

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
 )  
 PONO ENTERPRISES )  
 )  
 For Approval of a Certificate of )  
 Registration to Provide Intrastate )  
 Pay Telephone Service Within )  
 Hawaii. )  
 \_\_\_\_\_ )

DOCKET NO. 04-0164

DECISION AND ORDER NO. 21348

Filed Sept. 14, 2004  
At 10 o'clock A.M.

Karen Higashi  
Chief Clerk of the Commission

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

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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 Application of )  
PONO ENTERPRISES ) Docket No. 04-0164  
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Pay Telephone Service Within )  
Hawaii. )

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DECISION AND ORDER

I.

Introduction

PONO ENTERPRISES ("Applicant") requests a certificate of registration ("COR") to provide pay telephone service within the State of Hawaii (the "State").<sup>1</sup> Applicant makes its request pursuant to Hawaii Revised Statutes ("HRS") § 269-7.5 and Hawaii Administrative Rules ("HAR") §§ 6-80-17 and 6-82-11.

Applicant served a copy of its application on the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"). On July 27, 2004, the Consumer Advocate filed its statement of position ("SOP") informing the commission that it does not object to approval of the application, subject to certain qualifications.<sup>2</sup>

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<sup>1</sup>Applicant's application, filed on July 7, 2004.

<sup>2</sup>The Consumer Advocate raises various concerns and recommendations in its SOP relating to Applicant's proposed tariff, which is discussed in more detail in Section III., below.

II.

Description of Applicant and its Proposed Services

Applicant is a Hawaii sole proprietorship with its principal place of business in Kaneohe, Hawaii.

Applicant intends to provide pay telephone service within the State. Specifically, Applicant proposes to offer and provide pay telephone services on the island of Oahu.

III.

A.

COR

Upon review of the application, the commission finds that Applicant has fulfilled the requirements of HAR § 6-80-17(d). Accordingly, the commission will grant Applicant a COR to operate as a pay telephone service provider within the State.

B.

Proposed Tariff

In its SOP, the Consumer Advocate provides five (5) recommended revisions to Applicant's proposed tariff. Based on the commission's review of the Consumer Advocate's recommended revisions, we only find its recommended revisions nos. 1 through 3 (in part) to be reasonable and necessary. As discussed further below, we find that recommended revisions nos. 3 (in part), 4, and 5 are unnecessary and that it is not reasonable to impose such conditions at this time.

Contrary to the Consumer Advocate's recommended revision no. 3, we find it reasonable to allow the customer thirty (30) days rather than five (5) days to file the complaint. Extending the time period will ensure that the customer has adequate recourse to seek relief from the commission. Concerning recommended revision no. 4, the Consumer Advocate recommends that Applicant "provide a description and associated rates for TRS services in its tariff" if Applicant's equipment is capable of providing intrastate telecommunications relay services for the hearing impaired. This recommendation is based purely on a hypothetical situation, and is not based on relevant facts supported in the record. Thus, we will not adopt such a recommendation. Finally, concerning recommended revision no. 5, the Consumer Advocate recommends that we direct Applicant to correct a typographical error in Applicant's application, which we decline to adopt for the following reasons. First, this is not a recommended revision to Applicant's proposed tariff, as alluded to by the Consumer Advocate. Second, notwithstanding the typographical error, it is apparent that Applicant's cite to "Chapter 6-28" should have been "Chapter 6-82."

Based on the foregoing, the commission concludes that Applicant should revise its proposed tariff as follows:

1. The definition of **Completed Call** set forth in Section 2.1. (Original Page 5) should be amended to reflect "include" rather than "in clued." "Hawaii P.U.C. Tariff No. 1" and "Original Page 5"

should also be appropriately referenced on the top right corner of the page.

2. Section 2.5.3. (Original Page 11) should be amended to read as follows: "The customer is responsible for payment of all charges that are not in dispute for service provided." (New text underscored.)

3. Consistent with HAR § 6-80-107(4), Section 2.5. (Original Page 11) should be amended by inserting the following new section "2.5.5.":

"If the customer and Company are unable to resolve the dispute to their mutual satisfaction, the Company will inform the customer, prior to termination, of the right to file a complaint with the Commission. The complaint must be filed within thirty (30) days of the customer's notification of the Company's determination of the dispute.

The address and telephone number of the Commission is:

Hawaii Public Utilities Commission

465 South King Street, Room 103

Honolulu, Hawaii 96813

Telephone: (808) 586-2020

Facsimile: (808) 586-2066"

IV.

Orders

THE COMMISSION ORDERS:

1. Applicant is granted a COR to operate as a pay telephone service provider within the State.

2. As the holder of a COR, Applicant shall be subject to all applicable provisions of HRS chapter 269, HAR chapters 6-80, 6-81, and 6-82; any other applicable State laws and commission rules; and any orders that the commission may issue from time to time.

3. Applicant shall file its tariffs in accordance with HAR §§ 6-80-39 and 6-80-40. Applicant's tariffs shall comply with the provisions of HAR chapters 6-80 and 6-82. In the event of a conflict between any tariff provision and State law, State law shall prevail.

4. Applicant shall conform its initial tariff to the applicable provisions of HAR chapters 6-80 and 6-82 by, among other things, incorporating the tariff revisions set forth in Section III. of this decision and order. An original and eight (8) copies of the initial tariff shall be filed with the commission, and two (2) additional copies shall be served on the Consumer Advocate. Applicant shall ensure that the appropriate issued and effective dates are reflected in its tariffs.


5. Within thirty (30) days from the date of this decision and order, Applicant shall pay a public utility fee of \$60, pursuant to HRS § 269-30. The business check shall be made payable to the Hawaii Public Utilities Commission, and sent to

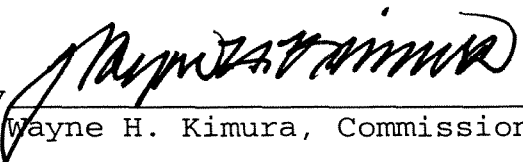
the commission's office at 465 S. King Street #103, Honolulu, HI, 96813.

6. Failure to promptly comply with the requirements set forth in paragraphs 3 to 5 may constitute cause to void this decision and order, and may result in further regulatory action, as authorized by law.

DONE at Honolulu, Hawaii SEP 14 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:

  
Kris N. Nakagawa  
Commission Counsel

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21348 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

PONO ENTERPRISES  
P. O. Box 6194  
Kaneohe, HI 96744

  
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Karen Higashi

DATED: SEP 14 2004