

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
VERIZON HAWAII INC.)
For Approval of Amendment No. 2)
To the Pole Attachment and)
Conduit Occupancy Licensing)
Agreement with Pacific LightNet,)
Inc.)
_____)

DOCKET NO. 02-0414

DECISION AND ORDER NO. 20023

Filed Feb. 18, 2003
At 10:30 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 FEB 18 P 4: 14

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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
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In the Matter of the Petition of)	
VERIZON HAWAII INC.)	Docket No. 02-0414
)	
For Approval of Amendment No. 2)	Decision and Order No. 20023
To the Pole Attachment and)	
Conduit Occupancy Licensing)	
Agreement with Pacific LightNet,)	
Inc.)	
_____)	

DECISION AND ORDER

I.

By a petition filed on December 6, 2002, VERIZON HAWAII INC. (Verizon Hawaii) requests that the commission approve Amendment No. 2 to the negotiated pole attachment and conduit occupancy licensing agreement between Pacific LightNet, Inc. (Pacific LightNet) and Verizon Hawaii (Original Agreement) (Amendment No. 2).¹ Amendment No. 2 was filed pursuant to Section 252(e)(1) of the federal Telecommunications Act of 1996 (the Act)² and Hawaii Administrative Rules (HAR) § 6-80-78.

Copies of Verizon Hawaii's petition were served on the Division of Consumer Advocacy of the Department of Commerce and

¹The Commission approved the Original Agreement and the first amendment to the Original Agreement (Amendment No. 1) by Decision and Order No. 19491, filed on July 30, 2002, in Docket No. 02-0116 (Decision and Order No. 19491).

²The 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.

Consumer Affairs (Consumer Advocate). Through a statement of position filed on February 7, 2003, the Consumer Advocate informed the commission that it does not object to the approval of Verizon Hawaii's petition.

II.

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

Pacific LightNet was granted a certificate of authority to provide telecommunications services in the State in Decision and Order No. 18868, filed on August 31, 2001, in Docket No. 01-0157, and is a telecommunications carrier as defined by § 252 of the Act.

Amendment No. 2 amends the Original Agreement and Amendment No. 1 by establishing new pole and duct rates. The Original Agreement governs Pacific LightNet's non-exclusive license to place, occupy, and maintain attachments to Verizon Hawaii's poles and conduits for the purpose of providing cable television and/or telecommunications services.³ Amendment No. 1 established ocean access fees.⁴

³Decision and Order No. 19491 at 2.

⁴Ibid.

III.

In our review of Amendment No. 2, we are governed by 47 U.S.C. § 252 (e) and HAR § 6-80-78. These sections provide that we may reject a negotiated agreement only if:

- (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.

Our review indicates that Amendment No. 2, filed on December 6, 2002, does not discriminate against other telecommunications carriers and that the implementation of the amendment is consistent with the public interest, convenience, and necessity.⁵ The Consumer Advocate appears to agree with our assessment of Amendment No. 2.

IV.

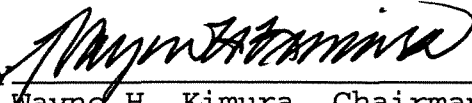
THE COMMISSION ORDERS:

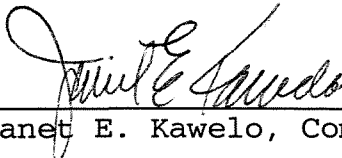
1. Amendment No. 2 to the negotiated pole attachment and conduit occupancy licensing agreement between Pacific LightNet and Verizon Hawaii, filed on December 6, 2002, is approved.
2. This docket is closed.

⁵The new pole and duct rates established in Amendment No. 2 are reflective of the commission-approved 2002 pole and duct rates set forth in Order No. 19704, filed on October 11, 2002, in Docket No. 7702.

DONE at Honolulu, Hawaii this 18th day of February,
2003.

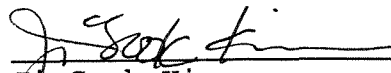
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Wayne H. Kimura, Chairman

By 
Janet E. Kawelo, Commissioner

By 
Gregg J. Kinkley, Commissioner

APPROVED AS TO FORM:


Ji Sook Kim
Commission Counsel

02-0414.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 20023 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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Karen Higashi

DATED: February 18, 2003