

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
VERIZON HAWAII INC.)
For Approval of SOUTHWESTERN)
BELL COMMUNICATIONS, INC.'S)
Adoption of the Negotiated)
Interconnection Agreement)
Between Think 12 Corporation)
and VERIZON HAWAII INC.)
_____)

Docket No. 04-0315
Decision and Order No. **21528**

DECISION AND ORDER

I.

Introduction

VERIZON HAWAII INC. ("Verizon Hawaii") filed SOUTHWESTERN BELL COMMUNICATIONS, INC.'S, dba SBC LONG DISTANCE ("SBCS'") adoption of the negotiated interconnection agreement between Think 12 Corporation, dba Hello Depot ("Hello Depot") and Verizon Hawaii ("Underlying Agreement") and Amendment No. 1 to the Underlying Agreement ("Amendment") (collectively, the "Interconnection Agreement") with the commission through a letter on October 28, 2004 ("Petition"), pursuant to Section 252(i) of the federal Telecommunications Act of 1996 ("Act").¹ The commission will construe Verizon Hawaii's Petition as a request for commission approval of SBCS' adoption of the Interconnection Agreement.

¹The Act amended Title 47 of the United States Code ("U.S.C."). Section references in this decision and order are, thus, to those in 47 U.S.C., as amended by the Act.

Verizon Hawaii also filed, with the Petition, the Interconnection Agreement and an adoption letter dated October 11, 2004 ("Adoption Letter"), signed by representatives of Verizon Hawaii and SBCS (collectively, the "Parties"). SBCS' adoption of the Interconnection Agreement is subject to conditions and reservations set forth in the Adoption Letter.

Copies of Verizon Hawaii's Petition, with its various attachments, were served on the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"). The Consumer Advocate filed its Statement of Position on November 30, 2004 ("Statement of Position"), informing the commission that it does not object to the approval of Verizon Hawaii's request.²

II.

Background

A.

The Parties

Verizon Hawaii is a corporation duly organized and existing under and by virtue of the laws of the State of Hawaii ("State"). It is engaged in the provision of varied telecommunications services to its customers and the general public within Verizon Hawaii's chartered territory in the State. Verizon Hawaii is an incumbent local exchange carrier, as contemplated by Section 252 of the Act.

²No person moved to intervene or participate in this docket.

SBCS first received commission authority to provide telecommunications services in the State as a reseller.³ Later, in Decision and Order No. 20894, filed on April 8, 2004, in Docket No. 03-0416, the commission granted SBCS' request to amend its certificate of authority ("COA") to allow it to operate as a reseller and facilities-based carrier of intrastate telecommunications services in the State.

B.

SBCS' Adoption

The commission approved the Interconnection Agreement in Decision and Order No. 21126, filed on July 19, 2004, in Docket No. 04-0121 ("D&O No. 21126").⁴ In that decision and order, the commission found that the terms and conditions of the Interconnection Agreement do not discriminate against other telecommunications carriers and that the implementation of the Interconnection Agreement is consistent with the public interest, convenience, and necessity.⁵

³See, Decision and Order No. 15728, filed on July 28, 1997, in Docket No. 97-0212.

⁴The commission reviewed and approved both the Underlying Agreement and the Amendment in D&O No. 21126.

⁵See, D&O No. 21126 at 4.

SBCS' adoption of Hello Depot's Interconnection Agreement with Verizon Hawaii is permitted under Section 252(i) of the Act which states that:

A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

The Adoption Letter sets forth, among other things, SBCS' intent to adopt the terms of Hello Depot's Interconnection Agreement, enumerates Verizon Hawaii's position on certain matters with regards to the applicability of the Interconnection Agreement on the Parties, and indicates SBCS' acceptance and views regarding certain portions of Verizon Hawaii's various positions.⁶

C.

Consumer Advocate's Position

The Consumer Advocate notes that the terms, conditions, and rates of the instant matter are similar to other agreements and adds that the commission found the Interconnection Agreement to be non-discriminatory to other telecommunications carriers in

⁶The following is specifically noted above the signature of SBCS' representative: "[r]eviewed and agreed as to points A, B, C, D, E and F of paragraph 1. SBCS does not necessarily agree with Verizon's positions in their entirety as stated in paragraphs 2 through 8 above. SBCS asserts that to the extent paragraphs 2 through 8 are not contained in the agreement SBCS is adopting via its statutory rights under section 252(i), those paragraphs may reflect the Verizon position, but are not binding on SBCS[.]" Adoption Letter at 6.

D&O No. 21126. The Consumer Advocate states that it believes that the Parties negotiated in "good faith and, should there be any dispute associated with the agreement, either Party may utilize the dispute resolution process described in Section 14 of the agreement."⁷ Additionally, the Consumer Advocate states that the Interconnection Agreement is in the public interest in that it promotes competition in the State's telecommunications market, and notes that the Interconnection Agreement is necessary for SBCS to provide facilities-based telecommunications services in the State under its COA.

III.

Findings and Conclusions

Hawaii Administrative Rules ("HAR") § 6-80-54 requires all agreements regarding access, interconnection, unbundling, and network termination adopted by negotiation or arbitration be submitted to the commission for review and approval. The Interconnection Agreement is not an arbitrated agreement, but one that was negotiated and consummated by Hello Depot and Verizon Hawaii. The Adoption Letter, signed by the Parties, is a negotiated contract between SBCS and Verizon Hawaii. Accordingly, we will treat the Interconnection Agreement as a negotiated interconnection agreement between the Parties and conduct our review under HAR § 6-80-54(b).

⁷See, Statement of Position at 3.

HAR § 6-80-54(b) states that we may reject a negotiated interconnection agreement if we find:

- (1) The agreement, or any portion of the agreement, discriminates against a telecommunications carrier not a party to the agreement; or
- (2) The implementation of the agreement, or any portion of the agreement, is not consistent with the public interest, convenience, and necessity.

Consistent with D&O No. 21126, the commission finds that the Interconnection Agreement does not discriminate against other telecommunications carriers and that the implementation of the Interconnection Agreement is consistent with the public interest, convenience, and necessity. The commission also finds that approval of SBCS' adoption of the Interconnection Agreement is consistent with federal requirements. Additionally, we recognize that our approval will allow SBCS to provide telecommunications services in the State as authorized in its amended COA, increasing competition in the State's telecommunications market.

Accordingly, the commission concludes that Verizon Hawaii's Petition for commission approval of SBCS' adoption of the Interconnection Agreement, subject to the conditions and reservations set forth in the Adoption Letter, should be granted.

IV.

Orders

THE COMMISSION ORDERS:

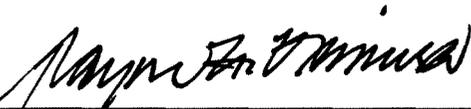
1. Verizon Hawaii's Petition, filed on October 28, 2004, for commission approval of SBCS' adoption of the Interconnection Agreement, subject to the conditions and reservations set forth in the Adoption Letter, is granted under HAR § 6-80-54(b).

2. This docket is closed.

DONE at Honolulu, Hawaii JAN - 4 2005.

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:


J. Sook Kim
Commission Counsel

04-0315.rpr

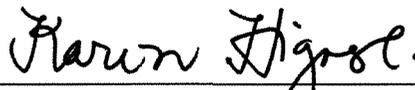
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21528 upon the following Petitioners, 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: JAN - 4 2005