

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
VERIZON HAWAII INC. )  
For Approval of KMC Data LLC's )  
Adoption of the Negotiated )  
Interconnection Agreement Between )  
Verizon California, Inc. and )  
Sprint Communications Company L.P. )

DOCKET NO. 03-0266

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

2003 DEC 18 P 3:49

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DECISION AND ORDER NO. 20717

Filed Dec. 18, 2003  
At 2:30 o'clock P.M.

Karen Dignel.  
Chief Clerk of the Commission

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OF THE STATE OF HAWAII

In the Matter of the Application of)  
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DECISION AND ORDER

I.

Application

VERIZON HAWAII INC. ("Verizon Hawaii") requests commission approval of KMC DATA LLC's ("KMC Data") (together with Verizon Hawaii, "Parties") adoption of the negotiated interconnection agreement between Sprint Communications Company L.P. ("Sprint") and Verizon California, Inc. ("Verizon California") ("Agreement"), for the provision of telecommunications services in Hawaii, subject to the terms and conditions set forth in the adoption letter dated July 14, 2003 ("Adoption Letter").<sup>1</sup> Verizon filed its petition on

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<sup>1</sup>KMC Data's adoption of the Agreement is pursuant to paragraph 32 of the Bell Atlantic/Verizon California, fka GTE California Inc., Merger Agreement, released by the Federal Communications Commission on June 16, 2000, in CC Docket No. 98-184 ("Merger Conditions"). The Adoption Letter sets forth the manner in which the terms of the Agreement will be applied to KMC Data. With respect to KMC Data's adoption of the Agreement, Verizon asserts that the adoption is not taking place voluntarily, or through negotiation, as contemplated by 47 United

September 23, 2003, and attached for our review the Adoption Letter signed by Verizon Hawaii and KMC Data, and the Agreement.

Copies of the application and agreement were served on the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate").

## II.

### Background

#### A.

### Agreement

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 within its certificated territory in the State. Verizon Hawaii is an "incumbent local exchange carrier" as the term is defined in 47 USC § 252.

KMC Data is a certificated facilities-based carrier and reseller of telecommunications services in the State.<sup>2</sup>

The scope of the Parties' Agreement includes interconnection, resale, network elements, collocation, and other services. KMC's adoption of the Agreement became effective on July 16, 2003, and pursuant to the Merger Conditions, terminates on April 15, 2004.

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States Code ("USC") §§ 252(a) and 252(b), but rather pursuant to the Merger Agreement. See Adoption Letter at 3.

<sup>2</sup>See Decision and Order No. 18902, filed on September 17, 2001, in Docket No. 01-0254.

The Agreement was consummated between Verizon California and Sprint pursuant to 47 USC § 252(a), and addresses interconnection services provided pursuant to 47 USC § 251. Hawaii Administrative Rules ("HAR") § 6-80-54 requires that all agreements regarding access, interconnection, unbundling, and network termination adopted by negotiation or arbitration be submitted to the commission for review and approval. The Agreement is not an arbitrated agreement, but one that was negotiated originally by Verizon California and Sprint. The Adoption Letter, however, was negotiated between the Parties, and accordingly, we will treat the Agreement as a negotiated interconnection agreement, conducting our review pursuant to 47 USC § 252(e) and HAR § 6-80-54.

B.

Consumer Advocate's Position

The Consumer Advocate concluded that the terms and conditions of the Agreement do not discriminate against a telecommunications carrier not a party to the Agreement. However, it discovered rate differences in the Agreement that initially caused it some concern.<sup>3</sup> Nonetheless, upon an analysis of the rate differences, the Consumer Advocate determined that

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<sup>3</sup>Specifically, the Consumer Advocate noted a difference in the Reciprocal Compensation Traffic Tandem Rate ("RCTTR") and Tandem Transit Service Charge ("TTSC") as set forth in the rates in the Excel Agreement in Docket No. 02-0175. Verizon Hawaii attributed the difference in rates to an incorrect use of the Interisland Transport Termination rate, instead of the Intraisland Transport Termination rate in determining the RCTTR and TTSC charges.

these rate differences are slight, and do not justify a finding of discrimination towards any other telecommunications carriers.<sup>4</sup> The Consumer Advocate also determined that the instant Agreement appears to be consistent with the public interest, convenience, and necessity objectives of promoting competition in the telecommunications industry.<sup>5</sup>

The Consumer Advocate, thus, will not object to the commission's approval of KMC Data's adoption of the Agreement. The Consumer Advocate reserves its right, however, to analyze any rate differences with Verizon Hawaii in future applications seeking commission approval of interconnection agreements.

### III.

#### Findings and Conclusions

HAR § 6-80-54 and 47 USC § 252(e) provide that we may reject an agreement only if:

- (1) The agreement, or any portion of the agreement, discriminates against a telecommunications carrier not a party to the agreement; or

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<sup>4</sup>To that end, the Consumer Advocate filed a letter with the commission on December 12, 2003, in which it corrected an inadvertent statement made in its SOP. The last sentence in Section III.1 of its SOP should read "The Company, however, should update the Agreement with the rate changes reflected in its response to the Consumer Advocate's inquiries of Docket No. 03-0199 in future amendments to agreements, or when using the Agreement as the basis for negotiation of future interconnections agreements."

<sup>5</sup>See 47 USC § 252(e)(2)(A) and HAR § 6-80-54(a)(1).

- (2) The implementation of the agreement, or any portion of the agreement, is not consistent with the public interest, convenience, and necessity.

Upon review, we find that adoption of the Agreement does not appear to discriminate against other telecommunications carriers, and the implementation of the Agreement is consistent with the public interest, convenience, and necessity. Accordingly, we conclude that adoption of the Agreement should be approved.

#### IV.

##### Orders

###### THE COMMISSION ORDERS:

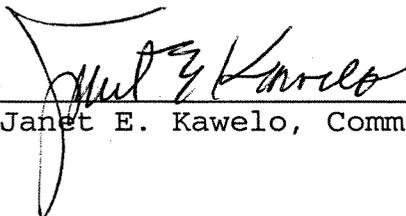
1. Verizon's request for approval of KMC Data's adoption of the interconnection agreement entered into between Verizon California and Sprint, filed on September 23, 2003, is approved.
2. The Consumer Advocate reserves its right to analyze any rate differences in future Verizon Hawaii applications for approval of interconnection agreements.
3. This docket is closed.

DONE at Honolulu, Hawaii this 18th day of December,  
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:

  
Benedyne S. Stone  
Commission Counsel

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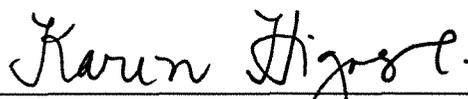
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 20717 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

JOEL K. MATSUNAGA  
VICE PRESIDENT-EXTERNAL AFFAIRS  
VERIZON HAWAII INC.  
P. O. Box 2200  
Honolulu, HI 96841

RILEY MURPHY  
KMC DATA LLC  
1545 Route 206  
Bedminster, NJ 07921

  
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Karen Higashi

DATED: December 18, 2003