

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

ORDER NO. 20727

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CONSUMER AFFAIRS
STATE OF HAWAII

Filed Jan. 5, 2004
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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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ORDER

I.

Introduction

The commission issued Decision and Order No. 20620 on November 4, 2003 ("D&O No. 20620") authorizing VERIZON HAWAII INC. ("Verizon Hawaii") to reduce its local directory assistance ("LDA") service allowance from ten (10) to five (5) calls per billing period, and increase its LDA service charge for calls that exceed the allowance from \$0.20 to \$0.50 per call.¹ The commission also required Verizon Hawaii to, among other things, include in its customer notification letters alternative sources of information "including on-line directory listings, listings on CD-ROM form, and printed directories of all major Hawaiian Islands" ("Informational Provision").

Verizon Hawaii filed a motion for reconsideration of D&O No. 20620 and a memorandum in support of its motion on November 13, 2003 (collectively, "Motion"). Verizon Hawaii's

¹D&O No. 20620 addresses Verizon Hawaii's requests to amend its LDA service as specified in its application filed on February 11, 2003 ("Application").

Motion was timely filed under Hawaii Administrative Rules ("HAR") § 6-61-137. Verizon Hawaii alleges that the Informational Provision of D&O No. 20620 is unreasonable and, based on its knowledge, unprecedented, and requests that the commission amend the decision and order by removing the Informational Provision requirement from D&O No. 20620 ("Reconsideration Request").

II.

Reconsideration Request

A.

Verizon Hawaii's Contentions

Verizon Hawaii alleges that the imposition of the Informational Provision requirement is a form of asymmetrical regulation that is "inefficient and unsound economic policy". Verizon Hawaii states that it discovered no example of the commission requiring any other carrier to inform its customers of competitive services offered by other entities. Moreover, Verizon Hawaii indicates that it found three (3) instances when competitors requested and received increases to their respective directory assistance charges without requiring them to inform their customers of alternatives offered by competitors. Verizon Hawaii argues that this treatment is disparate and discriminatory, and is inappropriate when dealing with a for-profit company, especially with regards to services for which competitive alternatives are available.

Verizon Hawaii also argues that government intervention is only required in response to "market failure", and that in all other respects, competition is furthered by allowing companies to freely compete. Verizon Hawaii contends that the commission should not require any carrier to advertise the services offered by competitors, without charge, or to list generic alternative sources of information. Furthermore, Verizon Hawaii represents that its customers are already aware of LDA alternatives, evidenced by the steep decline in Verizon Hawaii's LDA revenues, and that the market place is operating well without government interference.

B.

Commission Deliberations

Upon review of the Motion, the commission believes that Verizon Hawaii has misconstrued the Informational Provision requirement of D&O No. 20620. This provision was intended to require notice of alternative sources from Verizon Hawaii for informational purposes only. The commission did not require the advertisement for services offered by Verizon Hawaii's competitors.

Verizon Hawaii stressed that alternatives to its LDA services were available as justification for its request to amend LDA services in its Application. Alternatives such as printed directories, and phone listings on the Internet and in CD-ROM form were cited by Verizon Hawaii as viable alternatives to its

LDA service.² The DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate") appears to have based its assessment that Verizon Hawaii's proposal to decrease its LDA service allowance as reasonable, in part, on Verizon Hawaii's representations on the existence of alternatives.³ Through the imposition of the Informational Provision, the commission is simply requiring Verizon Hawaii to reiterate information that it used to justify its request to: (1) lower its LDA service allowance, and (2) increase its LDA service charges for calls over the allowance.

The Informational Provision does not require Verizon Hawaii to "advertise" the services of competing carriers or companies, as alleged by Verizon Hawaii. No mention of competitors was made in the provision. Additionally, the Informational Provision is required to be placed in Verizon Hawaii customer notification letter and, thus, the advisory would probably appear only once. The Informational Provision does not require Verizon Hawaii to provide the information of alternative sources on an on-going basis.

While we recognize that a similar provision may not have been imposed on another carrier, to date, that does not in itself preclude the commission from imposing the Informational Provision on Verizon Hawaii in this instance or imposing it in the future on any carrier under the commission's regulatory

²See, Application at 6.

³See, Consumer Advocate's Statement of Position filed on July 14, 2003, at 4.

jurisdiction. Moreover, we believe that the specific and unique facts and circumstances of this matter make the imposition of the Informational Provision reasonable and appropriate. For instance, unlike any other carrier under the commission's jurisdiction, Verizon Hawaii is the State's only incumbent local exchange carrier. The approved changes to Verizon Hawaii's LDA service will also affect thousands of its customers and the advisory is only being required to be included in its Verizon Hawaii customer notification letter and not on an on-going basis. Additionally, we note that Verizon Hawaii used the argument that its customers can access listings in printed directories, on the Internet, and in CD-ROM form to justify its LDA service amendment requests.

Based on the above, the commission is not convinced that the imposition of the Informational Provision should be removed. Thus, the commission concludes that Verizon Hawaii's Motion should be denied. However, upon review of the Verizon Hawaii's Reconsideration Request, the commission finds it necessary to clarify the Informational Provision of D&O No. 20620.

III.

Commission Clarification

Verizon Hawaii is under the misguided perception that the Informational Provision requires it to advertise the services of its competitors as alternatives to its LDA service.⁴ This is

⁴See, Motion at 3.

not the case. The Informational Provision requires Verizon Hawaii to advise its customers that other sources of information are available from Verizon Hawaii. While not specifically stated in the provision, we had envisioned that Verizon Hawaii would simply list alternative sources of information that it and its affiliates routinely provide to its customers and the public at-large. For instance, Verizon Hawaii or its affiliate annually compiles, prints, and distributes printed telephone directories known as "SuperPages" by islands. The Informational Provision requires Verizon Hawaii to inform its customers that phone listings can be obtained through the "SuperPages" and that "SuperPages" for each main Hawaiian island is available.

However, upon review of the Informational Provision of D&O No. 20620, specifically ordering paragraph six (6) of the decision and order (D&O No. 20620 at page 16), the commission finds that a clarification of that provision is warranted to fully convey the commission's intent. Accordingly, we conclude that ordering paragraph six (6) of D&O No. 20620 should be amended to read as follows:

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 directory information that are produced and provided by Verizon Hawaii and/or its affiliates that may include 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.

In all other respects D&O No. 20620 should remain unchanged.

IV.

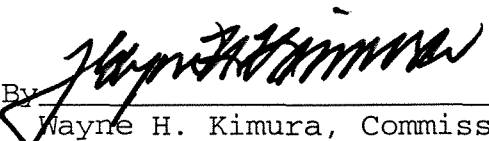
Orders


1. Verizon Hawaii's Motion is denied.
2. Ordering paragraph six (6) of D&O No. 20620 (D&O No. 20620 at page 16) is amended to reflect the language set for in Section III of this decision and order. In all other respects D&O No. 20620 remains unchanged.

DONE at Honolulu, Hawaii this 5th day of January, 2004.


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
03-0034.oc

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20727 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



Karen Higashi

DATED: January 5, 2004