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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

DOCKET NO. 03-0219

In the Matter of the Application of )  
 )  
 VERIZON HAWAII INC. )  
 )  
 For Approval to Sublease Property )  
 at 900 Kapahulu Avenue, Honolulu, )  
 to ABD Group, LLC, dba Dunkin )  
 Donuts and Baskin Robbins. )  
 \_\_\_\_\_ )

DECISION AND ORDER NO. 20635

Filed NOV. 13, 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

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)  
VERIZON HAWAII INC. ) Docket No. 03-0219  
For Approval to Sublease Property ) Decision and Order No. 20635  
at 900 Kapahulu Avenue, Honolulu, )  
to ABD Group, LLC, dba Dunkin )  
Donuts and Baskin Robbins. )  
\_\_\_\_\_)

DECISION AND ORDER

I.

Background

VERIZON HAWAII INC. requests the commission's approval to sublease certain property to ABD Group, LLC, in accordance with Hawaii Revised Statutes ("HRS") § 269-19.<sup>1</sup> Verizon Hawaii Inc. served a copy of its application upon the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate").

Verizon Hawaii Inc. responded to the commission's and Consumer Advocate's information requests on September 3 and October 3, 2003, respectively. The Consumer Advocate does not object to the commission's approval of Verizon Hawaii Inc.'s application.<sup>2</sup>

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<sup>1</sup>Verizon Hawaii Inc.'s application, filed on August 11, 2003.

<sup>2</sup>Consumer Advocate's position statement, filed on October 28, 2003.

II.

Sublease: 900 Kapahulu Avenue

By a Master Lease Agreement, dated April 1, 1981, as amended on April 12, 1982 (the "Master Lease"), the Trustees of the Estate of Joseph J. Gouveia and four individual Gouveia members (collectively, the "Lessors") leased approximately 82,741 square feet of property, located in the Kapahulu Avenue vicinity (the "Master property"), to Hawaiian Telephone Company, Inc., Verizon Hawaii Inc.'s predecessor-in-interest.

By a Single Tenant Sublease Agreement, dated September 12, 2002 (the "Sublease"), Verizon Hawaii Inc. leased a portion of the Master property to ABD Group, LLC.<sup>3</sup> The subject property, identified as Tax Map Key No. (1)-2-7-32-38: (1) is located at 900 Kapahulu Avenue, adjacent to Verizon Hawaii Inc.'s 874 Kapahulu Avenue base yard; and (2) consists of 13,381 square feet of land, and includes 2,337 square feet of building space, where ABD Group, LLC operates the Dunkin Donuts and Baskin Robbins stores. On October 1, 2002, ABD Group, LLC took possession of the subject property, pursuant to paragraph 4 of the Sublease.

Under the terms of the Sublease: (1) the commission's approval of the Sublease is required; (2) the base rent is

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<sup>3</sup>See Exhibit I of the application, Single Tenant Sublease.

On May 29, 2003, the Lessors' successors-in-interest, in accordance with the terms of the Master Lease, consented to the Sublease. See Exhibit II of the application, Consent to Sublease to ABD Group, LLC, dba Dunkin Donuts and Baskin Robbins.

\$8,179.50 per month, through September 15, 2006; and  
(3) ABD Group, LLC has the right of first refusal to renew the Sublease for an additional five years, if Verizon Hawaii Inc. renews the Master Lease and continues to sublease thereafter.<sup>4</sup>

### III.

#### Discussion

##### A.

HRS § 269-19 provides that "[n]o public utility corporation shall sell, lease, assign, mortgage, or otherwise dispose of or encumber the whole or any part of its road, line, plant, system, or other property necessary or useful in the performance of its duties to the public, . . . without first having secured from the public utilities commission an order authorizing it so to do."

##### B.

Verizon Hawaii Inc. states that:

1. It is not utilizing the subject property to provide telecommunications services. Thus, the subleasing of the subject property will not adversely affect its utility operations.

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<sup>4</sup>In the event Verizon Hawaii Inc., as Landlord, is unable to obtain the commission's approval, "neither Landlord nor Tenant shall have any further obligations under this Sublease, except for obligations which accrued prior to the date of such termination and Tenant shall surrender the Premises to Landlord in the condition required in this Sublease."

2. "Subleasing the [subject] property to ABD Group, LLC is in the public interest as it provides revenues which offset the rent expense [Verizon Hawaii Inc.] pays to the Master Landlord."

C.

The Consumer Advocate does not object to the commission's approval of the application, finding that:

1. The sublease will not adversely affect Verizon Hawaii Inc.'s ability to provide telecommunications services.

2. There is no future need to use the subject property for utility purposes.

3. The sublease is reasonable and does not appear to discriminate against other, non-party telecommunications carriers.

4. The sublease appears to sufficiently protect Verizon Hawaii Inc., ABD Group, LLC, and the ratepayers' interests.

5. Verizon Hawaii Inc.'s overall rent expense under the Master Lease "will be offset by \$98,154 per year up to and including the year 2006 with the sublease of [the] Company's 900 Kapahulu Avenue property to ABD Group, LLC."

D.

The commission approves, *nunc pro tunc*, Verizon Hawaii Inc.'s request to sublease the subject property at 900 Kapahulu Avenue, to ABD Group, LLC.

IV.


Orders

THE COMMISSION ORDERS:

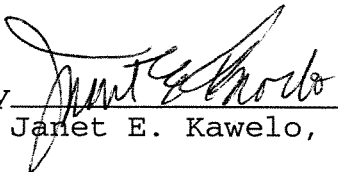
1. Verizon Hawaii Inc.'s request to sublease the subject property at 900 Kapahulu Avenue, Honolulu, to ABD Group, LLC, is approved, *nunc pro tunc*.
2. This docket is closed.

DONE at Honolulu, Hawaii this 13th day of November,  
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:

  
\_\_\_\_\_  
Michael Azama  
Commission Counsel

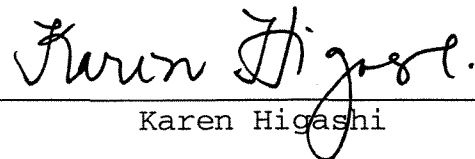
03-0219.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 20635 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

JOEL K. MATSUNAGA, VICE PRESIDENT-EXTERNAL AFFAIRS  
VERIZON HAWAII INC.  
P. O. Box 2200, A-17  
Honolulu, HI 96841

  
\_\_\_\_\_  
Karen Higashi

DATED: November 13, 2003