

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
)
DIRECT TELEPHONE COMPANY, INC.)
)
Notice of Failure to Comply With)
the Commission's Laws and Rules;)
Order to Show Cause Why)
Respondent Should Not be Assessed)
a Civil Penalty or Have Its)
Operating Authority Suspended or)
Revoked.)
_____)

DOCKET NO. 04-0062

ORDER NO. 20876

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

2004 APR -1 A 8:24

RECEIVED

Filed March 31, 2004
At 9:00 o'clock A .M.

Karen Higashi.
Chief Clerk of the Commission

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

K. Higashi.

thirty (30) days before a proposed date of abandonment or discontinuance of a fully or partially competitive service.

On March 23, 2004, Respondent responded to the commission's request for information relating to a proposed discontinuation of its services, informed the commission that it will no longer offer its Unbundled Network Element Platform ("UNEP") product that "rides on the Verizon network," and admitted that it "overlooked the provisions of HAR § 6-80-123." Included as an attachment to its letter to the commission was a copy of a sample notice provided to the affected customers, which indicated that "dial tone service in Hawaii" would not be provided, effective April 4, 2004. However, Respondent assured the commission in its letter that it is working with its customers to transition them to alternate service providers, and that its initial discontinuation of service date of April 4, 2004 will not be strictly enforced.

HAR § 6-80-123 provides the commission with the discretion to, among other things, delay the effective date of the proposed abandonment or discontinuance of service. The commission finds that Respondent failed to comport with HAR § 6-80-123 by properly notifying the commission, the Consumer Advocate, and its customers of its intent to discontinue its service thirty (30) days prior to the discontinuance of service. Accordingly, the commission concludes that Respondent should be ordered to delay the discontinuance of its UNEP service until further order by the commission.

HRS § 269-15 and HAR § 6-68-14 authorize the commission to institute proceedings that may take the form of an order to show cause to investigate alleged or suspected violations of any rule, regulation, order, or other requirement of the commission. HRS § 269-28 further authorizes the commission, after a hearing on the matter, to assess a civil penalty not to exceed \$25,000 for each day of violation, neglect, or failure to conform to or comply with chapter 269 or any lawful order of the commission. HRS § 269-7.5(d) and HAR § 6-80-19 authorize the commission, after notice and hearing, to suspend or revoke any COA, in part or in whole, if the commission finds the holder violated any applicable State laws or commission rules. Accordingly, the commission may assess a civil penalty, or suspend or revoke Respondent's COA for failure to comply with the legal requirements set forth above, unless Respondent is able to show cause why such assessment, suspension or revocation should not occur.

THE COMMISSION ORDERS:

1. Respondent shall appear at 465 South King Street, Room B3, Honolulu, Hawaii 96813, at 9:00 a.m., on April 20, 2004 to show cause why Respondent should not be assessed a civil penalty or why Respondent's COA should not be suspended or revoked for failure to comply with the legal requirements set forth in this order.

2. Respondent may be represented by counsel. If Respondent does not retain counsel, Respondent may be represented at the hearing as follows: (a) an individual may

appear on his or her own behalf; (b) a partner may represent a partnership; and (c) an officer or authorized employee of a corporation, trust, or association may represent the corporation, trust, or association.

3. Pursuant to HAR § 6-68-15, if Respondent fails to appear on the date and at the time and place designated in this order, the commission may assume that the facts alleged in the order are true, and if the facts establish liability, the commission:

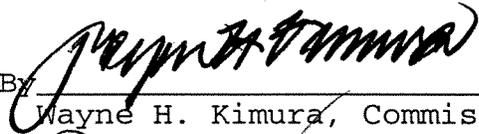
- a. Will issue a final decision and order; and
- b. May impose the maximum amount of penalties and assessments allowed under the regulatory law.

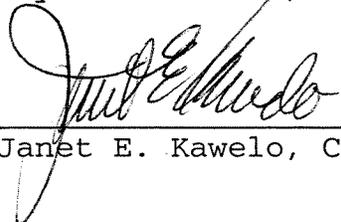
4. Respondent shall delay the discontinuance of its UNEP product service until further order by the commission.

DONE at Honolulu, Hawaii this 31st day of March, 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:


Catherine P. Awakuni
Commission Counsel

04-0062.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20876 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
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Karen Higashi

DATED: March 31, 2004