

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

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

----- In the Matter of -----)
)
PUBLIC UTILITIES COMMISSION)
)
Instituting a Proceeding of)
Commercial Mobile Radio)
Service ("CMRS") Providers in)
The State of Hawaii, Including)
An Investigation to Determine)
Whether it is Consistent with)
The Public Interest to Exempt)
CMRS Providers, their)
Services, or Both, from Any)
Provision of Hawaii Revised)
Statutes Chapter 269)
_____)

DOCKET NO. 03-0186

ORDER NO. 20368

Filed August 7, 2003
At 2:00 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

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

K. Higashi

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OF THE STATE OF HAWAII

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ORDER

I.

By Order No. 20264, filed on June 26, 2003, the commission instituted a proceeding to examine the issues surrounding whether it is consistent with the public interest to exempt commercial mobile radio service ("CMRS") providers, their services, or both, from any provision of Hawaii Revised Statutes ("HRS") Chapter 269 in accordance with HRS § 269-16.9 and Hawaii Administrative Rules ("HAR") § 6-80-135. Order No. 20264 also made the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate") and the following currently registered CMRS providers to be parties in this proceeding:

1. AMERITECH MOBILE COMMUNICATIONS, LLC
2. AMERITECH WIRELESS HOLDINGS, INC.,
dba CINGULAR WIRELESS
3. AT&T WIRELESS PCS, LLC
4. AT&T WIRELESS SERVICES OF HAWAII, INC.
5. CELLCO PARTNERSHIP, dba VERIZON WIRELESS
6. NEXTEL WEST CORPORATION
7. NPCR, INC.
8. SPRINTCOM, INC., dba SPRINT PCS
9. T-MOBILE USA, INC.
10. GENERAL TELCOURIER, INC., dba PAGER ONE
11. ISLAND PAGE, INC.
12. ARCH WIRELESS OPERATING COMPANY, INC. (fka,
MOBILE COMMUNICATIONS CORPORATION OF AMERICA,
dba RAM PAGING HAWAII)¹
13. MOBILE ONE, INC.

Furthermore, to ensure a comprehensive examination of this matter, the commission invited all interested telecommunications carriers, business groups, and community groups to participate in this docket as intervenors or participants so long as these persons or entities adhere to our administrative rules (aka, HAR Chapter 6-61, *Rules of Practice and Procedure Before the Public Utilities Commission*) governing intervention and participation in commission proceedings. The time for filing motions for intervention or participation without intervention expired on July 18, 2003.

On July 15, 2003, VERIZON HAWAII INC ("Verizon") timely filed a motion to intervene.

On July 16, 2003, AT&T COMMUNICATIONS OF HAWAII, INC. ("AT&T") (Verizon and AT&T collectively referred to as "Movants") timely filed a motion to intervene.

¹See also, Decision and Order No. 16802, filed on January 26, 1999, in Docket No. 98-0382.

No party in this proceeding opposed Movants' motions to intervene.

II.

Motions for Intervention

A.

HAR § 6-61-55 sets forth the requirements to intervene in this proceeding. In particular, HAR § 6-61-55(d) provides that "[i]ntervention shall not be granted except on allegations which are reasonably pertinent to and do not unreasonably broaden the issues already presented."

In Verizon's motion to intervene, Verizon alleges and represents, among other things: (1) that it is a Hawaii corporation duly authorized to provide telecommunications services throughout the State of Hawaii; (2) that, as the incumbent local exchange carrier in Hawaii, it operates an intrastate telephone network comprised of switching plant and cable that transmits communications by fiber optics, microwave and other means; (3) that its network is interconnected with the networks of the CMRS providers; (4) that if certain statutory requirements and rules (i.e., interconnection agreements filed in accordance with HRS § 269-34 and HAR Chapter 6-80) no longer apply to CMRS providers in Hawaii, it may affect Verizon, and may thereby adversely impact Verizon's regulated ratepayers; (5) that its participation will assist the commission in the development of a sound record without broadening the issues or unduly delaying the proceeding.

In AT&T's motion to intervene, AT&T alleges and represents, among other things: (1) that it is a Hawaii corporation authorized to provide intrastate telecommunications services within the State of Hawaii²; (2) that in addition to competing with CMRS providers in the provision of such intrastate telecommunications services, it also competes with them in the provision of international and interstate telecommunications services; (3) that intervention in this matter will help protect AT&T's substantial investments in Hawaii; and (4) that, as a competitive wireline provider of telecommunications services utilizing technologies different from traditional CMRS providers, it "may bring a unique and necessary point of view to this proceeding."

B.

Upon review of Movants' motions to intervene, the commission finds that Movants have a distinct, recognizable interest in this proceeding, and may be impacted by the outcome of this proceeding. Moreover, because of Movants' unique interests in this matter and their prior participation in addressing telecommunications issues in other forums and dockets, particularly Docket No. 7702, we find that Movants' intervention will not duplicate either the Consumer Advocate's or the CMRS providers' efforts in this docket and will assist the commission in

²AT&T's intrastate telecommunications services include, among other things, intrastate long distance message service (interisland toll), 800 services, operator services and prepaid calling services. AT&T represents that it also is considering the provision of local telephone service in Hawaii.

determining whether there is merit in exempting CMRS providers, their services, or both, from any provision of HRS Chapter 269.

Thus, upon review of the record, we find that Movants' allegations, set forth in their motions to intervene, are reasonably pertinent to the issues already presented in this docket and do not unduly broaden them. We, therefore, conclude that Movants' motions to intervene should be granted.

However, we must admonish Movants that their participation in this docket will be limited to only the issues determined and/or authorized by the commission in this docket. We will preclude any efforts that will unreasonably broaden these issues, and unduly delay the proceeding. The commission will also reconsider Movants' participation in this proceeding if, at any time during this proceeding, the commission determines that Movants' efforts: (1) duplicate those of the Consumer Advocate; (2) unreasonably broaden the pertinent issues in this docket; or (3) unduly delay the proceeding.

III.

Prehearing Order

As of the date of this order, there are presently 16 parties in this docket, who represent varying degrees of familiarity with telecommunications issues and the procedural requirements of the commission. Thus, to enable the commission to expeditiously and efficiently examine and ultimately determine whether it is consistent with the public interest to exempt CMRS providers, their services, or both, from any provision of HRS

Chapter 269, the commission further deems it appropriate to require all parties to initially confer or meet informally to formulate the issues, schedule of proceeding, and other procedures needed to govern the instant proceeding, to be set forth in a stipulated prehearing order. The stipulated prehearing order must be submitted for commission approval within 45 days from the date of this order. If unable to stipulate to such an order, we will require each party to submit its own proposed prehearing order for the commission's consideration within 45 days from the date of this order.

Finally, our record indicates that Ameritech Mobile Communications, LLC, ("Ameritech Mobile") Ameritech Wireless Holdings, Inc. dba Cingular Wireless, ("Ameritech Wireless") and Island Page, Inc. ("Island Page") (three CMRS providers currently registered with the commission and made parties to this docket) did not inform the commission and other parties in writing their duly authorized representative(s) for this proceeding in accordance with Order No. 20264.³ We deem it essential for these parties to identify their duly authorized representatives to aid in the efficient disposition of this proceeding. In particular, we believe it will assist the commission and parties in simplifying the issues and procedures and in expediting the schedule in this proceeding. Accordingly, by this order, we will again direct Ameritech Mobile, Ameritech Wireless, and Island Page to inform the

³The commission acknowledges Ameritech Mobile's and Ameritech Wireless' July 29, 2003 request for approval to surrender their certificates of registration ("CORs"). However, both Ameritech Mobile and Ameritech Wireless will continue to be parties to this docket until approval to surrender their CORs is granted.

commission and the other parties in writing their duly authorized representative(s) for this proceeding in accordance with HAR § 6-61-12.

IV.

THE COMMISSION ORDERS:

1. Verizon's and AT&T's motions to intervene are granted, limited to only the issues determined and/or authorized by the commission.

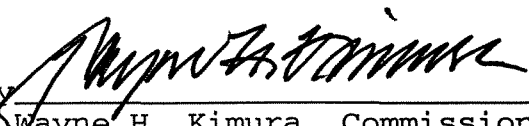
2. The Consumer Advocate, all currently registered CMRS providers made parties in this proceeding by Order No. 20264, Verizon, and AT&T shall confer or meet informally to formulate the issues, schedule of proceedings, and other procedures needed to govern the instant proceedings, to be set forth in a stipulated prehearing order. The stipulated prehearing order shall be submitted for commission approval within 45 days from the date of this order. If unable to stipulate to such an order, each party shall submit its own proposed prehearing order for the commission's consideration within 45 days from the date of this order.

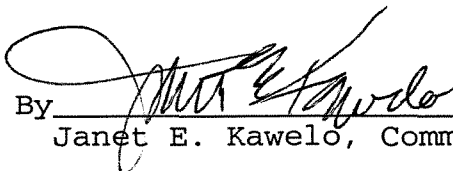
3. Within 10 days from the date of this order, Ameritech Mobile, Ameritech Wireless, and Island Page shall inform the commission and the other parties in writing their duly authorized representative(s) for this proceeding in accordance with HAR § 6-61-12.

DONE at Honolulu, Hawaii this 7th day of August,
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:


Kris N. Nakagawa
Commission Counsel

03-0186.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20368 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: August 7, 2003