

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)  
PACIFIC LIGHTNET, INC. )  
For Approval of Revision to )  
its Tariff No. 1. Transmittal )  
No. 08-01. )  
\_\_\_\_\_ )

ORDER NO. 23989

Filed Jan. 30, 2008  
At 11 o'clock A.M.

Karen Higash  
Chief Clerk of the Commission

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

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ORDER

By this Order, the commission suspends Transmittal No. 08-01, filed by PACIFIC LIGHTNET, INC. ("PLNI") on January 7, 2008,<sup>1</sup> which seeks to "introduce a promotional offering to existing and new retail customers subscribing to term contracts for Integrated Services Digital Network (ISDN) Services bundled with up to five thousand (5000) inter-island and/or domestic minutes of long distance."<sup>2</sup> In doing so, the commission opens an investigation to examine the merits of Transmittal No. 08-01.

Any interested person seeking to intervene or participate in this proceeding shall file a motion with the commission, within twenty days from the date of this Order, with copies served on PLNI and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate").<sup>3</sup>

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<sup>1</sup>Transmittal No. 08-01; Exhibit; and Certificate of Service, filed on January 7, 2008 (collectively, "Transmittal No. 08-01").

<sup>2</sup>Transmittal No. 08-01, at 1.

I.

Background

By Transmittal No. 08-01, PLNI seeks to offer a new promotional offering that bundles ISDN, a non-competitive service, with inter-island toll service, a competitive service. PLNI explains that it "will waive or reduce certain nonrecurring charges and offer discounts on monthly recurring charges associated with ISDN Primary Rate Interface (PRI) with long distance term contracts for retail business customers who meet eligibility requirements outlined in the tariff. The promotion will be effective from February 6, 2008 to May 6, 2008."<sup>4</sup> PLNI files its transmittal pursuant to HAR chapter 6-61 and §§ 6-80-39 and 6-80-40.

II.

Discussion

HAR § 6-80-40(b) states:

(b) A telecommunications carrier shall file its tariff for any partially competitive service or noncompetitive service at least thirty days before the effective date of the proposed service. The commission may suspend the operation of the tariff and investigate the justness and reasonableness of the tariff. The commission may conduct a hearing to aid its investigation. The commission shall conduct its investigation on an expedited basis. With or without such suspension, the commission may:

- (1) Deny or reject the tariff; or

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<sup>3</sup>The Consumer Advocate is an ex officio party, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a).

<sup>4</sup>Transmittal No. 08-01, at 1.

(2) Allow the tariff to take effect.

HAR § 6-80-40(b); see also HRS § 269-16(b) (thirty-day notice) and HAR § 6-61-111 (public utility tariff filings).

HAR § 6-80-35(e) provides:

(e) A telecommunications carrier may not offer a noncompetitive telecommunications service jointly with any fully or partially competitive service or with any interstate, international, or other service not within the jurisdiction of the commission, except upon the commission's express approval. The commission's approval is subject to a satisfactory showing by the telecommunications carrier seeking to offer such joint services that the costs of the fully or partially competitive service or the costs of the interstate, international, or other non-jurisdictional service are not subsidized by the noncompetitive service. An application for approval to offer any such joint services must be filed with the commission not less than thirty days before the joint services are marketed, sold, or advertised.

HAR § 6-80-35(e) (emphasis added).

PLNI's transmittal does not cite to or otherwise comply with HAR § 6-80-35(e), governing the offering of certain joint services, i.e., bundling. Accordingly, the commission will: (1) suspend PLNI's transmittal for investigation;<sup>5</sup> (2) instruct PLNI to promptly update its transmittal in compliance with HAR § 6-80-35(e), with copies served on the Consumer Advocate;<sup>6</sup> and (3) instruct PLNI and the Consumer Advocate to jointly submit

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<sup>5</sup>HAR § 6-61-57(3)(B) states in part that a timely motion to intervene or participate shall be filed with the commission within "[t]wenty days after the commission orders an investigation including an investigation of a tariff change or an initial tariff filing."

<sup>6</sup>While HAR § 6-80-40(b) provides the commission with the option of denying or rejecting PLNI's transmittal outright, the commission, in this instance, finds it feasible and efficient to suspend PLNI's transmittal, with the instructions to promptly update said transmittal to comply with HAR § 6-80-35(e).

a stipulated procedural schedule to govern this proceeding, within twenty days from the date of this Order.<sup>7</sup>

Any interested person seeking to intervene or participate in this proceeding shall file a timely motion with the commission, within twenty days from the date of this order, with copies served on PLNI and the Consumer Advocate.

### III.

#### Orders

##### THE COMMISSION ORDERS:

1. PLNI's Transmittal No. 08-01, filed on January 7, 2008, is suspended, and an investigation is opened to examine the merits of said transmittal.

2. PLNI shall promptly update its Transmittal No. 08-01 in compliance with HAR § 6-80-35(e), with copies served on the Consumer Advocate.

3. PLNI and the Consumer Advocate shall jointly submit a stipulated procedural schedule to govern this proceeding, for the commission's review and consideration, within twenty days from the date of this Order. In the event that PLNI and the Consumer Advocate are unable to agree on a procedural schedule, each party shall separately submit its own proposed procedural schedule by the same deadline date.

4. Any interested person seeking to intervene or participate in this proceeding shall file a timely motion with

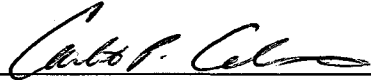
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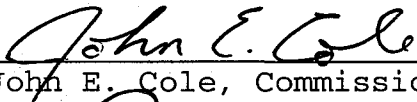
<sup>7</sup>In the event intervenor or participant status is granted to any interested person or persons, the commission will amend the procedural schedule accordingly, to the extent necessary.

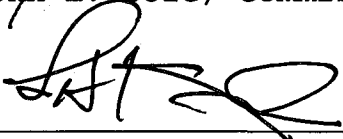
the commission, within twenty days from the date of this Order, with copies served on PLNI and the Consumer Advocate.

DONE at Honolulu, Hawaii JAN 30 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

PLN.01.2008.cp

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 23989 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

LISA SUAN  
CONTRACTS & REGULATORY AFFAIRS MANAGER  
PACIFIC LIGHTNET, INC.  
1132 Bishop Street  
Suite 800  
Honolulu, HI 96813

  
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Karen Higashi

DATED: JAN 30 2008