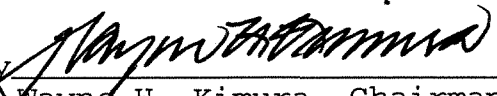
III.

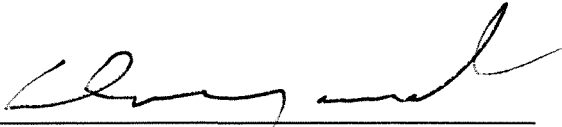
THE COMMISSION ORDERS:

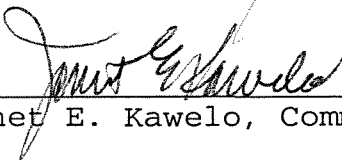
1. The Agreement, as amended, between Verizon Hawaii and Pacific LightNet submitted on May 6, 2002, is approved.
2. This docket is closed.

DONE at Honolulu, Hawaii this 30th day of July, 2002.

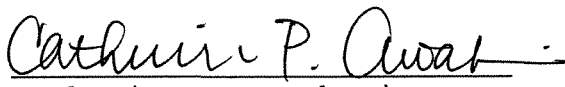
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Wayne H. Kimura, Chairman

By 
Dennis R. Yamada, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Catherine P. Awakuni
Commission Counsel

02-0116.ah

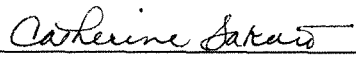
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 19491 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
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LISA SUAN
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Catherine Sakato

DATED: July 30, 2002