

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
)
 PUBLIC UTILITIES COMMISSION)
)
 Instituting a Proceeding to)
 Implement the Federal)
 Communications Commission's)
 ("FCC") Triennial Review Order,)
 FCC No. 03-36.)
 _____)

DOCKET NO. 03-0272

ORDER NO. 20881

RECEIVED
2004 APR - 1 A 8:25
DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

Filed March 31, 2004
At 12:00 o'clock P.M.

Karen Higashi.
Chief Clerk of the Commission

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 -----)
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PUBLIC UTILITIES COMMISSION) Docket No. 03-0272
)
Instituting a Proceeding to) Order No. 20881
Implement the Federal)
Communications Commission's)
("FCC") *Triennial Review Order*,)
FCC No. 03-36.)
-----)

ORDER

I.

Introduction

VERIZON HAWAII INC. ("Verizon Hawaii"), on behalf of the parties to this docket (the "TRO¹ Parties"),² informed the commission that the TRO Parties have reached a stipulation on all unresolved issues of this docket by a letter dated and filed on February 20, 2004. The TRO Parties' agreements were formally

¹"TRO" is also known as the *Triennial Review Order or In Re Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, and Deployment of Wireline Services Offering Advanced Telecommunications Capability*; CC Docket Nos. 01-338, 96-98, and 98-147; Report and Order and Order on Remand and Further Notice of Proposed Rulemaking; FCC No. 03-36; Adopted February 20, 2003; Released August 21, 2003.

²The TRO Parties are as follows: (1) Verizon Hawaii; (2) the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY; (3) AT&T COMMUNICATIONS OF HAWAII, INC.; (4) PACIFIC LIGHTNET, INC.; (5) TIME WARNER TELECOM OF HAWAII, L.P. DBA OCEANIC COMMUNICATIONS; (6) THE UNITED STATES DEPARTMENT OF DEFENSE and ALL OTHER FEDERAL EXECUTIVE AGENCIES; (7) DIRECT TELEPHONE COMPANY INC.; (8) SANDWICH ISLES COMMUNICATIONS, INC.; and (9) MCIMETRO ACCESS TRANSMISSION SERVICES, INC.

memorialized in a stipulation filed on March 12, 2004, for commission review and approval ("Stipulation").

II.

Stipulation

The *TRO* Parties agree in the Stipulation that the commission "need not conduct any impairment or other related reviews at this time, including any review of the appropriate cross over point between enterprise and mass-market customers, and the [*TRO*] Parties waive any right to such a proceeding." The Stipulation also, among other things, sets forth the *TRO* Parties' agreements on how future reviews concerning the cross over point between enterprise and mass-market customers and impairment proceedings shall be initiated and preliminarily conducted. Furthermore, the Stipulation indicates that the agreements reached by the *TRO* Parties "effectively terminates the need for this docket" and the *TRO* Parties' request that the commission approve the Stipulation and close this docket. The *TRO* Parties also request that the schedule of proceedings of this docket be suspended.

III.

Discussion

The commission initiated this docket to address our obligations under the *TRO*.³ The Stipulation appears to be the result of negotiations between the *TRO* Parties addressing all unresolved matters of this docket.⁴ Upon review, the commission finds the Stipulation to be reasonable and concludes that the Stipulation should be approved, in its entirety.⁵

The commission also finds and concludes that this docket should be closed since our approval of the Stipulation effectively ends the need for further proceedings in this docket.

³The United States Court of Appeals for the District of Columbia Circuit ("D.C. Court of Appeals") issued a decision in *United States Telecom Association v. Federal Communications Commission and United States of America*, No. 00-1012, Argued on January 28, 2004 and Decided on March 2, 2004 that vacated and remanded portions of the *TRO*. The D.C. Court of Appeals temporarily stayed its own decision for a minimum of 60 days.

⁴In this docket, the commission addresses its obligation under the *TRO* through two (2) distinct parts, a 90-day Review (Part I) and a 9-month Review (Part II). The commission decided that a 90-day review should not be undertaken in Order No. 20712, filed on December 11, 2003, largely due to the unresponsiveness of the Hawaii competitive local exchange carriers who did not request that such a proceeding occur as ordered. The *TRO* Parties submitted a stipulated proposed prehearing order on January 12, 2004, setting forth the issues, a schedule of proceedings, and all other procedural matters to govern the 9-month Review in this docket. The commission issued Prehearing Order No. 20762 approving the *TRO* Parties' stipulated proposed prehearing order, with one minor technical amendment, on January 15, 2004. The *TRO* Parties address all the issues of Prehearing Order No. 20762 through the Stipulation.

⁵The *TRO* Parties' request that the commission suspend this docket's schedule of proceedings is, at this juncture, moot. Thus, we believe it unnecessary to further address this matter.

IV.


Orders

THE COMMISSION ORDERS:


1. The Stipulation filed on March 12, 2004, is approved, in its entirety.
2. This docket is closed.

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:



Ji Sook Kim
Commission Counsel

03-0272.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20881 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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