

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
)
PUBLIC UTILITIES COMMISSION)
)
Instituting a Proceeding on)
Communications, Including an)
Investigation of the)
Communications Infrastructure)
of the State of Hawaii.)
_____)

DOCKET NO. 7702

ORDER NO. 21766

Filed April 22, 2005
At 2:30 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

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

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi

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Docket No. 7702

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ORDER

By this Order, the commission approves the parties' request for an extension of time to comply with the filing requirements of Order No. 21677, filed on March 9, 2005 ("Order" or "Order No. 21677"), as set forth herein.

I. Background

The current parties to this docket are: (1) VERIZON HAWAII INC. ("Verizon Hawaii"); (2) the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY; (3) AT&T COMMUNICATIONS OF HAWAII, INC.; (4) TIME WARNER TELECOM OF HAWAII, L.P., dba OCEANIC COMMUNICATIONS; (5) the UNITED STATES DEPARTMENT OF DEFENSE AND ALL OTHER FEDERAL EXECUTIVE AGENCIES; (6) PACIFIC LIGHTNET, INC.; and (7) SPRINT COMMUNICATIONS COMPANY, L.P. (referred to collectively as the "Parties").

By Order No. 21677, the commission ordered:
(1) Verizon Hawaii to initiate informal discussions with all

interested Parties regarding the three (3) discussion points set forth in section II of Order No. 21677, and (2) the Parties to file a stipulation memorializing any agreements, if any, reached during the informal discussions regarding each discussion point or file separate position statements setting forth their respective views on the discussion points, as necessary ("Filing Requirements"), within sixty (60) days of the issuance of Order No. 21677.

On April 7, 2005, Verizon Hawaii filed a letter on behalf of the Parties ("April 7, 2005 Letter") requesting that the commission extend the period for which the Parties are required to comply with Order No. 21677 by an initial additional sixty (60) days, or until July 8, 2005, and proposing that on July 8, 2005, the Parties will inform the commission how much additional time they will need to comply with the Filing Requirements of the Order as opposed to submitting their stipulation or separate position statements (collectively, "Request").

II. Basis of Parties' Request

Through the April 7, 2005 Letter, the Parties inform the commission that they held discussions regarding the requirements and issues of consideration¹ in Order No. 21677,

¹In Order No. 21677, the commission acknowledged three unaddressed issues of this docket, which are: (1) the establishment of rates for direct current ("DC") and backup DC power for adjacent on-site collocation; (2) Verizon Hawaii's wholesale non-recurring cost study and proposed rates; and (3) Verizon Hawaii's proposal to recover its Operations Support

pursuant to the Order. The Parties contend that during the discussions it became apparent that the proposed transfer of control of Verizon Hawaii² created "practical difficulties for the [P]arties in complying with the Order and that proceeding at this time would be premature and not the best uses of the [P]arties' or the [c]ommission's time and resources."³ The Parties enumerate other reasons and factors in support of their Request. Among other things, the Parties contend that since the closing of the Transfer of Control of Verizon Hawaii is still pending, any evaluation of the effects of the transfer on the Open Issues would be speculative. Additionally, they contend that subsequent to the closing of the Transfer of Control, Hawaiian Telcom and its position will be relevant, as opposed to Verizon Hawaii and its position. The Parties finally contend that Hawaiian Telcom will need the time to review the Open Issues and formulate its own position.

Systems ("OSS") transition, OSS transaction, and National Market Center shared and fixed costs (collective referred to as the "Open Issues").

²On June 21, 2004, Paradise MergerSub, Inc., now known as Hawaiian Telcom Communications, Inc. ("HT Communications"); GTE Corporation; Verizon Hawaii (to be renamed Hawaiian Telcom, Inc. ("Hawaiian Telcom") upon close of the transaction); Bell Atlantic Communications, Inc., dba Verizon Long Distance; and Verizon Select Services Inc. (collectively referred to as "Applicants") jointly filed an application requesting commission approval of the proposed transfer of Verizon Hawaii and certain other assets, and the financing obligations associated with the transfer ("Transfer of Control"). Applicants proposed Transfer of Control became a matter of Docket No. 04-0140. By Decision and Order No. 21696, filed on March 16, 2005, in Docket No. 04-0140, the commission conditionally approved Applicants' Transfer of Control.

³See, April 7, 2005 Letter at 1.

III. Discussion

Hawaii Administrative Rules ("HAR") § 6-61-23(a)(1) allows the commission, at its discretion, to enlarge the period of time for any act that is required to be done on a showing of good cause when a written request for the enlargement of time is filed before the expiration of the originally prescribed period.

Order No. 21677 was issued on March 9, 2005; thus, the deadline for the Parties to comply with the requirements of the Order is, in accordance with HAR § 6-61-21 and 6-61-22, May 10, 2005. We reiterate that the Parties' Request was filed on April 7, 2005.

Upon review, the Parties' rationale for the Request appears to be reasonable. While the commission conditionally approved the Transfer of Control on March 16, 2005, at this time, we are aware that Applicants have yet to close the transaction. Nonetheless, assuming the transaction closes prior to July 8, 2005, we recognize that Hawaiian Telcom, and its parent, HT Communications, will need additional time to review the Open Issues and formulate their positions with regards to the issues of this docket. Thus, we find good cause to approve the Request under HAR § 6-61-23(a)(1). However, since the Parties' July 8, 2005 filing is essentially an additional extension of time to comply with the Filing Requirements, we find it reasonable and consistent with past commission practice to require the Parties' July 8, 2005 filing, informing the commission how much additional time they will need to comply with the Filing Requirements of Order No. 21677, be submitted in the

form of a proposed stipulated order for the commission's review and approval.

Based on the above, we conclude that the Parties' Request should be approved, provided that the Parties' July 8, 2005 filing should be submitted in the form of a proposed stipulated order for the commission's review and approval.

IV. Order

THE COMMISSION ORDERS that the Parties' Request, filed on April 7, 2005, is approved; provided that the Parties' July 8, 2005 filing, informing the commission how much additional time they will need to comply with the Filing Requirements of Order No. 21677, shall be submitted in the form of a proposed stipulated order for the commission's review and approval.

DONE at Honolulu, Hawaii APR 22 2005.

PUBLIC UTILITIES COMMISSION OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By Wayne H. Kimura
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:

By Janet E. Kawelo
Janet E. Kawelo, Commissioner

Ji Sook Kim
Ji Sook Kim
Commission Counsel

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 21766 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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DATED: APR 22 2005