

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
 VERIZON BUSINESS (MCImetro)
 ACCESS TRANSMISSION)
 SERVICES, LLC dba VERIZON)
 ACCESS TRANSMISSION SERVICES))
)
 For Waiver of the Number)
 Utilization Threshold)
 Requirements in the Honolulu,)
 Hilo, Wailuku, and Lihue Rate)
 Centers.)
 _____)

DOCKET NO. 2009-0137

DECISION AND ORDER

FILED
 2009 NOV 18 P 12: 27
 PUBLIC UTILITIES
 COMMISSION

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VERIZON BUSINESS (MCImetro)) Docket No. 2009-0137
ACCESS TRANSMISSION))
SERVICES, LLC dba VERIZON))
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Requirements in the Honolulu,))
Hilo, Wailuku, and Lihue Rate))
Centers.))
_____))

DECISION AND ORDER

By this Decision and Order, the commission grants Verizon Business' (formerly known as, MCImetro Access Transmission Services, LLC, dba Verizon Access Transmission Services) ("Verizon Business") request for a waiver of the number utilization and months-to-exhaust requirements in the Honolulu, Hilo, Wailuku, and Lihue rate centers, and overturns the Pooling Administrator's ("PA")¹ denial of Verizon Business' request for four new NXX codes in the Honolulu, Hilo, Wailuku, and Lihue rate centers.

¹The PA and the North American Numbering Plan Administrator ("NANPA") administer the numbering resources in the United States. While NANPA is generally responsible for central office code assignments, the PA focuses on the allocation and pooling of thousand-block numbers--both functions are provided by an organization named NeuStar, Inc. See In re MCImetro Access Transmission Services, Inc., Docket No. 04-0166, Decision and Order No. 21325, filed on August 27, 2004 ("Decision and Order No. 21325") at 1 n.1.

I.

Background

Verizon Business is a Delaware company, authorized to provide intrastate telecommunication services in the State of Hawaii.² Verizon Business is a subsidiary of Verizon Communications, Inc.

On May 21, 2009, Verizon Business filed a request to the PA for four new NXX codes in the Honolulu, Hilo, Wailuku, and Lihue rate centers, which the PA denied on the ground that Verizon Business was unable to satisfy the requirement that it have a minimum utilization rate of 75% or have less than a six-month inventory of numbers for the requested rate centers ("Number Utilization Requirements").

A.

Petition

On June 1, 2009, Verizon Business filed a request seeking a waiver of the Number Utilization Requirements and a reversal of the PA's decision ("Petition").³ According to Verizon Business, it requires a new NXX in each of the Honolulu, Hilo, Wailuku, and Lihue rate centers to establish Location Routing Numbers ("LRNs") for these rate centers. Verizon Business

²See In re MCImetro Access Transmission Services, Inc., Docket No. 97-0190, Decision and Order No. 15898, filed on September 10, 1997.

³Verizon Business served copies of the Petition on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party to this docket pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules § 6-61-62.

represents that the new LRNs are needed to move customer traffic without impact to customers while Verizon Business migrates its traffic from a switch that is destined for decommissioning to a replacement switch.

B.

Consumer Advocate's Position

On September 17, 2009, the Consumer Advocate filed its Statement of Position informing the commission that it does not object to approval of Verizon Business' request for waiver of the Number Utilization Requirements for the Honolulu, Hilo, Wailuku, and Lihue rate centers, subject to one condition ("CA SOP").⁴ According to the Consumer Advocate, Verizon Business has demonstrated a verifiable need for the requested new NXXs in that the new NXXs are needed to comply with the LRN assignment practices of the Alliance for Telecommunication Industry Solutions Location guidelines, ATIS-0300065, dated December 1, 2006 ("ATIS LRN Document") for its new replacement switch. Specifically, the Consumer Advocate contends that, in attempting to install a replacement switch and migrate its Internet Service Provider ("ISP") type traffic to the new switch, Verizon Business appears to have encountered a numbering resource dilemma whereby it will "temporarily require new LRNs for [its] replacement switch during the transition period since its

⁴On July 13, 2009, the Consumer Advocate served Verizon Business with information requests ("IRs"), responses to which were filed with the Consumer Advocate on July 28, 2009. See CA SOP at 4. However, the commission did not receive copies of Verizon Business' responses to the IRs issued by the Consumer Advocate until November 2, 2009.

existing LRNs are already assigned to its existing switches.”⁵ In addition, the Consumer Advocate states that Verizon Business appears to have exhausted all other available remedies.

The Consumer Advocate asserts that granting Verizon Business’ requested waiver will facilitate competition in Hawaii which is in the public interest. Moreover, according to the Consumer Advocate, Verizon Business is not attempting to abuse the waiver process or hoard numbers; and a commission waiver would be consistent with similar waivers previously granted by the commission on a case-by-case basis, including a 2004 decision to overturn NANPA’s denial of Verizon Business’ (then known as MCImetro Access Transmission Services, LLC) request for six separate NXX thousand block codes for use in the installation of its new switch in Honolulu.⁶ Therefore, the Consumer Advocate does not oppose Verizon Business’ request, provided that “only the one (1) thousands block in each of the subject rate centers, where the requested LRN (ten-digit number) is assigned, be retained by [Verizon Business], and all other numbering resources in the new NXXs be returned by Verizon Business to the PA with [prompt] notification to the Commission and [the] Consumer Advocate”⁷ (“Recommended Condition”).

⁵See CA SOP at 5.

⁶The Consumer Advocate cites to commission Decision and Order No. 21325. See CA SOP at 7.

⁷See CA SOP at 9.

II.

Discussion

The Federal Communications Commission has charged state commissions with the authority to affirm or overturn denials of number resources. Section 52.15(g)(4) of Title 47 of the Code of Federal Regulations states:

The NANPA shall withhold numbering resources from any U.S. carrier that fails to comply with the reporting and numbering resource application requirements established in this part. The NANPA shall not issue numbering resources to a carrier without an Operating Company Number (OCN). The NANPA must notify the carrier in writing of its decision to withhold numbering resources within ten (10) days of receiving a request for numbering resources. The carrier may challenge the NANPA's decision to the appropriate state regulatory commission. The state commission may affirm, or may overturn, the NANPA's decision to withhold numbering resources from the carrier based on its determination that the carrier has complied with the reporting and numbering resource application requirements herein. The state commission also may overturn the NANPA's decision to withhold numbering resources from the carrier based on its determination that the carrier has demonstrated a verifiable need for numbering resources and has exhausted all other available remedies.

47 C.F.R. § 52.15(g)(4) (2005) (emphasis added).

Here, the commission finds that Verizon Business has sufficiently demonstrated that it has a verifiable need for the numbering resources and that it has exhausted all other remedies. Verizon Business requires new NXXs to establish LRNs to ensure that its customers are not impacted while it migrates customer traffic from a switch planned for decommissioning to a replacement switch. According to the Consumer Advocate, Verizon Business: (1) requires the new NXXs to comply with the LRN

requirements of the ATIS LRN Document; and (2) it does not appear that Verizon Business "currently has any available thousands-blocks in the Honolulu, Hilo, Wailuku and Lihue rate centers that could be set aside and designed for new LRN usage as requested in this filing."⁸ Given the PA's denial of Verizon Business' request for numbering resources, Verizon Business' request for commission review and reversal of the PA's decision is its only recourse. In addition, the commission finds that overturning the PA's denial of Verizon Business' request for numbering resources is consistent with the public interest since it will encourage facilities-based competition and investment in Hawaii.

Based on the foregoing, the commission concludes that Verizon Business' request for a waiver of the Number Utilization Requirements for the Honolulu, Hilo, Wailuku, and Lihue rate centers and a reversal of the PA's denial of numbering resources, as proposed in its Petition, should be granted. In addition, the commission finds the Consumer Advocate's Recommended Condition to be reasonable and consistent with previous commission decisions. As such, the PA's denial of Verizon Business' request for NXXs in the Honolulu, Hilo, Wailuku, and Lihue rate centers should be overturned; provided that only the one thousands block in each of the subject rate centers, where the requested LRN is assigned, be retained by Verizon Business, and all other numbering resources in the new NXXs be returned by Verizon Business to the PA with notification to the commission and the Consumer Advocate.

⁸See CA SOP at 5 (citing to Responses to CA-IR-1d thru 1f).

III.

Orders

THE COMMISSION ORDERS:

1. Verizon Business' request for a waiver of the Number Utilization Requirements is granted.

2. The PA's denial of Verizon Business' May 21, 2009 request for new NXX codes in the Honolulu, Hilo, Wailuku, and Lihue rate centers is overturned; provided that only the one thousands block in each of the subject rate centers, where the requested LRN is assigned, be retained by Verizon Business, and all other numbering resources in the new NXXs be returned by Verizon Business to the PA.

3. Verizon Business shall provide the commission and the Consumer Advocate with written confirmation documenting the return of the excess numbering resources, as required above, within thirty days after the numbers are returned to the PA.


4. This docket will be deemed closed upon compliance with ordering paragraph no. 3, above.

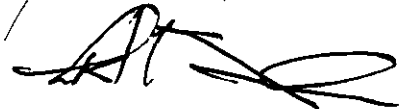
DONE at Honolulu, Hawaii

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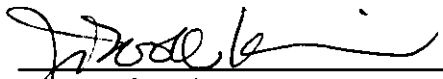
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By: 
Carlito P. Caliboso, Chairman

By: 
John E. Cole, Commissioner


By: Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Ji Sook Kim
Commission Counsel

2009-0137.ps

CERTIFICATE OF SERVICE

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

CATHERINE P. AWAKUNI
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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