

The commission will construe Verizon Hawaii's Petition as a request for commission approval of CommPartners' adoption of the Interconnection Agreement.

Verizon Hawaii also filed an adoption letter dated November 18, 2004 ("Adoption Letter"), signed by representatives of Verizon Hawaii and CommPartners (collectively, the "Parties") as part of its Petition. CommPartners' adoption of the Interconnection Agreement is subject to the 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 January 13, 2005 ("Statement of Position"), informing the commission that it does not object to the approval of Verizon Hawaii's request, with a specific caveat.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.

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

Verizon Hawaii is an incumbent local exchange carrier, as contemplated by Section 252 of the Act. CommPartners is authorized to provide telecommunications services in the State as a reseller and facilities-based carrier of intrastate telecommunications services.³

B.

CommPartners' 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

CommPartners' 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.

³See, Decision and Order No. 21051, filed on June 10, 2004, in Docket No. 04-0069 ("D&O No. 21051").

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

⁵See, D&O No. 21126 at 4.

The Adoption Letter sets forth, among other things, CommPartners' 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 CommPartners' 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. It also adds that the commission found the Interconnection Agreement to be non-discriminatory to other telecommunications carriers in 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 concludes that approval of CommPartner's adoption of the Interconnection Agreement is in the public interest since it promotes competition in the State's telecommunications market, and notes that the Interconnection Agreement is necessary for CommPartners' to provide facilities-based telecommunications

⁶The following is specifically noted above the signature of CommPartners' representative: "[r]eviewed and countersigned as to points A, B, C, D, E and F of paragraph 1." Adoption Letter at 6.

⁷See, Statement of Position at 3.

services in the State under its certificate of authority ("COA"). However, the Consumer Advocate requests that we withhold approval of CommPartners' adoption of the Interconnection Agreement until CommPartners complies with the filing requirements of D&O No. 21051. The Consumer Advocate notes that it has no record that CommPartners paid its public utility fee and telecommunications relay service ("TRS") contribution, or that CommPartners submitted its tariff revisions in compliance with D&O No. 21051 ("Filing Concerns").⁸

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 CommPartners and Verizon Hawaii. Accordingly, we will treat the Interconnection Agreement as a

⁸Upon recent review of our records, we find that CommPartners: (1) submitted its public utility fee of \$60 on January 31, 2005; and (2) filed its revised tariff containing the revisions ordered on February 10, 2005, in compliance with D&O No. 21051, a copy of which was forwarded to the Consumer Advocate. Additionally, during a phone conversation with the Hawaii TRS Administrator on February 17, 2005, commission staff verified that CommPartners paid its TRS contribution. Due to these recent developments, we will now assume that the Consumer Advocate's Filing Concerns have been satisfied.

negotiated interconnection agreement between the Parties and conduct our review under HAR § 6-80-54(b).

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 CommPartners' adoption of the Interconnection Agreement is consistent with federal requirements. Moreover, we recognize that our approval of the adoption will allow CommPartners to provide telecommunications services in the State as authorized in its COA, increasing competition in the State's telecommunications market.

Accordingly, the commission concludes that Verizon Hawaii's Petition for commission approval of CommPartners' 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:

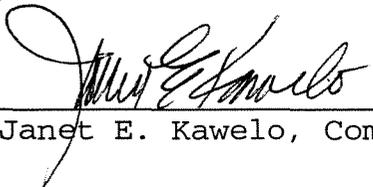
1. Verizon Hawaii's Petition, filed on December 1, 2004, for commission approval of CommPartners' adoption of the Interconnection Agreement, subject to the conditions and reservations set forth in the Adoption Letter, is granted under HAR § 6-80-54(b).
2. This docket is closed.

DONE at Honolulu, Hawaii FEB 25 2005.

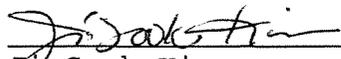
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
Wayne H. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Ji Sook Kim
Commission Counsel

04-0349.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21657 upon the following Petitioners, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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Karen Higashi

DATED: FEB 25 2005