

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of))	
VERIZON HAWAII INC.)	Docket No. 02-0173
)	
To Reclassify CentraNet Features))	Order No. 19552
as Fully Competitive.)	
_____))	

ORDER

I.

On July 1, 2002, VERIZON HAWAII INC. (Verizon Hawaii) filed a petition requesting the reclassification of CentraNet features from non-competitive to fully competitive. Verizon Hawaii makes its request pursuant to Hawaii Administrative Rules (HAR) §§ 6-61-74, 6-80-26, and 6-80-27.

Copies of the application were served on the DIVISION OF CONSUMER ADVOCACY of the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS (Consumer Advocate).¹ On August 6, 2002, the Consumer Advocate served Verizon Hawaii with information requests (IRs). On August 19, 2002, Verizon Hawaii filed responses to the Consumer Advocate's IRs.

On July 22, 2002, TIME WARNER TELECOM OF HAWAII, L.P., (TWTC) timely filed a motion to intervene in the instant docket, pursuant to HAR §§ 6-61-55 and 6-61-57. Pursuant to HAR

¹Verizon Hawaii and the Consumer Advocate entered into a stipulation for a protective order with regards to the matters of this docket. The commission approved Protective Order No. 19455 on July 3, 2002.

§ 6-80-41(c), Verizon Hawaii filed its memorandum in opposition to TWTC's motion to intervene on July 29, 2002. No other persons moved to intervene in this proceeding.

II.

A.

Verizon Hawaii is a public utility corporation existing under the laws of the State of Hawaii (State) furnishing telecommunications services throughout the State and various points overseas.

TWTC is a Delaware limited partnership authorized to conduct business in the State. It is a facilities-based competitive local exchange carrier (CLEC), which competes with Verizon Hawaii for certain local exchange and dedicated transport private line services.

B.

In its motion to intervene, TWTC specifically requests that the commission: (1) allow it to intervene as a party to this proceeding; and (2) deny Verizon Hawaii's petition to reclassify CentraNet features as fully competitive.² In support of its requests, TWTC contends, among other things, that pursuant to HAR § 6-61-55, it has the right to participate in this proceeding, and that it should be granted party status since there are no

²By this order, the commission will only address TWTC's request for intervention in this proceeding. We find it premature to address the substantive matters of Verizon Hawaii's petition, at this time.

other means for its interests to be represented. TWTC further states that with its telecommunications expertise, it can assist in the development of a sound record without broadening the issues or unnecessarily delaying the proceeding. It elaborates that the Consumer Advocate represents the general public and consumers of telecommunications services and not that of facilities-based CLECs, such as itself. Additionally, TWTC argues that the reclassification of CentraNet features as fully competitive may allow Verizon Hawaii to compete unfairly with TWTC.

C.

Verizon Hawaii opposes TWTC's motion to intervene for various reasons. Specifically, it states that TWTC has failed to: (1) demonstrate that it has an interest that cannot be represented by the Consumer Advocate; and (2) present reasons for the denial or modification of Verizon Hawaii's petition. Verizon Hawaii contends that TWTC's adverse interest does not justify an intervention since TWTC's competitive offerings are not regulated. Verizon Hawaii further argues that TWTC intervention would only serve to delay the proceedings in this docket.

III.

The Supreme Court of the State of Hawaii has clarified that party status through intervention in a proceeding before the commission is a matter "within the sound discretion of the

commission" rather than a right.³ Under HAR § 6-61-55, the movant is required to state the facts and reasons for the proposed intervention, and its position and interest. HAR § 6-61-55(d) specifically states that "[i]ntervention shall not be granted except on allegations which are reasonably pertinent to and do not unreasonably broaden the issues already presented."

Upon review, the commission finds that TWTC has failed to demonstrate, to our satisfaction, how its interests are reasonably pertinent to and will not unreasonably broaden the issues of this docket. Furthermore, among other things, the commission is not convinced that TWTC's participation as a party in this docket would not unreasonably delay this proceeding. Thus, the commission concludes that TWTC's motion to intervene in this docket should be denied.

However, TWTC's views on the matters of this docket may be beneficial in our deliberations. Thus, pursuant to HAR § 6-61-56(a),⁴ the commission will grant TWTC participant status in this proceeding. TWTC, nonetheless, will only be able to participate in this docket by providing a statement of its views

³In re Application of Hawaiian Electric Company, Inc., 56 Haw. 260, 535 P.2d 1102 (S. Ct. 1975).

⁴HAR § 6-61-56(a) Participation without intervention, states that:

The commission may permit participation without intervention. A person or entity in whose behalf an appearance is entered in this manner is not a party to the proceeding and may participate in the proceeding only to the degree ordered by the commission. The extent to which a participant may be involved in the proceeding shall be determined in the order granting participation or in the prehearing order.

on the matters of this docket (Statement). TWTC shall, within 10 days from the date of this order, either: (1) file a Statement setting forth its views; or (2) adopt its motion to intervene as its Statement by filing a written notification. Within five days from the date of TWTC's filing, Verizon Hawaii will be given the opportunity to file a response.

IV.

THE COMMISSION ORDERS:

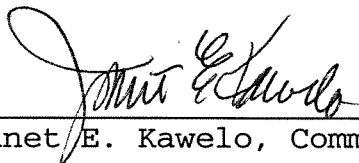
1. TWTC's motion to intervene, filed on July 22, 2002, is denied.

2. TWTC is granted participant status in this proceeding, limited to and consistent with the terms set forth in section III of this order.

DONE at Honolulu, Hawaii this 6th day of September, 2002.

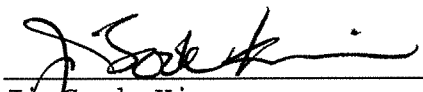
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Wayne H. Kimura, Chairman

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

By _____ (Recused)
Gregg J. Kinkley, Commissioner


Ji Sook Kim
Commission Counsel

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 19552 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.


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DATE: September 6, 2002