

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
VERIZON HAWAII INC.)
For Approval of Changes to Its)
Tariff and for Exemption Pursuant)
To HRS § 269-16.9.)

DOCKET NO. 03-0034

DECISION AND ORDER NO. 20620

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

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Karen Higashi
Chief Clerk of the Commission

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

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In the Matter of the Application of)
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To HRS § 269-16.9.)
_____)

DECISION AND ORDER

I.

Introduction

VERIZON HAWAII INC. ("Verizon Hawaii") requests commission approval to: (a) decrease its call allowance for local directory assistance ("LDA") from ten (10) to two (2) calls per billing period; and (b) increase the charge for LDA calls over the allowance from \$0.20 to \$0.50 per call by an application filed on February 11, 2003. Verizon Hawaii also requests exemptions from the Hawaii Revised Statutes ("HRS") § 269-16(b) contested case hearing and public hearing requirements, and from the HRS § 269-16.9(a) requirement for a notice and hearing prior to granting its exemption request. Verizon Hawaii makes these requests under HRS §§ 269-16 and 269-16.9 and Hawaii Administrative Rules ("HAR") § 6-61-111.

Verizon Hawaii served copies of the application on the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"). The Consumer Advocate filed a preliminary statement of position stating its intent to

serve Verizon Hawaii with information requests ("IRs") on March 3, 2003. The Consumer Advocate served Verizon Hawaii with the IRs on March 25, 2003. Verizon Hawaii filed its IR responses on April 8 and 21, 2003.¹ The Consumer Advocate stated that it does not object to the approval of Verizon Hawaii's requests, subject to a specific modification, as described in its Statement of Position filed on July 14, 2003 ("Statement of Position").

II.

Background

A.

Changes to LDA Service

Customers are currently allowed to make ten (10) LDA calls (also known as 411 calls)² per line without charge during each billing period and LDA calls that exceed the allowance are charged \$0.20 per call under Verizon Hawaii's P.U.C. Tariff No. 3, Section 25. The terms and conditions of

¹The parties filed their Stipulation for Protective Order for the commission's approval on April 11, 2003. Protective Order No. 20132 was issued on April 17, 2003.

²LDA service provides callers with telephone numbers of service subscribers or information that the numbers are unlisted or cannot be found.

Verizon Hawaii's LDA service have remained the same since they were established on July 1, 1981.³

Verizon Hawaii represents that the LDA charge of \$0.20 per call over the allowance is "well below" the costs of providing the service. Verizon Hawaii contends that the revenues derived from the service are insufficient to cover the costs incurred to provide it, and Verizon Hawaii argues that the proposed changes are consistent with the principle that the cost causer should bear the cost of the service. Verizon Hawaii specifically states that "[s]hifting costs to the cost causer is more equitable for all customers since the majority of the general ratepayers will not be required to bear the burden of costs being incurred for the benefit of the minority."⁴

Verizon Hawaii claims the proposed changes to LDA service are "reasonable" when compared to the rates charged by competing Hawaii telecommunications service providers and its affiliates in other jurisdictions. Verizon Hawaii represents that a vast majority of its customers will be unaffected by the proposed changes since they place two (2) or fewer LDA calls

³Verizon Hawaii first sought commission approval to reduce its LDA call allowance from ten (10) to two (2) calls and reduce its interisland toll rates through Transmittal No. 91-31. The transmittal was suspended for further review and investigation and was made a matter of Docket No. 7193. Verizon Hawaii later amended its filing to reduce the monthly LDA call allowance from ten (10) to three (3) calls, increase the charge for calls that exceed the allowance from \$0.20 to \$0.30 per call, and reduce its interisland toll rates. Docket No. 7193 was consolidated with Docket No. 7579, Verizon Hawaii's 1993 general rate case. However, Verizon Hawaii's 1993 general rate case ended without change to its LDA service.

⁴See, Application at 4.

per month. These individuals will continue to receive LDA service without charge. Customers who make three (3) or more LDA calls per month will be charged \$0.50 per call, for each call over the two (2) -call allowance, to a maximum of \$4.00 for eight (8) calls over the allowance, and those that place more LDA calls will be charged an additional \$0.30 per call. The impact to these individuals can be mitigated through use of alternatives, as in printed directories and electronic listings on the Internet and in CD-ROM form. Moreover, Verizon Hawaii argues that LDA service is a discretionary service whereby customers chose to have the convenience of having Verizon Hawaii search for the telephone listings for their use.

B.

Exemption Requests

Verizon Hawaii requests an exemption from the HRS § 269-16(b) requirement that a contested case hearing, preceded by a public hearing, be held in connection with any increase in rates. It also requests an exemption from the HRS 269-16.9(a) requirement for a notice and hearing prior to granting the exemption. Verizon Hawaii claims that its exemption requests are in the public interest, and that "the requested increases are reasonable, non-controversial and do not justify the imposition of the public hearing and contested case hearing requirements."⁵

⁵See, Application at 10.

While the HRS § 269-16(b) contested case and public hearing requirements are reasonable for general rate increases that affect all ratepayers or a majority of them, Verizon Hawaii argues that these requirements are unreasonably burdensome on proposed rate increase matters that impact few ratepayers and have a relatively small financial impact on the utility. Verizon Hawaii further argues that adherence to the statutory requirements, in this matter, is unreasonable in light of the burdens (i.e., regulatory delay and associated financial and resource costs) it causes to the utility, the commission, and the Consumer Advocate.

C.

Notification Provision

Verizon Hawaii intends to notify all customers of the changes to its LDA service through bill message upon approval of its requests. Approximately forty-five (45) days are required to implement the changes, including bill setup and notification to Verizon Hawaii's customers.

III.

Consumer Advocate's Position

The Consumer Advocate conveys that: (a) Verizon Hawaii's request for an exemption from the HRS § 269-16(b) contested case and public hearing requirements is, in this case, reasonable; and (b) it does not object to Verizon Hawaii's substantive requests, provided that the LDA call allowance be

reduced to three (3) calls per billing period as opposed to the proffered two (2) calls.

The Consumer Advocate states its belief that a contested case hearing to adjudicate the merits of Verizon Hawaii's application in this case may be burdensome. The Consumer Advocate cautions that this position is based on the specific facts and circumstances of the instant proceeding, and is not to be construed as the Consumer Advocate's policy on future rate increase requests. The Consumer Advocate specifically reserves its right to object to any such future exemption requests.

The Consumer Advocate states that Verizon Hawaii's proposal to reduce the monthly LDA call allowance appears reasonable since it should serve as a deterrent to using LDA service. However, it recommends that the LDA call allowance be reduced to three (3) calls per billing period as opposed to two (2) calls. The Consumer Advocate reasons that with a three (3) -call allowance fewer Verizon Hawaii customers would be affected and that it would result in smaller revenue impact to Verizon Hawaii. Verizon Hawaii's proposal to increase the per call charge for LDA over the allowance appeared reasonable to the Consumer Advocate, and it notes that with the increase, Verizon Hawaii still does not expect to recover the cost of providing the service.⁶

⁶The Consumer Advocate also notes that Verizon Hawaii's LDA cost of service estimate in this docket differs with the estimates of LDA costs in Docket Nos. 7702, 02-0068, and 02-0415. However, the Consumer Advocate does not object to the cost

The Consumer Advocate also notes that the instant proceeding is akin to single-issue ratemaking, which it previously opposed. The Consumer Advocate makes the determination that the facts supporting the instant proceeding "support a deviation from this long-standing policy."⁷ This determination is based on: (1) the consideration that ratepayers who do not exceed the monthly call allowance currently subsidize those who do; (2) the relatively small impact of the requested relief in comparison to Verizon Hawaii's total regulated intrastate revenues and customer base; (3) the intent of the instant proposal to discourage use of LDA service; and (4) the theory that the cost causer should bear the costs of the service incurred.

IV.

Findings and Conclusions

A.

Exemption requests

HRS § 269-16(b) requires that this commission hold a contested case hearing, preceded by a public hearing, on all matters associated with an increase in rates. Verizon Hawaii cites HRS § 269-16.9(a) as authority for its HRS § 269-16(b) contested case and public hearing exemption request. HRS § 269-16.9(a) states that "the commission, upon its own

estimate advanced in this docket since it is "fairly comparable" to those set forth in the other dockets.

⁷See, Statement of Position at 9.

motion or upon the application of any person, and upon notice and hearing, may exempt a telecommunications provider or a telecommunications service from any or all of the provisions of this chapter, except the provisions of section 269-34, upon a determination that the exemption is in the public interest."

With regards to the HRS § 269-16.9(a) notice and hearing requirements, we find it reasonable to construe that the parties have waived these procedural requirements. We base our finding on Verizon Hawaii's express request for an exemption from these requirements and the Consumer Advocate's finding that Verizon Hawaii's exemption request from the HRS § 269-16(b) hearing requirements is reasonable. The parties have, therefore, intentionally and voluntarily waived the notice and hearing requirements of HRS § 269-16.9(a). Additionally, upon full review of the record and consistent with HRS § 269-16.9(b) which requires the commission to "expedite, where practicable, the regulatory process with respect to exemptions" we find it in the public interest to approve the parties' "waiver" of the HRS § 269-16.9(a) notice and hearing requirements.

We agree with the Consumer Advocate's determination that a contested hearing on the matters of this case may be burdensome in light of the impacts of the relief being requested. This docket is expected to impact a small percentage of Verizon Hawaii customers and the proposed changes are expected to result in minimal financial impact to the affected ratepayers. Adherence with the requirements would result in public hearings on all islands since Verizon Hawaii provides communications

services statewide. The financial and regulatory costs of adhering to the HRS § 269-16(b) contested case and public hearing requirements appear to outweigh the public benefits derived from it. We believe that granting the exemption on this matter should help promote effective and economically efficient telecommunications services. Accordingly, we find that an exemption from the HRS § 269-16(b) contested case and public hearing requirements for the matters in this docket is warranted and in the public interest.

B.

Changes to LDA Service

Verizon Hawaii's arguments and representations for a decrease in its LDA service allowance and an increase in the charge for calls over the allowance appear sound and reasonable, to an extent. LDA may be a discretionary service in many cases that can be replaced through the use of alternative means, as in the use of printed phone directories and electronic listings on the Internet and in CD-ROM form. The revenues generated from LDA service appear to be insufficient to cover the cost of providing the service based on Verizon Hawaii's representations. While Verizon Hawaii does not expect to recover the costs of providing the service with implementation of the changes, the changes would: (1) encourage the use of alternatives in lieu of LDA service; and (2) move the LDA rate closer to the cost of providing the service. We also recognize that the proposed changes are consistent with the long-standing ratemaking

principle of making the cost causer pay for the costs incurred. Thus, we find it reasonable and in the public interest to approve Verizon Hawaii's request to increase the charge for calls over the allowance from \$0.20 to \$0.50 per call, subject to the condition set forth in Section IV.C. of this decision and order. However, we believe that it is not in the public interest to approve Verizon Hawaii's request to decrease the LDA service call allowance as it proposed.

A decrease in the allowance from ten (10) to two (2) calls per billing period is a significant and drastic change. Verizon Hawaii's customers have had the expectation of ten (10) free LDA calls for each billing period for the past twenty-two (22) years. Such a significant and unexpected change may be perceived as unfair. Our concerns on this matter are particularly heightened due to our decision to approve Verizon Hawaii's request for an exemption from the HRS § 269-16(b) contested case and public hearing requirements, as discussed above. Furthermore, while the changes may impact a small percentage of Verizon Hawaii's customers, due to its large customer base, thousands of Verizon Hawaii's customers may be affected. Thus, we find Verizon Hawaii's request to decrease its LDA call allowance from ten (10) to two (2) calls per billing period to be inappropriate and not in the public interest, at this time.

Nonetheless, we do believe that the record in this docket supports a decrease in Verizon Hawaii's LDA service allowance. Upon review of the record, we find that a decrease in

the call allowance from ten (10) to five (5) calls per billing period is appropriate and reasonable, subject to the condition set forth in Section IV.C. of this decision and order. Any further reduction in the allowance would not be in the public interest. Decreasing the LDA call allowance from ten (10) calls per billing period to five (5) calls should impact notably fewer Verizon Hawaii's customers than under Verizon Hawaii's proposal.

C.

Single-issue Ratemaking and Other Concerns

The commission recognizes that Verizon Hawaii's LDA tariff change proposal is a form of single-issue ratemaking. The commission has historically refrained from revisiting "single issues" that were addressed in the course of rate case proceedings.⁸ Verizon Hawaii's last "rate increase", i.e. the authorized intrastate surcharge of 11.23 per cent, was developed and approved after a thorough review, analysis, and consideration of all of Verizon Hawaii's regulated rates, including the rates for LDA service.⁹ Additionally, while Verizon Hawaii may currently be providing some services at rates below the cost of providing the services, as in LDA service, there are other services being provided at rates stated to be markedly above the

⁸While we believe that the distinct facts, circumstances, and issues of this case merit a deviation from our traditional views against single-issue ratemaking, no one should construe our decision on this matter as setting precedent or policy for similar or any other matters.

⁹See, Docket Nos. 94-0298 and 95-0194 (Consolidated).

cost of providing the services, such as touch call service.¹⁰ The commission continues to believe that any type of increase and adjustment to Verizon Hawaii's rates should generally be reviewed and considered in light of all of its regulated rates in a proceeding properly before the commission.

Due to these factors, we find it reasonable and in the public interest to only allow Verizon Hawaii to decrease its LDA allowance from ten (10) to five (5) calls per billing period and to increase the charge for all calls over the five (5) call allowance from \$0.20 to \$0.50 per call, provided that these LDA service changes do NOT result in overall gains in Verizon Hawaii regulated revenues (i.e., "Revenue Neutral Requirement"). Within 15 days of the date of this decision and order, Verizon Hawaii shall develop and propose to the commission a mechanism or methodology to adhere to the commission's Revenue Neutral Requirement. For example, Verizon Hawaii could elect to implement this requirement by making a corresponding reduction to its intrastate surcharge. This "revenue neutral" concept is not novel since Verizon Hawaii initially coupled its proposed changes to LDA in Transmittal No. 91-31 with a corresponding proposed reduction in interisland message telephone service rates to "offset the resulting" increases in LDA revenues.¹¹ By partially granting Verizon Hawaii's request and imposing this requirement,

¹⁰Verizon Hawaii's touch call tariff rate is notably higher than Verizon Hawaii's purported cost of providing the service in Docket No. 02-0415. See, also Docket No. 03-0067.

¹¹See, Verizon Hawaii's (fka GTE Hawaiian Telephone Company Incorporated) Transmittal No. 91-31, filed on November 29, 1991, at 2.

the commission addresses Verizon Hawaii's reasons for proposing LDA service changes while addressing our reservations with single-issue ratemaking, which were echoed, in part, by the Consumer Advocate. Verizon Hawaii is reminded that this requirement will not interfere with its desire to: (1) move its LDA rate closer "towards proper cost recovery"; and (2) bring its LDA rate in line with the rates offered by other telecommunications providers.

Finally, we note the following observations and concerns. Verizon Hawaii is currently offering a host of local exchange packaged services including Local Package Plus ("LPP"). Subscribers of LPP are provided a "bundle" of services including unlimited LDA at a flat monthly rate.¹² While slight, we note that the LDA cost purported in this docket, whereby Verizon Hawaii seeks an increase in the LDA rate, is notably higher than the LDA cost Verizon Hawaii advanced in its LPP application. The Consumer Advocate also mentioned this cost discrepancy in its Statement of Position. Additionally, we are concerned that Verizon Hawaii appears to characterize almost all LDA calls as discretionary--a tool of convenience for individuals who opt to have Verizon Hawaii look up listings on their behalf. While we recognize that LDA calls can be described as discretionary in many cases, we believe that there are some instances when use of Verizon Hawaii's LDA service is the best

¹²The commission approved Verizon Hawaii's LPP service offering on a one-year promotional basis, subject to various conditions, by Decision and Order No. 20195, filed on May 27, 2003, in Docket No. 02-0415.

and/or only viable means of obtaining a telephone listing. For example, use of Verizon Hawaii's LDA service may be the only ready means to obtain the telephone listing of a business or individual on a neighbor island since neighbor-island phone directories are not easily available, nor are electronic listings fully accessible for everyone. LDA requests are not all discretionary, and understanding how LDA services are being used is important. Verizon Hawaii should submit available data on the nature of LDA calls to the commission for our information and review.

D.

Conclusions

Based on the above, we conclude that the parties' waiver of HRS § 269-16.9(a) notice and hearing requirements should be approved, and that Verizon Hawaii's request for an exemption from HRS § 269-16(b) contested case and public hearing requirements for the matters in this docket should also be approved. Verizon Hawaii's request to decrease its LDA service call allowance from ten (10) to two (2) calls per billing period should, however, be denied. Additionally, we conclude that: (a) Verizon Hawaii's request to increase the charge for LDA calls over the allowance from \$0.20 to \$0.50 per call should be approved; (b) Verizon Hawaii should be allowed to reduce its LDA service call allowance from ten (10) to five (5) calls per billing period, at this time; and (c) Verizon Hawaii should only

be allowed to implement our approved changes to LDA services on a revenue neutral basis.

V.

Orders

THE COMMISSION ORDERS:

1. The parties' waiver of the HRS § 269-16.9(a) notice and hearing requirements is approved, and Verizon Hawaii's request for an exemption from the HRS § 269-16(b) contested case and public hearing requirements for the matters in this docket is also approved.

2. Verizon Hawaii's request to decrease its LDA service call allowance from ten (10) to two (2) calls per billing period is denied, while its request to increase its LDA charge for calls that exceed the allowance from \$0.20 to \$0.50 per call is approved.

3. Verizon Hawaii may now reduce its LDA service allowance from ten (10) to five (5) calls per billing period.

4. Verizon Hawaii shall only implement the approved changes to LDA service as set forth in this decision and order in compliance with our Revenue Neutral Requirement. Within 15 days of the date of this decision and order, Verizon Hawaii shall file a proposed mechanism to implement the approved LDA service changes in compliance with the commission's Revenue Neutral Requirement. Verizon Hawaii's proposal shall include a reporting requirement to demonstrate its compliance with our determinations

and orders herein. Verizon Hawaii shall concurrently serve the Consumer Advocate with a copy of the proposal.

5. Verizon Hawaii shall submit to the commission, with concurrent service on the Consumer Advocate, any information it currently has available in its records on the nature of LDA calls, and the number of calls in categories such as discretionary requests, unlisted number requests, new/changed number requests, and requests for neighbor island listings within 30 days of the date of this decision and order.

6. Verizon Hawaii shall file: (a) its revised tariff sheets incorporating the commission's determinations in this decision and order with an applicable effective date; and (b) a sample of its customer notification form, advising its customers of the approved LDA service changes and alternative sources for information including on-line directory listings, listings on CD-ROM form, and printed directories for all major Hawaiian Islands, within 15 days of the date of a commission order approving Verizon Hawaii's proposed revenue neutral mechanism. Copies of each filing shall concurrently be served on the Consumer Advocate.

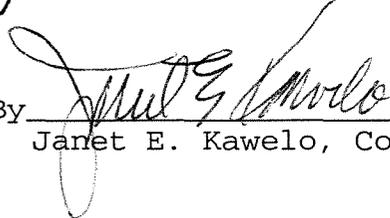
7. Verizon Hawaii shall conform to all of the commission's orders set forth above. Failure to adhere to our orders constitutes cause for the commission to void this decision and order, and may result in further regulatory actions as authorized by law.

DONE at Honolulu, Hawaii this 4th day of November,
2003.

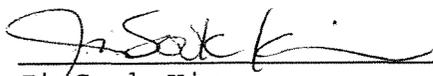
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
Wayne H. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Ji Sook Kim
Commission Counsel

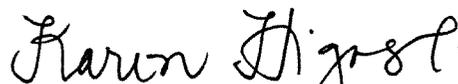
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CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 20620 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
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Karen Higashi

DATED: November 4, 2003