

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
)
PUBLIC UTILITIES COMMISSION)
)
Instituting a Proceeding of)
Commercial Mobile Radio)
Service ("CMRS") Providers in)
The State of Hawaii, Including)
An Investigation to Determine)
Whether it is Consistent with)
The Public Interest to Exempt)
CMRS Providers, their)
Services, or Both, from Any)
Provisions of Hawaii)
Revised Statutes Chapter 269.)
_____)

DOCKET NO. 03-0186

ORDER NO. 21324

Filed August 27, 2004
At 2 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

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

2004 AUG 30 A 8:39

RECEIVED

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

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OF THE STATE OF HAWAII

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Docket No. 03-0186
Order No. **21324**

ORDER

I.

Introduction

On April 7, 2004, the commission issued Decision and Order No. 20890 waiving certain regulatory requirements previously imposed on commercial mobile radio service ("CMRS") providers, pursuant to Hawaii Revised Statutes ("HRS") § 269-16.9 and Hawaii Administrative Rules ("HAR") § 6-80-135.

On July 12, 2004, the DIVISION OF CONSUMER ADVOCACY OF THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), on behalf of the Stipulating Parties¹,

¹Besides the Consumer Advocate, the Stipulating Parties comprise of AT&T WIRELESS PCS, LLC, AT&T WIRELESS SERVICES OF HAWAII, INC., CELLCO PARTNERSHIP, dba VERIZON WIRELESS, NEXTEL WEST CORPORATION, NPCR, INC., SPRINTCOM, INC., dba SPRINT PCS, T-MOBILE USA, INC., GENERAL TELCOURIER, INC., dba PAGER ONE, ISLAND PAGE, INC., ARCH WIRELESS OPERATING COMPANY, INC. (fka, MOBILE

submitted to the commission, for its review and approval, a stipulated proposed "registration form" type of application or petition ("Proposed Stipulated Application Form") for a certificate of registration ("COR") to comply with Ordering Paragraph No. 5 of Decision and Order No. 20890.

II.

"Registration Form" Type of Application or Petition

Among other things, Decision and Order No. 20890 streamlined the process for CMRS providers to obtain a certificate of registration ("COR") by holding that

CMRS providers may now obtain a COR by filing a "registration form" type of application or petition that will be agreed upon by the Stipulating Parties and approved by the commission, or they can file their own application or petition that suits their needs so long as it contains the information specified in [HAR] § 6-80-17(c)(1) and (d), except the CMRS provider will not be required to provide the information required in HAR § 6-80-(c)(1)(C) [(D), and (E)]. In other words, a CMRS provider's application or petition must only include information on the type of telecommunications service to be offered by the CMRS provider and the geographical scope of the CMRS provider's proposed operation.

Decision and Order No. 20890 at 28 (footnotes omitted).

COMMUNICATIONS CORPORATION OF AMERICA, dba RAM PAGING HAWAII), MOBILE ONE, INC., VERIZON HAWAII INC, and AT&T COMMUNICATIONS OF HAWAII, INC.

Although the Stipulating Parties' Proposed Stipulated Application Form for COR appears to be, in concept, acceptable, the commission is unable to approve such form because it does not contain the necessary instructions and general information for filing an application for COR. In the commission's view, these instructions and general information will further streamline the process and assist in expediting the review and approval process in obtaining a COR. Therefore, the commission concludes that the Stipulating Parties' request for approval of their Proposed Stipulated Application Form for COR should be denied.²

Instead, the commission will adopt and endorse the application form for COR attached hereto as Exhibit "A". Exhibit "A" incorporates many aspects of the Stipulating Parties' Proposed Stipulated Application Form for COR and will be deemed the official application form for COR that may be utilized by CMRS providers and cellular resellers. Copies of Exhibit "A" will be made available at the commission's offices and will be also accessible soon through the commission's website at: www.hawaii.gov/budget/puc.

²Our denial of the Stipulating Parties' Proposed Stipulated Application Form does not prevent the Stipulating Parties or any other applicant from utilizing such form in lieu of a formal "pleading type" of application so long as it complies with the applicable procedural requirements of the commission.

III.

Corrections to Decision and Order No. 20890

To correct inadvertent clerical errors in Decision and Order No. 20890, and to ensure consistency and avoid any confusion, we conclude that Decision and Order No. 20890 should be corrected as follows:

1. Section IV.C., page 17, should be corrected as follows:

HAR §§ 6-80-92 [(a)-(e)], 6-80-101, and 6-80-115 are waived only in part. As noted below, HRS §[§] 269-36 [and 269-37] and HAR §§ 6-80-39, 6-80-60, 6-80-61, [and] 6-80-62, 6-80-63, 6-80-64, 6-80-65, 6-80-66, and 6-80-67 are waived subject to conditions, limitations or clarification. (footnote omitted)

2. Section IV.C., page 17, n. 15, should be corrected as follows:

We find that waiving HAR §§ 6-80-92(c), (d) and (e), 6-80-101(b) and (c), and 6-80-115(a)(1) through (6), [and] (a)(8) and (9), and 6-80-115(b) would not be consistent with the public interest.

3. Section IV.D., page 18, second bullet point, should be corrected as follows:

In the COR application or petition, the CMRS provider shall provide the information specified in HAR §§ 6-80-17(c)(1) and (d), except that the CMRS provider will not be required to provide the information required in HAR §§ 6-80-17(c)(1)(C), [and] (D) and (E).

4. Section V., page 28, should be corrected as follows:

CMRS providers may now obtain a COR by filing a "registration form" type of application or petition that will be agreed upon by the Stipulating Parties and approved by the commission, or they can file their own application or

petition that suits their needs so long as it contains the information specified in HAR 6-80-17(c)(1) and (d), except the CMRS provider will not be required to provide the information required in HAR §§ 6-80-17(c)(1)(C), [and] (D), and (E).

5. Ordering Paragraph 1, page 30, should be corrected as follows:

1. The regulatory requirements in HRS Chapter 269 and HAR Chapter 6-80, as more specifically described in Section [III.] IV.C. and D. above, are waived for any and all CMRS providers in Hawaii, pursuant to HRS § 269-16.9(e) and HAR § 6-80-135, subject to the applicable conditions, limitations and clarification discussed herein.

6. Ordering Paragraph 5, page 32, should be corrected as follows:

5. Within ninety (90) days from the date of this decision and order, the Stipulating Parties shall submit to the commission a stipulated "registration form" type of application or petition for a [COA] COR for the commission's review and approval.

For purposes of the corrections noted above, deletions are bracketed and additions are underscored. In all other respects, Decision and Order No. 20890 remains unchanged.

IV.

Orders

THE COMMISSION ORDERS:

1. The Stipulating Parties' Request for Approval of their Proposed Stipulated Application Form for COR is denied.

2. The commission's application form for COR attached hereto as Exhibit "A" is adopted, endorsed and shall be deemed the

official application form for COR for CMRS providers and cellular resellers.

3. Decision and Order No. 20890 is corrected consistent with the terms and conditions of this order.

4. In all other respects, Decision and Order No. 20890 remains unchanged.

DONE at Honolulu, Hawaii AUG 27 2004

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By Wayne H. Kimura
Wayne H. Kimura, Commissioner

By Janet E. Kawelo
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

Kris N. Nakagawa
Kris N. Nakagawa
Commission Counsel

03-0186.eh

PUBLIC UTILITIES COMMISSION
465 SOUTH KING STREET, ROOM 103
HONOLULU, HAWAII 96813
TELEPHONE: (808) 586-2020
FACSIMILE: (808) 586-2066

INSTRUCTIONS AND GENERAL INFORMATION

**APPLICATION FOR CERTIFICATE OF REGISTRATION ("COR") TO PROVIDE
TELECOMMUNICATIONS SERVICE WITHIN THE STATE OF HAWAII AS A
COMMERCIAL MOBILE RADIO SERVICE ("CMRS") PROVIDER OR
RESELLER OF CELLULAR SERVICES**

1. APPLICATION FORM (Hawaii Administrative Rules ("HAR") § 6-61-18):

The application must be typewritten and signed in black ink on 8 ½ x 11 paper. All exhibits attached to the application should be identified by consecutive numbering, e.g., Exhibit 1, Exhibit 2, etc.

If additional space is required to fully respond to any requirement listed in the application, that response should be attached as an Exhibit.

2. FILING FEE (HAR § 6-61-24):

A filing fee of \$30.00 must be paid at the time of filing the application with the Public Utilities Commission. Checks should be payable to the Public Utilities Commission.

3. NUMBER OF COPIES REQUIRED (HAR § 6-61-18):

- a. Original and 8 copies to:

Public Utilities Commission
465 South King Street, Room 103
Honolulu, Hawaii 96813

- b. 2 copies to:

Division of Consumer Advocacy
Department of Commerce and Consumer Affairs
P.O. Box 541
Honolulu, Hawaii 96809

Exhibit "A"

4. RULES:

Specific filing instructions for applications for a COR are contained in the following Hawaii Administrative Rules and are available at a nominal cost:

HAR Chapter 6-61 Rules of Practice and Procedure Before
the Public Utilities Commission

HAR Chapter 6-80 Competition in Telecommunications
Services

Or online at: www.state.hi.us/budget/puc

5. Fill in the date and sign the application.

Complete the **Verification** in the presence of a notary public and sign the **Certificate of Service**.

6. Pursuant to Hawaii Revised Statutes ("HRS") § 269-30, a CMRS provider or reseller of cellular services must pay a public utility fee to the Public Utilities Commission, which is payable on July 31st and December 31st of each year.
7. A CMRS provider or cellular reseller is subject to E911 surcharge requirements, pursuant to Act 159, 2004 Session Laws of Hawaii.
8. A CMRS provider or cellular reseller is subject to Telecommunications Relay Service Surcharge Requirements, pursuant to HRS § 269-16.6 and all applicable commission orders.
9. In the event that there is a conflict between this form and the provisions of the applicable Hawaii Revised Statutes or Hawaii Administrative Rules, the applicable statutes or rules prevail.

***NOTE - USE OF THIS FORM DOES NOT NECESSARILY ENSURE COMPLIANCE WITH ALL APPLICABLE LAWS, RULES AND REGULATIONS. IT IS APPLICANT'S RESPONSIBILITY TO CONFORM WITH ALL APPLICABLE LAWS, RULES AND REGULATIONS.

***NOTE - DO NOT DUPLICATE OR FILE THIS INFORMATION SHEET.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
_____)
Name of CMRS Provider or Reseller)
of Cellular Services)
)
For a Certificate of Registration.)
_____)

<u>For Commission Use Only</u>
Docket No. _____

CMRS Provider's or Reseller of Cellular Services'
Application for a Certificate of Registration;

Verification;

and

Certificate of Service

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII**

In the Matter of the Application of)
)
)
_____)
Name of CMRS Provider or Reseller)
of Cellular Services)
)
For a Certificate of Registration.)
_____)

<u>For Commission Use Only</u>
Docket No. _____

I. INTRODUCTORY STATEMENT.

A. Applicant's legal name as registered with the State of Hawaii Department of Commerce and Consumer Affairs.

B. Provide the name of any affiliated business organization that operates in Hawaii.

C. Provide a description of the relationship between Applicant and the affiliated business organization(s) including whether the affiliated business organization(s) is a public utility regulated in Hawaii.

II. APPLICANT'S PRINCIPAL PLACE OF BUSINESS AND TELEPHONE NUMBER.

Name _____

Trade Name _____

Address _____

_____ Zip Code _____

Business Phone _____ Facsimile Number _____

E-mail _____

III. NAME, TITLE, ADDRESS, TELEPHONE NUMBER, FACSIMILE NUMBER, AND E-MAIL ADDRESS WHERE CORRESPONDENCE OR COMMUNICATIONS PERTAINING TO THE APPLICATION SHOULD BE DIRECTED.

Name _____

Address _____

_____ Zip Code _____

Business Phone _____ Facsimile Number _____

E-mail _____

IV. NAME, TITLE, ADDRESS, TELEPHONE NUMBER, FACSIMILE NUMBER, AND E-MAIL ADDRESS WHERE QUESTIONS CONCERNING THE ONGOING OPERATIONS OF APPLICANT FOLLOWING ISSUANCE OF CERTIFICATE OF REGISTRATION SHOULD BE DIRECTED.

Name _____

Address _____

_____ Zip Code _____

Business Phone _____ Facsimile Number _____

E-mail _____

V. NAME, TITLE, ADDRESS, TELEPHONE NUMBER, FACSIMILE NUMBER AND E-MAIL ADDRESS WHERE QUESTIONS REGARDING CUSTOMER SERVICE OR PROBLEMS SHOULD BE DIRECTED.

Name _____

Address _____

_____ Zip Code _____

Business Phone _____ Facsimile Number _____

E-mail _____

VI. NAME, TITLE, ADDRESS, TELEPHONE NUMBER, FACSIMILE NUMBER AND E-MAIL ADDRESS OF THE CONTACT PERSON FOR THE HAWAII TELECOMMUNICATIONS RELAY SERVICE FUND.

Name_____

Address_____

_____ Zip Code_____

Business Phone_____ Facsimile Number_____

E-mail_____

VII. NAME, TITLE, ADDRESS, TELEPHONE NUMBER, FACSIMILE NUMBER AND E-MAIL ADDRESS OF THE CONTACT PERSON FOR THE HAWAII WIRELESS ENHANCED 911 FUND.

Name_____

Address_____

_____ Zip Code_____

Business Phone_____ Facsimile Number_____

E-mail_____

VIII. DESCRIPTION OF APPLICANT.

1. Attach a copy of the Federal Communications Commission license as Exhibit 1, OR _____ The Applicant does not require an FCC license as the Carrier is a reseller of cellular services.
2. If the corporation, partnership, limited liability company or limited liability partnership was formed under laws other than the laws of the State of Hawaii, the applicant must also attach a copy of its current certificate of authority to transact business in the State of Hawaii as Exhibit 2.

XI. TYPE OF TELECOMMUNICATIONS SERVICE TO BE OFFERED
(HAR § 6-80-17(c)(1)(A)).

Include a detailed description of the type of telecommunications service to be offered.

XII. GEOGRAPHICAL SCOPE OF CARRIER'S PROPOSED OPERATION
(HAR § 6-80-17(c)(1)(B)).

Provide a detailed description of Applicant's proposed geographical scope of the carrier's proposed operations, as stated in its FCC license, if applicable.

XIII. WHEREFORE, Applicant prays that the PUBLIC UTILITIES COMMISSION enter an order granting it a certificate of registration in accordance with HAR §§ 6-80-17(d) and 6-80-18(b).

APPLICANT certifies that the representations in this application and attached exhibits are true, correct, and complete, based on Applicant's knowledge and belief, and made in good faith.

DATED this _____ day of _____, 20__.

(Signature in black ink)

Written notices of changes in the foregoing information must be filed with the Commission within thirty (30) days from the date the change becomes effective.

VERIFICATION

_____)
(Name of State)
_____)
(Name of County)

_____, being duly sworn, states that
(Name of Applicant)

he/she files this application as _____, that
(Title)

in such capacity, he/she is qualified and authorized to file and
verify this application; and that he/she has carefully examined all
the statements and matters contained in the application; that all
such statements made and matters set forth therein are true and
correct to the best of his/her knowledge, information, and belief.
Affiant further states that the application is made in good faith
and with the intention of presenting evidence in support of each
statement in the application.

_____)
(Signature in black ink)

Subscribed and sworn to before me this
_____ day of _____

_____)
Notary Public

_____)
My commission expires

CERTIFICATE OF SERVICE

I hereby certify that two (2) copies of the foregoing application, together with this Certificate of Service, have been served by United States mail, postage prepaid, to:

DIVISION OF CONSUMER ADVOCACY
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
P.O. Box 541
Honolulu, HI 96809

DATED this _____ day of _____, 20____.

(Signature in black ink)

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 21324 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

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CINDY MANHEIM, ESQ.
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AT&T WIRELESS PCS, LLC

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Certificate of Service

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Certificate of Service

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JOSEPH F. MULLIN, VICE PRESIDENT
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Certificate of Service

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Karen Higashi

Karen Higashi

DATED: AUG 27 2004