BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
PACIFIC LIGHTNET, INC., 
Complainant,

vs.

VERIZON HAWAII INC., 
Respondent.

DOCKET NO. 03-0027

ORDER NO. 20233

Filed June 16, 2003
At 10:00 o'clock A.M.

Karen Higashii
Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.
By Complaint re-submitted on March 28, 2003, PACIFIC LIGHTNET, INC. (PLNI) requests the commission issue an order requiring VERIZON HAWAII INC. (Verizon Hawaii) make payment to PLNI using one of the following methods of calculation: (1) an equitable sharing of the costs of PLNI's interconnection facilities from the point of interconnection (POI) on Verizon Hawaii's network on each island to the PLNI tandem in Honolulu, based on their respective traffic balance, in accordance with Hawaii Administrative Rules (HAR) § 6-80-49(8), 47 C.F.R. § 51.703(b) and 47 C.F.R. § 51.709(b), retroactive from May 18, 2000, plus interest or (2) a 50 per cent/50 per cent cost-sharing of PLNI's interconnection facilities from the POI on Verizon Hawaii's network on each island to PLNI's point of presence on each island, in accordance with an October 14, 1998 letter agreement, retroactive
from May 18, 2000 through the effective date of a new interconnection agreement between the parties, plus interest.¹

PLNI served copies of its complaint upon the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs ("Consumer Advocate").

By Order No. 20113 ("Order No. 20113"), filed on April 7, 2003, the commission, among other things, requested that Verizon Hawaii answer the Complaint within 20 days of Order No. 20113.

On April 28, 2003, Verizon Hawaii filed a Motion to Dismiss Complaint ("Motion to Dismiss"), pursuant to HAR § 6-61-69(a),² alleging, among other things, that the dispute is properly subject to a valid and enforceable arbitration provision in the interconnection agreement between the parties.

On May 7, 2003, PLNI filed an Opposition to Verizon Hawaii’s Motion to Dismiss Complaint ("Opposition") in which it states, among other things, that Verizon Hawaii’s refusal to pay any of PLNI’s invoices is evidence of Verizon Hawaii’s adoption of a policy position with PLNI that it will not pay for interconnection facilities riding PLNI’s network.

Upon a review of Verizon Hawaii’s Motion to Dismiss and PLNI’s Opposition, the commission finds that additional information

¹PLNI requests that in either case, Verizon Hawaii make payment based on a percentage of PLNI’s tarif fed T-1 entrance facility rate plus distance-sensitive rates, where applicable.

²HAR § 6-61-69 (a) also provides that if a motion to dismiss is filed before the answer, the commission shall set the date for filing the answer when it rules upon the motion.
relating to the Motion to Dismiss and Opposition would assist the commission in the disposition of Verizon Hawaii’s Motion to Dismiss. Accordingly, the commission concludes that Verizon Hawaii should be allowed to reply to PLNI’s Opposition, within five days of this order. If Verizon Hawaii chooses not to file a reply, the commission will consider Verizon Hawaii’s Motion to Dismiss as ready for disposition.

II.

THE COMMISSION ORDERS that Verizon Hawaii may reply to PLNI’s Opposition, filed on May 7, 2003, within five days of this order.

DONE at Honolulu, Hawaii this 16th day of June, 2003.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By/Carlito E. Caliboso, Chairman
By/Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:

Catherine P. Awakuni
Commission Counsel

03-0027.ac
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20233 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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DATED: June 16, 2003

Karen Higashi