

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of)	
)	
PACIFIC LIGHTNET, INC.,)	DOCKET NO. 03-0027
)	
Complainant,)	
)	
vs.)	
)	
VERIZON HAWAII INC.,)	
)	
Respondent.)	
_____)	

ORDER NO. 20066

Filed March 7, 2003
At 1:30 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

RECEIVED
 2003 MAR -7 P 4:17
 DIV. OF CONSUMER ADVOCACY
 DEPT. OF COMMERCE AND
 CONSUMER AFFAIRS
 STATE OF HAWAII

ATTEST: A True Copy
 KAREN HIGASHI
 Chief Clerk, Public Utilities
 Commission, State of Hawaii.

K. Higashi

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of)	
PACIFIC LIGHTNET, INC.,)	Docket No. 03-0027
)	
Complainant,)	Order No. 20066
)	
vs.)	
)	
VERIZON HAWAII INC.,)	
)	
Respondent.)	
_____)	

ORDER

I.

By Motion for Protective Order (motion) filed on February 5, 2003, PACIFIC LIGHTNET, INC. (PLNI) moves the commission to issue a protective order covering Count I and a portion of Count II of its complaint against VERIZON HAWAII INC. (Verizon Hawaii), filed contemporaneously with its motion. In furtherance of its request, PLNI explains that Count I addresses an October 14, 1998 letter agreement between PLNI and Verizon Hawaii, which, by its terms, requires confidential seal upon transmission to the commission. PLNI further states that a portion of Count II makes reference to the volume of traffic over its local interconnection facilities, which it views as proprietary confidential company information.

PLNI served copies of its complaint upon the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs (Consumer Advocate).

On February 12, 2003, Verizon Hawaii filed a Memorandum in Opposition (memorandum) to PLNI's motion. By its memorandum, Verizon Hawaii requests that the commission deny PLNI's motion, in part, with respect to the October 1998 letter agreement and grant PLNI's motion, in part, with respect to the submission of traffic volume information. Verizon Hawaii explains that given the clarification provided by the Federal Communications Commission in Memorandum Opinion and Order 02-276 in Docket No. 02-89 regarding the parameters of the filing requirements of 47 United States Code section 252(a)(1), Verizon Hawaii will be filing the October 1998 letter agreement along with subsequent letters as part of the existing interconnection agreement between the parties, rendering PLNI's request for seal moot.

In its memorandum, Verizon Hawaii further contends that PLNI's request that any protective order issued by the commission preclude disclosure of PLNI's traffic information to either the public or to Verizon's non-legal staff and business representatives is "much more restrictive than necessary." Verizon Hawaii states that since the nature of the billing arrangement between PLNI and Verizon Hawaii is the subject of the instant proceeding, non-legal employees of both companies will be required to work with the traffic information. Accordingly, Verizon Hawaii suggests that the

commission utilize the same terms and conditions of the protective order that the commission most recently approved and adopted in a proceeding involving Verizon Hawaii.¹ Verizon Hawaii also requests that the commission allow it to submit any traffic volume information relating to this docket under confidential seal.

PLNI replied to Verizon Hawaii's memorandum on February 19, 2003 by stating that it: (1) does not oppose Verizon Hawaii's position that the October 1998 letter agreement should be released from confidential seal and (2) agrees to stipulate to a protective order substantially in the form submitted as Exhibit 1 to Verizon Hawaii's memorandum.²

II.

After reviewing PLNI's motion and reply as well as Verizon Hawaii's memorandum, we conclude that PLNI, Verizon Hawaii, and the Consumer Advocate should submit a stipulated protective order for commission approval within 10 days from the date of this order. In the alternative, if the parties are unable to stipulate to such order, we conclude that each party shall submit a proposed protective order for the commission's consideration within 10 days from the date of this order.

¹Protective Order No. 19926, filed on December 20, 2002, in Docket No. 02-0415.

²We note that our rules of practice and procedure only allow for the filing of an opposition to a motion. Hawaii Administrative Rules § 6-61-41. Thus, because the commission did not grant PLNI leave to file a reply, we will give PLNI's reply brief the appropriate weight in our consideration of its motion.

Accordingly, the commission concludes that PLNI's motion should be denied, in part, with respect to PLNI's request to submit the October 1998 letter agreement under confidential seal, and should be granted, in part, with respect to PLNI's request to file its traffic volume information subject to protective order. The commission will also allow Verizon Hawaii to submit its traffic volume information subject to the protective order filed in this docket.

III.

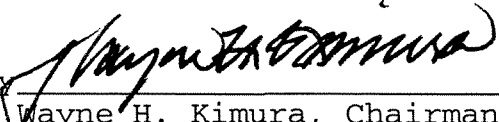
THE COMMISSION ORDERS:

1. PLNI, Verizon Hawaii, and the Consumer Advocate shall submit a stipulated protective order for commission approval within 10 days of this order. If the parties to this docket are unable to stipulate to such an order, each party shall submit a proposed protective order for the commission's consideration by the same date.

2. PLNI's motion is denied, in part, with respect to its request to submit the October 1998 letter agreement under confidential seal, and is granted, in part, with respect to its request to file its traffic volume information subject to protective order. The terms and conditions of such protective order shall be approved by the commission after its review of either a stipulated protective order or the parties' proposed protective orders.

DONE at Honolulu, Hawaii this 7th day of March, 2003.

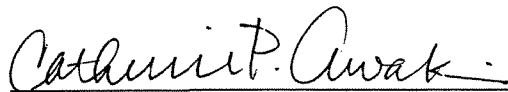
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Wayne H. Kimura, Chairman

By 
Janet E. Kawelo, Commissioner

By _____ (RECUSED)
Gregg J. Kinkley, Commissioner

APPROVED AS TO FORM:


Catherine P. Awakuni
Commission Counsel

03-0027.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20066 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

LAURA MAYHOOK, ESQ.
J. JEFFREY MAYHOOK, ESQ.
MAYHOOK LAW, PLLC
508 NW 189th Street
Ridgefield, WA 98642

LESLIE ALAN UEOKA, ESQ.
BLANE T. YOKOTA, ESQ.
VERIZON HAWAII INC.
P. O. Box 2200
Honolulu, HI 96841



Karen Higashi

DATED: March 7, 2003