

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
VERIZON HAWAII, INC.)
For Approval to License Ground)
Space at Ookala Radio Site Located)
in Humuula, North Hilo, Hawaii.)
_____)

DOCKET NO. 02-0016

DECISION AND ORDER NO. 19995

Filed Jan. 31, 2003
At 8:00 o'clock A.M.

Karen Higashi
Chief Clerk of the Commission

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

2003 JAN 31 P 4: 21

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

K. Higashi

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DECISION AND ORDER

I.

On January 17, 2002, VERIZON HAWAII INC. (Verizon Hawaii) filed an application for approval to license space at the Ookala Radio Site (the site), located on the island of Hawaii, to Cellco Partnership, dba Verizon Wireless, transferee of GTE Wireless of the Pacific Incorporated and formerly known as GTE Mobilnet of Hawaii Incorporated (Verizon Wireless) for the operation and maintenance of equipment for cellular telephone services. Verizon Hawaii makes its request in accordance with Hawaii Revised Statutes (HRS) § 269-19 and Hawaii Administrative Rules (HAR) § 6-61-105.

Verizon Hawaii served a copy of its application on the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy (Consumer Advocate). On June 7, 2002, the Consumer Advocate served information requests upon Verizon Hawaii, to which it responded on June 21, 2002 and September 5, 2002. The Consumer Advocate submitted additional informal information requests on July 9, 2002 to Verizon Hawaii. Verizon Hawaii

responded to the Consumer Advocate's inquiry on July 29, 2002. By position statement filed on December 11, 2002, the Consumer Advocate informed the commission that it does not object to the approval of the instant application with certain qualifications.

II.

Verizon Hawaii is a public utility and the incumbent telecommunications carrier in the State of Hawaii (State). Verizon Wireless provides cellular telecommunications services in the State.¹

Verizon Hawaii, as lessee, has an existing lease agreement with the State to use the real property where the site is located. On August 20, 2001, Verizon Hawaii executed a license agreement (license agreement) with Verizon Wireless, which allowed Verizon Wireless use of the site to: (1) maintain and operate its equipment; (2) build a concrete slab and equipment shelter; (3) install antennas at the top of an existing tower on the site; (4) install a global positioning satellite; (5) install a utility pole; and (6) have reasonable ingress and egress over the existing roads on the site.

HRS § 269-19 provides, among other restrictions, that no public utility corporation shall sell, lease, assign, or otherwise dispose of or encumber the whole or any part of its road, line, plant, system, or other property necessary or useful

¹By Decision and Order No. 17819, filed on July 7, 2000, in Docket No. 00-0190, the commission approved the transfer of GTE Wireless-Pacific's property and operations to Cellco Partnership (Cellco), granted Cellco a certificate of registration to operate as a CMRS provider in the State, and noted the change of Cellco's name to Verizon Wireless.

in the performance of its duties to the public, without first having secured the commission's approval.

In its position statement, the Consumer Advocate advised that it reviewed the license agreement to ensure that the terms and conditions are reasonable and will not hinder Verizon Hawaii's ability to provide telecommunications service to its customers. Upon review of the license agreement, the Consumer Advocate determined that its terms and conditions, as well as the fees and charges associated with the license agreement are reasonable.

The Consumer Advocate notes that Verizon Hawaii charged Verizon Wireless a one-time administrative reimbursement fee (administrative fee) that differed from that charged to other licensees in previous license transactions. Nonetheless, the Consumer Advocate does not object to the assessment of the differing administrative fee amount in this instance. However, the Consumer Advocate's concerns relating to the consistency of the administrative fee amounts that Verizon Hawaii charges resulted in a request for uniformity of administrative fee assessments on future license transactions.

In particular, the Consumer Advocate requests that Verizon Hawaii charge a consistent administrative fee for costs incurred to enter into a typical license agreement on all future license arrangements. Further, it requests that Verizon Hawaii demonstrate that costs for legal and real estate activities for a particular transaction are different in the event that any deviation from this practice occurs.

The commission disagrees that a consistent administrative fee amount should be assessed by Verizon Hawaii on all future license arrangements. Rather, we find that the facts and circumstances should control each amount charged for administrative fees.² Notwithstanding our objection to mandating a pre-established administrative fee at this time, we agree with the Consumer Advocate that a greater amount of information relating to the administrative fees that Verizon Hawaii charges its licensees is required. Accordingly, the commission concludes that Verizon Hawaii should be required to provide a detailed breakdown of the actual administrative costs incurred in all future license arrangements.

Based on our careful review of the record, we find that the license agreement between Verizon Hawaii and Verizon Wireless is reasonable and consistent with public interest. Accordingly, we conclude that Verizon Hawaii's application to license ground space at the Ookala radio site should be approved.

III.

THE COMMISSION ORDERS:

1. Verizon Hawaii's application, filed on January 17, 2002, to license ground space at the Ookala radio site to Verizon Wireless, is approved.

²By Decision and Order No. 19983, filed on January 24, 2003, in Docket No. 01-0459 and Decision and Order No. 19984, filed on January 24, 2003, in Docket No. 02-0039, the commission similarly did not require Verizon Hawaii to charge a consistent administrative fee amount for its lease transactions.

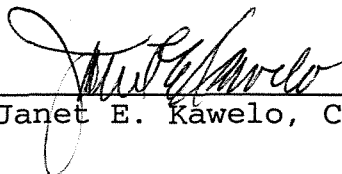
2. Verizon Hawaii shall provide a detailed breakdown of the actual administrative costs incurred in all future license arrangements.

3. This docket is closed.

DONE at Honolulu, Hawaii this 31st day of January, 2003.


PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Wayne H. Kimura, Chairman

By 
Janet E. Kawelo, Commissioner

By (RECUSED)
Gregg J. Kinkley, Commissioner

APPROVED AS TO FORM:


Catherine P. Awakuni
Commission Counsel

02-0016.cs

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 19995 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

JOEL K. MATSUNAGA
VICE PRESIDENT, EXTERNAL AFFAIRS
VERIZON HAWAII INC.
P. O. Box 2200, A-17
Honolulu, HI 96841



Karen Higashi

DATED: January 31, 2003