

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
 VERIZON HAWAII INC.)
)
 For Approval of the Operator)
 Services Agreement of Tel-West)
 Companies dba Hassle Free Phone.)
 _____)

DOCKET NO. 04-0066

DECISION AND ORDER NO. 21083

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

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2004 JUN 28 A 9:56

Filed June 25, 2004
At 11:00 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.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
VERIZON HAWAII INC.) Docket No. 04-0066
For Approval of the Operator) Decision and Order No. 21083
Services Agreement of Tel-West)
Companies dba Hassle Free Phone.)
_____)

DECISION AND ORDER

I.

Introduction

VERIZON HAWAII INC. ("Verizon Hawaii") requests commission approval of the Operator Services Agreement between TEL-WEST COMPANIES dba HASSLE FREE PHONE ("Hassle Free Phone") and Verizon Hawaii ("OS Agreement"). Verizon Hawaii filed its request under Hawaii Administrative Rules ("HAR") § 6-80-54 in a petition filed on April 12, 2004.

Verizon Hawaii served the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate") with copies of the petition and the OS Agreement.¹ The Consumer Advocate filed its statement of position on April 27, 2004, informing us that it does not object to our approval of Verizon Hawaii's request.

¹No person moved to intervene or participate in this docket.

II.

Background

A.

OS 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.

Hassle Free Phone is an authorized provider of telecommunications services in the State on a resold basis. Commission approval authorizing Hassle Free Phone's operations in the State was granted in Decision and Order No. 20557, filed on October 6, 2003, in Docket No. 03-0236.

The OS Agreement sets forth the rates, terms, and conditions under which Hassle Free Phone agrees to purchase operator services from Verizon Hawaii. The OS Agreement applies to Local and Intra-LATA Operator Assistance, Local Directory Assistance, and National Directory Assistance. The effective date of the OS agreement is from February 13, 2004, through June 30, 2007, with successive one (1) year renewals of the agreement at Verizon Hawaii's applicable rates unless otherwise terminated by Verizon Hawaii or Hassle Free Phone as specified in the OS Agreement.

B.

Consumer Advocate's Position

In its efforts to assess the OS Agreement, the Consumer Advocate compared the OS Agreement with previously approved operator services agreements between Verizon Hawaii and other telecommunications carriers, such as Sandwich Isles Communications, Inc.; GST Telecom Hawaii; TelHawaii, Inc.; and Time Warner Telecom of Hawaii, L.P., dba Oceanic Communications ("Oceanic"). Aside from differing rate schedules and minor differences in language, terms, and conditions, which it deemed to be insignificant to result in discrimination, the Consumer Advocate found the OS Agreement's terms and conditions to be generally similar to the previously approved operator services agreements. Additionally, the Consumer Advocate noted that the proposed rates of the OS Agreement are the same rates previously stipulated to by Verizon Hawaii and Oceanic, which was approved by the commission in Order No. 18230, filed on December 6, 2000, as amended by Order No. 18236, filed on December 8, 2000, in Docket No. 7702. Based on these factors, the Consumer Advocate determined that the OS Agreement does not appear to discriminate against telecommunications carriers not a party to the agreement. The Consumer Advocate also concluded that the OS Agreement is consistent with the public interest, convenience, and necessity objectives of advancing competition in the State's telecommunications market since it enables Hassle Free Phone to continue to provide operator services to its customers in Hawaii.

III.

Findings and Conclusions

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 by Verizon Hawaii and Hassle Free Phone. Accordingly, we will treat the OS Agreement as a negotiated agreement and conduct our review under HAR § 6-80-54(b).

HAR § 6-80-54(b) specifically states that we may reject a negotiated 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 conclusions that the OS Agreement does not appear to discriminate against other telecommunications carriers, and that implementation of the OS Agreement is consistent with the public interest, convenience, and necessity. The commission recognizes that approval of the OS Agreement is in the public interest since it will allow Hassle Free Phone to provide operator services to its Hawaii customers. Thus, our approval of the OS Agreement advances the State's interest of increasing competition in the State's telecommunications market.

Accordingly, we conclude that the OS Agreement should be approved.

IV.

Orders


THE COMMISSION ORDERS:

1. The OS Agreement between Verizon Hawaii and Hassle Free Phone, filed on April 12, 2004, is approved, under HAR § 6-80-54(b).

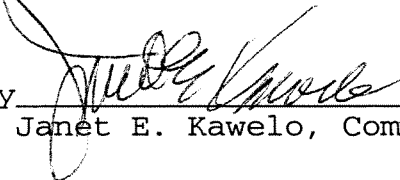
2. This docket is closed.

DONE at Honolulu, Hawaii this 25th day of June, 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 Sook Kim
Commission Counsel
04-0066.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21083 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
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GEOFFREY BLOOM
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Karen Higashi

DATED: June 25, 2004