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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
)
 PACIFIC LIGHTNET, INC.) DOCKET NO. 03-0197
)
 Petition for Arbitration Pursuant)
 To 47 U.S.C. § 252(b) of)
 Interconnection Rates, Terms, and)
 Conditions with Verizon Hawaii Inc.)
 _____)

ORDER NO. 20706

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DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

Filed Dec. 5, 2003
At 10:30 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. 03-0197
)
 Petition for Arbitration Pursuant) Order No. 20706
 To 47 U.S.C. § 252(b) of)
 Interconnection Rates, Terms, and)
 Conditions with Verizon Hawaii Inc.)
 -----)

ORDER

I.

Introduction

On November 20, 2003, VERIZON HAWAII INC. ("Verizon Hawaii") filed a Motion to Strike Certain Portions of Pacific Lightnet, Inc.'s ("PLNI") Rebuttal Testimony ("Motion to Strike"). Verizon Hawaii asserts that portions of the rebuttal testimony offered by Daniel Trampush, Patrick Bustamante, and John Warta, filed by PLNI on November 14, 2003, violate Prehearing Order No. 20477.¹ Verizon Hawaii states that Section IV of Prehearing Order No. 20477 provides:

The written direct testimony shall provide a party's affirmative position on an issue ... The written rebuttal testimony shall be strictly limited to responding to matters raised in another party's direct testimony. Except as provided in section V, below, *no new information, evidence, or testimony may be introduced in rebuttal testimony.* (Emphasis added)

¹The commission filed Prehearing Order No. 20477 on October 2, 2003.

Verizon Hawaii argues that portions of PLNI's witnesses' rebuttal testimonies do not rebut the testimony offered by Verizon Hawaii's witnesses, but are new direct testimony on the various matters. Verizon Hawaii asserts that the submission of new direct testimony labeled as rebuttal testimony is "fundamentally unfair" to Verizon Hawaii, since Verizon Hawaii would be precluded from responding to PLNI's positions on the issues.

On November 26, 2003, PLNI filed its Opposition to Motion of Verizon Hawaii to Strike Certain Portions of PLNI's Rebuttal Testimony, stating that PLNI's rebuttal testimonies, "rather than introduc[ing] new direct testimony, was limited to responding to Verizon [Hawaii's] direct testimony."

II.

Discussion

Upon review of the portions of the direct testimonies and rebuttal testimonies that were questioned, the commission finds that PLNI's witnesses' rebuttal testimonies responded to the direct testimonies of Verizon Hawaii's witnesses. However, our review of the subject testimonies provided us with an understanding of why Verizon Hawaii characterized some of the rebuttal testimonies as proffering new direct testimony. Accordingly, the commission concludes that Verizon Hawaii's Motion to Strike should be denied, and the subject rebuttal testimonies in the record should be given an appropriate amount of weight. The commission also concludes

Verizon Hawaii should be allowed to respond at the hearing, which is set to begin on Monday, December 8, 2003 at 9:00 a.m., to the specific lines of testimony disputed and enumerated in its Motion to Strike, for the limited purpose of responding to the portions of PLNI's witnesses' rebuttal testimonies that are alleged to offer new direct testimony. Such rebuttal testimonies offered by Verizon Hawaii should be brief and will be subject to limitation by the Chairman of the commission, at his discretion.

III.

Orders


THE COMMISSION ORDERS:

1. Verizon Hawaii's Motion to Strike is denied. The subject rebuttal testimonies are included in the record, and shall be given the appropriate level of weight, as determined by the commission.

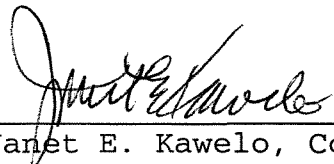
2. At the hearing, which is set to begin on Monday, December 8, 2003 at 9:00 a.m., Verizon Hawaii shall be allowed to present testimony responding to the specific lines of testimony disputed and enumerated in its Motion to Strike for the limited purpose of responding to the portions of PLNI's witnesses' rebuttal testimonies that are alleged to offer new direct testimony. Such rebuttal testimonies offered by Verizon Hawaii shall be brief and subject to limitation by the Chairman of the commission, at his discretion.

DONE at Honolulu, Hawaii this 5th day of December,
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

03-0197.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20706 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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Karen Higashi

DATED: December 5, 2003