

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of)  
VERIZON HAWAII INC. )  
For Approval of TEL-WEST )  
COMPANIES' (dba HASSLE FREE )  
PHONE) Adoption of the )  
Negotiated Interconnection )  
Agreement Between Now )  
Communications, Inc. and VERIZON )  
HAWAII INC. )

DOCKET NO. 03-0404

DECISION AND ORDER NO. 20819

DEPT. OF CONSUMER AFFAIRS  
DEPT. OF COMMERCE AND  
INDUSTRY  
CONSUMER AFFAIRS  
STATE OF HAWAII

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Filed Feb. 26, 2004  
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

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VERIZON HAWAII INC.	)	Docket No. 03-0404
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For Approval of TEL-WEST	)	Decision and Order No. 20819
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Negotiated Interconnection	)	
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Communications, Inc. and VERIZON)	)	
HAWAII INC.	)	
_____)	)	

DECISION AND ORDER

I.

Introduction

VERIZON HAWAII INC. ("Verizon Hawaii") requests commission approval of TEL-WEST COMPANIES' (dba HASSLE FREE PHONE) ("Tel-West") adoption of the negotiated interconnection agreement between Now Communications, Inc. ("Now Communications") and Verizon Hawaii ("Agreement") for the provision of telecommunications service in Hawaii, subject to the conditions and reservations set forth in the adoption letter dated November 10, 2003 ("Adoption Letter"). Verizon Hawaii filed the petition on December 3, 2003, and attached for our review, pursuant to Section 251(i), the Adoption Letter signed by Verizon Hawaii and Tel-West (collectively, the "Parties") and the Agreement.

Verizon Hawaii served the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate") with copies of the petition and

attachments.<sup>1</sup> The Consumer Advocate filed its statement of position ("SOP") on February 4, 2004, informing us that it does not object to our approval of Verizon Hawaii's request subject to a qualification.

## II.

### Background

#### A.

##### Parties' Agreement

Verizon Hawaii is a corporation duly organized and existing under and by virtue of the laws of the State of Hawaii ("State"). It engages in the provision of varied telecommunications services to its customers and the general public within its chartered territory in the State. Tel-West is an authorized provider of telecommunications services in the State.<sup>2</sup>

The commission approved the Agreement in Decision and Order No. 20395, filed on August 26, 2003, in Docket No. 03-0163. The Agreement sets forth the terms and conditions for various aspects of telecommunications service between Now Communications and Verizon Hawaii. The Adoption Letter indicates Tel-West's intent to adopt the terms of the Agreement to be effective in the State, enumerates Verizon Hawaii's position on certain matters with regards to the applicability of the Agreement to the

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<sup>1</sup>No person moved to intervene or participate in this docket.

<sup>2</sup>See, Decision and Order No. 20557, filed on October 6, 2003, in Docket No. 03-0236.

Parties, and indicates Tel-West's acceptance of certain aspects of Verizon Hawaii's positions.<sup>3</sup>

B.

Consumer Advocate's Position

The Consumer Advocate conveys that the Agreement fails to incorporate corrected Reciprocal Compensation Traffic Tandem Rate ("RCTTR") and Tandem Transit Service Charge ("TTSC") rates<sup>4</sup> discovered in an interconnection agreement between MCImetro Access Transmission Services LLC ("MCImetro") and Verizon Hawaii.<sup>5</sup> However, the Consumer Advocate concedes that the observed rate differences are "nominal" and that the revenue differences derived from them are expected to be insignificant. Thus, the Consumer Advocate will not recommend that the RCTTR and TTSC rates be changed regarding the matters of this docket. Nonetheless, the Consumer Advocate states that Verizon Hawaii should make the necessary rate changes in all future agreements.

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<sup>3</sup>The following is specifically noted above the signature of Tel-West's representative: "[r]eviewed and countersigned as to points A, B, C, D and E of paragraph 1. There is no mention of the other paragraphs of the Adoption Letter. See, Adoption Letter at 5.

<sup>4</sup>A RCTTR rate of \$0.0094957 (revised), as opposed to \$0.0094947 (old), per minute of use ("MOU") and a TTSC rate of \$0.0016173 (revised), as opposed to \$0.0016168 (old), per MOU.

<sup>5</sup>See, Decision and Order No. 20585, filed on October 22, 2003, in Docket No. 03-0199.

The Consumer Advocate presumes that Verizon Hawaii did not have the opportunity to change the rates since the decision and order regarding MCImetro's interconnection agreement with Verizon Hawaii was issued after the rate schedule regarding Tel-West's adoption of Now Communication's interconnection agreement with Verizon Hawaii was determined.

Aside from the differences in rates discussed above, the Consumer Advocate finds and concludes that the terms and conditions of the Agreement appear to not discriminate against other telecommunications carriers. The Consumer Advocate also concludes that the Agreement is consistent with the public interest, convenience, and necessity objectives of advancing competition in Hawaii's local telephone market.

### III.

#### Findings and Conclusions

Hawaii Administrative Rules ("HAR") § 6-80-54 requires all agreements regarding access, interconnection, unbundling, and network termination adopted by negotiation or arbitration be submitted to the commission for review and approval. The Agreement is not an arbitrated agreement but one that was negotiated and consummated by Now Communications and Verizon Hawaii. The Adoption Letter, signed by the Parties, is a negotiated contract between Tel-West and Verizon Hawaii. Accordingly, we will treat the Agreement as a negotiated interconnection agreement between the Parties and conduct our review under HAR § 6-80-54(b).

HAR § 6-80-54(b) specifically states that we may reject a negotiated interconnection agreement if we find:

- (1) The agreement, or any portion of the agreement, discriminates against a telecommunications carrier not a party to the agreement; or
- (2) The implementation of the agreement, or any portion of the agreement, is not consistent with the public interest, convenience, and necessity.

The commission concurs with the Consumer Advocate's findings and conclusions that the Agreement does not appear to discriminate against other telecommunications carriers, and that the implementation of the Agreement is consistent with the public interest, convenience, and necessity. The commission recognizes that approval of the Agreement is in the public interest since it should help to increase competition in the State's telecommunications market by providing Tel-West with the necessary means to operate in Hawaii.<sup>6</sup>

Accordingly, we conclude that Tel-West's adoption of the Agreement, subject to the conditions and reservations set forth in the Adoption Letter, should be approved.

#### IV.

##### Orders

###### THE COMMISSION ORDERS:

1. Tel-West's adoption of the Agreement, subject to the conditions and reservations set forth in the Adoption Letter, filed on December 3, 2003, is approved under HAR § 6-80-54(b).
2. This docket is closed.


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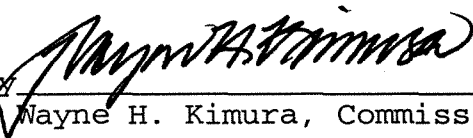
<sup>6</sup>However, we are also cognizant of the Consumer Advocate's concerns regarding RCTTR and TTSC rates, as noted in their SOP.

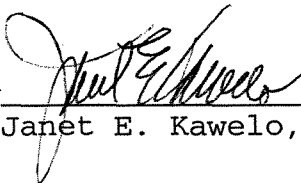
DONE at Honolulu, Hawaii this 26th day of February,

2004.


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:

  
\_\_\_\_\_  
Ji Book Kim  
Commission Counsel

03-0404.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 20819 upon the following Petitioners, 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

GEOFFREY BLOOM  
TEL-WEST COMPANIES  
dba HASSLE FREE PHONE  
2940 St. Joseph Street  
Logandale, NV 89021

  
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Karen Higashi

DATED: February 26, 2004