

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

KRS DEVELOPMENT, INC. and)
HALE KANANAI ASSOCIATES, INC.)

Complainants)

vs.)

HAWAIIAN TELCOM, INC.)

Respondent.)
_____)

DOCKET NO. 2008-0017

ORDER APPROVING STIPULATION TO DISMISS AMENDED COMPLAINT

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DIV. OF CONSUMER ADVOCACY
DEPT. OF BUSINESS, TRADE AND
CONSUMER AFFAIRS
STATE OF HAWAII

PUBLIC UTILITIES
COMMISSION

2008 JUN 10 A 10:58

FILED

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

KRS DEVELOPMENT, INC. and)	
HALE KANANAI ASSOCIATES, INC.)	
)	Docket No. 2008-0017
Complainants)	
)	
vs.)	
)	
HAWAIIAN TELCOM, INC.)	
)	
Respondent.)	
_____)	

ORDER APPROVING STIPULATION TO DISMISS AMENDED COMPLAINT

By this Order, the commission: (1) approves the Stipulation to Dismiss Amended Complaint, jointly filed by Complainants KRS DEVELOPMENT, INC., and HALE KANANI ASSOCIATES, LLC (collectively, "KRS"), and Respondent HAWAIIAN TELCOM, INC. ("HTI"), on May 23, 2008; and (2) closes this docket.¹

¹The Parties in this proceeding are KRS, HTI, and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party to all commission proceedings, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules § 6-61-62(a). Here, however, the Consumer Advocate, on February 8, 2008, informed the commission of "its decision to not participate in this proceeding. The Consumer Advocate would, however, appreciate receiving a copy of the documents filed in the proceeding to ensure that the Consumer Advocate's docket file is current." Consumer Advocate's Statement of Position, filed on February 8, 2008, at 2.

I.

Background

On January 31, 2008, as amended on February 19, 2008, KRS filed their Amended Complaint against HTI.² On March 17, 2008, as amended on March 18, 2008, HTI filed its Amended Answer to the Amended Complaint.³ On March 31, 2008, the commission instructed KRS and HTI to: (1) participate in nonbinding mediation, consistent with HRS §§ 269-15.6 and 91-8.5;⁴ and (2) report in writing the status of their mediation efforts within twenty days.⁵

Thereafter, by letter dated April 21, 2008, KRS and HTI, as part of their status report, requested additional time to complete the mediation period. On May 7, 2008, the commission extended the time period for KRS and HTI to complete the mediation process for an additional thirty days, from April 30, 2008 to May 30, 2008, consistent with HRS § 91.8.5(b).⁶

²Complaint; Exhibits A - O, filed on January 31, 2008; and Verification and Certificate of Service, filed on February 19, 2008 (collectively, the "Amended Complaint").

³Answer to Complaint, filed on March 17, 2008, as amended on March 18, 2008 (collectively, the "Amended Answer").

⁴HRS § 91-8.5(b) states that "[n]o mediation period under this section shall exceed thirty days from the date the case is referred to mediation, unless otherwise extended by the agency."

⁵Order No. 24115, filed on March 31, 2008.

⁶Order No. 24181, filed on May 7, 2008.

II.

Closing of the Docket

On May 5, 2008, KRS and HTI participated in nonbinding mediation, facilitated by the Honorable E. John McConnell, retired Judge of the Second Circuit Court. As a result of the mediation process, KRS and HTI stipulate and agree as follows:

1. The Complainants agree to dismiss the Amended Complaint with prejudice; and

2. The Parties agree that this Stipulation resolves and releases all claims, damages, and injuries of every kind, known and unknown, now and in the future which the Parties may have with respect to the matters raised in the Amended Complaint[.]

Stipulation to Dismiss Amended Complaint, filed on May 23, 2008, at 2-3.

Here, as a result of the mediation process, KRS has agreed to dismiss the Amended Complaint, with prejudice. The commission: (1) approves the Stipulation to Dismiss Amended Complaint, jointly filed by KRS and HTI; and (2) closes this docket.

III.

Orders

THE COMMISSION ORDERS:


1. The Stipulation to Dismiss Amended Complaint, with prejudice, jointly filed by KRS and HTI on May 23, 2008, is approved.

2. This docket is closed.


DONE at Honolulu, Hawaii

JUN 10 2008


PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

By 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Michael Azama
Commission Counsel

2008-0017.cp

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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