

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

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DIV. OF CONSUMER AFFAIRS
DEPT. OF COMMERCE & INDUSTRY
GOVERNMENT BUILDING
155 W. WILSON ST.
HONOLULU, HI 96813

----- In the Matter of -----
PACIFIC LIGHTNET, INC.,
Complainant,
vs.
VERIZON HAWAII INC.,
Respondent.

DOCKET NO. 03-0027

ORDER NO. 20345

Filed July 21, 2003
At 10:00 o'clock A.M.

Karen Higashi
Chief Clerk of the Commission

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

K. Higashi

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

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)	
PACIFIC LIGHTNET, INC.,)	Docket No. 03-0027
)	
	Complainant,)	Order No. 20345
)	
	vs.)	
)	
VERIZON HAWAII INC.,)	
)	
	Respondent.)	
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ORDER

I.

By Order No. 20233, filed on June 16, 2003, ("Order No. 20233") the commission granted VERIZON HAWAII INC. ("Verizon Hawaii") leave to reply to PACIFIC LIGHTNET, INC.'s ("PLNI") Opposition to Verizon Hawaii's Motion to Dismiss Complaint ("Memorandum in Opposition"), filed on May 7, 2003. On June 23, 2003, pursuant to Order No. 20233, Verizon Hawaii replied to PLNI's Memorandum in Opposition ("Verizon Hawaii's Reply Statement").

On June 23, 2003, PLNI filed a Motion for Reconsideration of Commission Order No. 20233 ("Motion for Reconsideration"), pursuant to Hawaii Administrative Rules ("HAR") § 6-61-137. Verizon Hawaii filed Memorandum in Opposition to PLNI's Motion for Reconsideration ("Memorandum in Opposition") on June 25, 2003.

The commission has two outstanding motions in this docket pending disposition (1) Verizon Hawaii's Motion to Dismiss, filed on April 28, 2003, and (2) PLNI's Motion for Reconsideration, filed on June 23, 2003. We address PLNI's Motion for Reconsideration in this order.

II.

HAR § 6-61-137 provides, in relevant part, that a motion seeking any change in a decision, order, or requirement of the commission should clearly state whether the prayer is for reconsideration, suspension, vacation, or a combination thereof. Section 6-61-137, HAR, further provides that the motion should set forth the grounds on which the movant considers the decision or order unreasonable, unlawful, or erroneous.

By its Motion for Reconsideration, PLNI requests that the commission vacate its Order No. 20233, and either (1) rule on Verizon Hawaii's dispositive motion based on Verizon Hawaii's original submission and PLNI's uncontested opposition; or (2) to alleviate any undue prejudice to PLNI, issue a modified order that (a) first requires Verizon Hawaii to establish good cause for why it departed from its usual pattern and practice of replying to opposition filings; (b) specifies the additional information that will assist the commission in deciding Verizon Hawaii's Motion to Dismiss; (c) establishes a schedule that permits PLNI to reply to any additional information, issues, or arguments that

Verizon Hawaii raises in its reply filing¹; and (d) grants PLNI a reasonable period to request a hearing for the purpose of taking evidence and arguing Verizon Hawaii's Motion to Dismiss.

In its Memorandum in Opposition, Verizon Hawaii states that PLNI failed to establish any cause for reconsideration as required by HAR § 6-61-137. In particular, Verizon Hawaii contends that (1) PLNI failed to show that the commission acted unlawfully, erroneously, or unreasonably in issuing Order No. 20233; and (2) instead, PLNI reiterates its arguments opposing Verizon Hawaii's motion to dismiss or, alternatively, "demands that the [c]ommission issue an order that includes numerous provisions, none of which is reasonable."

Upon review and consideration of PLNI's Motion for Reconsideration, Verizon Hawaii's Memorandum in Opposition, and the record in this matter, the commission does not find any grounds that Order No. 20233 is unreasonable, unlawful, or erroneous. However, to protect the parties from the possibility of suffering undue prejudice, the commission finds that either PLNI or Verizon Hawaii may request a hearing on Verizon Hawaii's Motion to Dismiss within five days of this order.

PLNI also requested that the commission establish "a schedule that permits PLNI to reply to any additional information, issues, or arguments that Verizon Hawaii raises in its reply

¹As stated in Order No. 20066, filed on March 7, 2003, in this docket, the commission's rules of practice and procedure only allow for the filing of an opposition to a motion. The commission notes that PLNI failed to wait for the commission to grant it leave to reply to Verizon Hawaii's Reply Statement. Instead, on July 1, 2003, PLNI filed a Reply to Verizon Hawaii's Reply Statement.

filing." Upon review, the commission finds that PLNI should be granted leave to reply to Verizon Hawaii's Reply Statement. On July 1, 2003, PLNI filed a reply to Verizon Hawaii's Reply Statement ("PLNI's Reply Statement"). The commission shall treat PLNI's Reply Statement, filed on July 1, 2003, as filed pursuant to the leave granted herein. Therefore, the commission concludes that PLNI's Motion for Reconsideration should be granted, in part, and denied, in part.

III.

THE COMMISSION ORDERS:

1. PLNI's Motion for Reconsideration, filed on June 23, 2003, should be granted, in part, and denied, in part, as provided herein.

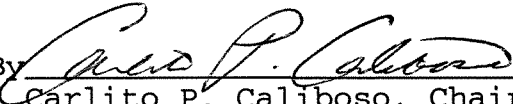
2. Either PLNI or Verizon Hawaii may request a hearing on Verizon Hawaii's Motion to Dismiss within five days of this order.

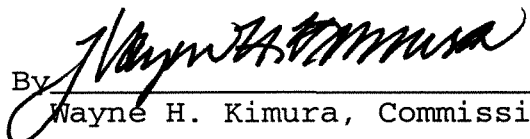
3. PLNI's request to establish "a schedule that permits PLNI to reply to any additional information, issues, or arguments that Verizon Hawaii raises in its reply filing" is granted. The commission shall treat PLNI's Reply Statement, filed on July 1, 2003, as filed pursuant to the leave granted herein.

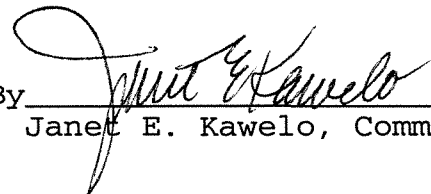
4. In all other respects, PLNI's Motion for Reconsideration is denied.

DONE at Honolulu, Hawaii this 21st day of July, 2003.

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:


Catherine P. Awakuni
Commission Counsel

03-0027.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20345 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

LAURA MAYHOOK, ESQ.
J. JEFFREY MAYHOOK, ESQ.
MAYHOOK LAW, PLLC
34808 NE 14th Avenue
La Center, WA 98629

LESLIE ALAN UEOKA, ESQ.
BLANE T. YOKOTA, ESQ.
VERIZON HAWAII INC.
P. O. Box 2200
Honolulu, HI 96841



Karen Higashi

DATED: July 21, 2003