

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
PACIFIC CARRIAGE LIMITED)
)
For a Declaratory Ruling.)
_____)

DOCKET NO. 04-0172

ORDER NO. 21230

Filed August 9, 2004
At 2 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

RECEIVED
2004 AUG 11 A 8:10
DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

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 the Petition of)
)
 PACIFIC CARRIAGE LIMITED) Docket No. 04-0172
)
 For a Declaratory Ruling.) Order No. 21230
 _____)

ORDER

I.

Background

PACIFIC CARRIAGE LIMITED, ("Petitioner") seeks a declaratory ruling that its proposed transaction involving the provision of certain limited services on Petitioner's international submarine fiber-optic cable system is not subject to regulation by the commission and does not require certification under chapter 269, Hawaii Revised Statutes ("HRS") and the commission's regulations promulgated thereunder.¹ Petitioner makes its request for declaratory ruling in accordance with Hawaii Administrative Rules ("HAR") chapter 6-61, subchapter 16 and HRS § 91-8.

Petitioner served copies of its petition on the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate").

On August 4, 2004, the Consumer Advocate filed its statement of position, concluding that Petitioner should be

¹Petitioner's petition, filed on July 9, 2004.

considered a public utility under the arrangements set forth in its petition.

II.

Discussion

The commission may issue a declaratory ruling on the applicability of any statute, administrative rule, or order of the commission. HAR §§ 6-61-159 and 6-61-160. The commission must act on such petition within forty-five (45) days after its submission. HAR § 6-61-162. The 45th day governing timely commission action in the instant docket is on or about August 23, 2004. However, upon a finding of good cause shown, the commission may decline to issue a declaratory ruling. HAR § 6-61-164.

In light of the Consumer Advocate's conclusion that the Petitioner should be considered a public utility if it were to engage in the proposed activity set forth in its petition, the commission believes it is necessary to allow the Petitioner to respond to the Consumer Advocate's statement of position and the conclusions contained therein. Therefore, the commission finds good cause to refrain from issuing a declaratory ruling within the forty-five (45)-day deadline, pending the commission's receipt and review of Petitioner's response to the Consumer Advocate's statement of position.

III.

Order

THE COMMISSION ORDERS:

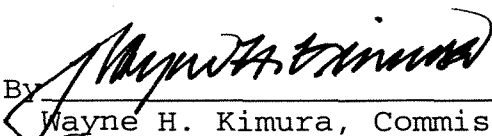
1. Petitioner may respond to the Consumer Advocate's statement of position, filed on August 4, 2004, not later than August 23, 2004.

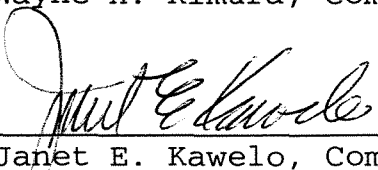
2. Unless ordered otherwise, the commission shall issue a declaratory ruling on the matter within forty-five (45) days of: (a) the filing of Petitioner's response, or (b) the lapse of the deadline stated in paragraph 1, whichever is earlier.

DONE at Honolulu, Hawaii AUG 09 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

04-0172.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 21230 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

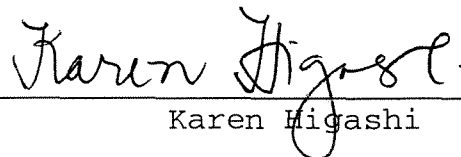
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Karen Higashi

DATED: AUG 09 2004