

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
COVISTA, INC.)
)
For a Certificate of Authority)
to Provide Competitive)
Telecommunications Service)
Pursuant to HAR § 6-80-17.)
_____)

Docket No. 03-0140

DECISION AND ORDER NO. 20461

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

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RECEIVED

Filed Sept. 24, 2003
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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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DECISION AND ORDER

I.

COVISTA, INC. (fka, Totaltel, Inc.) (hereinafter referred to as "Applicant") is an authorized reseller of telecommunications services in the State of Hawaii ("State"), pursuant to a commission-issued certificate of authority ("COA").¹ Applicant was issued COA-0110 by the commission.

By application filed on May 15, 2003, Applicant requests a certificate of authority ("COA") "to provide competitive local exchange telecommunications services" within the State. Applicant makes its request pursuant to Hawaii Administrative Rules ("HAR") § 6-80-17. As indicated above, since Applicant already holds a COA to provide intrastate telecommunications services in the State on a resold basis, we will treat the instant application as Applicant's request to

¹See Decision and Order No. 16148, filed on January 18, 1988, in Docket No. 97-0423.

amend its COA to also include authority to provide facilities-based telecommunications services in the State.

Copies of the application were served on the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs ("Consumer Advocate"). By its initial statement of position ("SOP"), filed on May 30, 2003, the Consumer Advocate informed the commission that it objects to approval of the instant application because Applicant failed to file the following documents:

1. A copy of the approval document from the Department of Commerce and Consumer Affairs ("DCCA") to transact business in the State as a foreign corporation;
2. Current financial statements; and
3. Proposed tariff containing Applicant's rules, regulations, rates, and charges.

By an amended SOP, filed on September 4, 2003, the Consumer Advocate states that, upon review of certain documents submitted subsequent to the initial SOP, it does not object to the commission's approval of the instant application, subject to certain qualifications.²

²Subsequent to the Consumer Advocate's initial May 30, 2003 SOP, Applicant filed its current financial statements and proposed tariff on June 26, 2003, and August 8, 2003, respectively. Moreover, by letter filed on November 16, 2000, in Docket No. 97-0423, Applicant represented that it obtained the requisite approval from the DCCA to transact business in the State as a foreign corporation. Thus, in its amended September 4, 2003 SOP, the Consumer Advocate changed its position and instead raised certain concerns relating to Applicant's proposed tariff, specifically discussed in Section III, infra.

II.

Applicant is a New Jersey corporation with its principal place of business in Chattanooga, Tennessee. Currently, as a telecommunications reseller in the State, it seeks to now expand its authority to include the provision of facilities-based services in the State. Specifically, Applicant intends to provide intrastate telecommunications services in the State as a facilities-based provider by initially utilizing the unbundled network element platform ("UNE-P") of the incumbent local exchange carrier.

III.

A.

Request for Amended COA

Upon review of the application, the commission makes the following findings pursuant to HAR § 6-80-18(a):

1. Applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the proposed services;

2. Applicant is fit, willing, and able to properly perform the telecommunications services and to conform to the terms, conditions, and rules prescribed or adopted by the commission; and

3. Applicant's proposed telecommunications services are in the public interest.

Accordingly, the commission concludes that Applicant should be granted an amended COA to operate as both a facilities-based carrier and reseller of intrastate telecommunications services in the State.

However, based on the commission's review of Applicant's proposed tariff, the commission agrees with the Consumer Advocate that Applicant's proposed tariff requires revisions as follows:

1. Amend Sections 2.5.4 and 2.5.5 (Original Page 34) to be consistent with the requirements set forth under, among other provisions, HAR §§ 6-80-104 and 6-80-105.
2. Section 5.1.3 (Original Page 67) should be amended to indicate that there is no charge for "Record Change" to be consistent with Section 5.1.5 (Original Page 68).
3. "Hawaii Public Service Commission" stated in Section 8.1 (Original Page 93) should be corrected to state "Hawaii Public Utilities Commission."

B.

Request for Waiver

Applicant seeks a waiver of the Hawaii Revised Statutes ("HRS") § 269-8.2 requirement that its books and records be kept and maintained within the State. Instead, Applicant requests that its books be kept and maintained in the State of Tennessee and assures the commission that such information will be made available to the commission. This request is consistent with the standard list of waivers set forth under HAR § 6-80-136. Thus, the commission's approval of this request for waiver of this requirement is not necessary.

IV.

THE COMMISSION ORDERS:

1. Applicant's COA is amended to allow it to operate as a facilities-based carrier and reseller of intrastate telecommunications services in the State.

2. As the holder of a COA, Applicant shall be subject to all applicable provisions of HRS chapter 269, HAR chapters 6-80 and 6-81, other applicable State laws and commission rules, and any orders that the commission may issue from time to time.

3. Applicant shall file its tariffs in accordance with HAR §§ 6-80-39 and 6-80-40. Applicant's tariffs shall comply with the provisions of HAR chapter 6-80. In the event of

a conflict between any tariff provision and State law, State law shall prevail.

4. Applicant shall conform its new or amended tariff to the applicable provisions of HAR chapter 6-80 by, among other things, incorporating the required tariff revisions set forth in section III of this decision and order. An original and eight copies of the new or amended tariff, with the noted revisions, shall be filed with the commission, and two additional copies shall be served on the Consumer Advocate. Applicant shall ensure that the appropriate issued and effective dates are reflected in its tariffs.


5. Applicant shall surrender its existing COA, COA-0110, to the commission, and an amended COA reflecting its expanded operating authority, granted by this decision and order, shall be issued.

DONE at Honolulu, Hawaii this 24th day of September,
2003.

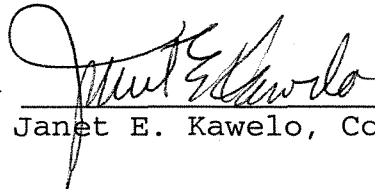
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 

Carlito P. Caliboso, Chairman


By 

Wayne H. Kimura, Commissioner

By 

Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:



Kris N. Nakagawa
Commission Counsel

03-0140.s1

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 20461 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

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1720 Windward Concourse, Suite 250
Alpharetta, GA 30005



Karen Higashi

DATED: September 24, 2003