

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

----- In the Matter of -----)  
)  
GRANITE TELECOMMUNICATIONS, LLC )  
)  
Notice of Failure to Comply )  
With Hawaii Revised Statutes )  
and Commission's Regulations; )  
Order to Show Cause Why )  
Respondent's Operating )  
Authority Should Not Be )  
Suspended or Revoked. )  
\_\_\_\_\_)

DOCKET NO. 2006-0291

ORDER NO. 23183

Filed January 5, 2007  
At 12 o'clock P.M.

Bonnie K. Kane  
for Chief Clerk of the Commission

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

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Docket No. 2006-0291  
Order No. 23183

ORDER

By this Order, the commission grants GRANITE TELECOMMUNICATIONS, LLC's ("Respondent") motion for reconsideration, and thus vacates Decision and Order No. 22957, filed on October 19, 2006, subject to certain conditions, as described herein.

I.

Background

By Order No. 22767, filed on August 17, 2006, the commission ordered Respondent to appear at 465 South King Street, Room B3, Honolulu, Hawaii 96813, at 9:00 a.m., on September 28, 2006, to show cause why Respondent's certificate of authority ("COA") should not be suspended or revoked for failure to pay its contribution to the telecommunications relay services ("TRS") fund that was due on July 26, 2004 and July 26, 2005, pursuant to Order No. 20193. As Respondent failed to appear at the hearing,

the commission revoked Respondent's COA by Decision and Order No. 22957, filed on October 19, 2006.

On November 20, 2006, Respondent filed a motion for reconsideration of Decision and Order No. 22957 and a motion for enlargement of time to file its motion for reconsideration, as the motion for reconsideration was untimely.<sup>1</sup>

## II.

### Discussion

HAR § 6-61-23(a)(2), which governs requests for enlargement of time, states in relevant part:

- (a) When by this chapter or by notice or by order of the commission, any act is required or allowed to be done at or within a specified time, the commission for good cause shown may at any time, in its discretion:

- (2) Upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect . . . .

HAR § 6-61-23(a)(2). Thus, section 6-61-23(a)(2) allows Respondent to file a motion for reconsideration only upon a showing of excusable neglect.

HRS § 269-16.9, however, allows the commission to waive regulatory requirements applicable to telecommunications providers if it determines that competition will serve the same purpose as public interest regulation. Specifically, HAR

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<sup>1</sup>HAR § 6-61-137 provides that a motion for reconsideration must be filed within ten (10) days of service of the decision and order. HAR § 6-61-21(e) allows for an additional two days when service is effected by mail. Thus, in this instance, Respondent's motion for reconsideration should have been filed on or before October 31, 2006.

§ 6-80-135 permits the commission to waive the applicability of any of the provisions of HRS chapter 269 or any rule, upon a determination that a waiver is in the public interest.

Here, prior to its COA being revoked by Decision and Order No. 22957, Respondent was a non-dominant telecommunications carrier in the State whose telecommunications services were fully competitive. In addition, with respect to non-dominant carriers in the telecommunications industry, competition often serves the same purpose as public interest regulation, as it would in this particular instance. Accordingly, a waiver of the provisions of HAR § 6-61-23(a)(2) would be appropriate under the circumstances.

With respect to its motion for reconsideration, Respondent states, among other things: (1) that upon receipt, the commission's correspondence was improperly routed; (2) that the move of Respondent's offices in February 2006 may have contributed to the lack of responsiveness to commission correspondence and orders; (3) that Respondent has taken affirmative steps to ensure the proper routing of all regulatory correspondence and verification of reporting obligations well in advance of filing deadlines; and (4) that Respondent is prepared to resolve all delinquent TRS contribution obligations upon the commission's disposition of its motion for reconsideration.

Upon careful review, the commission finds good cause to grant Respondent's motion for reconsideration provided that Respondent pay its contribution to the TRS fund that was due on July 26, 2004 and July 26, 2005, no later than thirty days from the date of this Order.

III.

Orders

THE COMMISSION ORDERS:

1. The requirements of HAR § 6-61-23(a)(2) are waived.

2. Respondent's motion for reconsideration is granted, subject to the condition set forth below.

3. Decision and Order No. 22957, filed on October 19, 2006, is vacated.

4. Within thirty (30) days from the filing of this Order, Respondent shall pay its contribution to the TRS fund that was due on July 26, 2004 and July 26, 2005. Failure to comply within the time specified constitutes cause for this commission to vacate this Order.

DONE at Honolulu, Hawaii JAN - 5 2007.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By Carlito P. Caliboso  
Carlito P. Caliboso, Chairman

By John E. Cole  
John E. Cole, Commissioner

APPROVED AS TO FORM:

Stacey Kawasaki Djou  
Stacey Kawasaki Djou  
Commission Counsel


2006-0291.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23183 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

CATHERINE P. AWAKUNI  
EXECUTIVE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
P. O. Box 541  
Honolulu, HI 96809

GRANITE TELECOMMUNICATIONS, LLC  
100 Newport Avenue Ext.  
Quincy, MA 02171

  
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for Karen Higashi

DATED: JAN - 5 2007