

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

In the Matter of

**Pulse Mobile, LLC (“Pulse”)
USAC CERTIFICATION**

GTA Docket 11-11

PUC LEGAL COUNSEL REPORT

BACKGROUND

On August 26, 2011, Pulse Mobile, LLC (“Pulse” or “Pulse Mobile”) petitioned the Guam Public Utilities Commission (“PUC”) to issue a certification that Pulse will use federal universal support funds for purposes in compliance with Section 254(e) of the Communications Act.¹ Pulse receives monies from interstate universal service funds (USF) that are designated to support local services, build needed infrastructure and improve service quality. Each year the PUC is required to certify (by September 30) to the Federal Communications Commission (FCC) and Universal Service Administrative Company (USAC) that those funds will be used only for the purposes designated in the Federal Act. Absent such a Certification by PUC, Pulse, as an “Eligible Telecommunications Carrier” (“ETC”), would be denied funds for each quarter of the year that certification is delayed.

On February 1, 2007, the PUC granted Pulse Mobile’s Petition for designation as an ETC.² ETCs are service providers eligible to receive federal support for local services from Universal Service Funds. In accordance with such Order, Pulse Mobile’s annual designation as an ETC is subject to its provision of annual certifications and data submissions to the PUC. The PUC requires such information so that it can ensure that funds received by Pulse will be expended in accord with the requirements of the Telecommunications Act. Based upon the certifications and documentation provided by Pulse in its Petition for Annual USAC Certification, it is Counsel’s opinion that there is a sufficient factual and evidentiary basis upon which the Commission can reasonably certify that the USF distributed to Pulse in calendar year 2011 will be used in accordance with the purposes and requirements designated in the Federal Act. Counsel recommends that Pulse’s Petition for USAC certification be GRANTED. A draft letter to the FCC is submitted herewith.

¹ Pulse Mobile Petition for Annual USAC Certification, Docket No. 11-11, filed August 26, 2011.

² Application of Pulse Mobile, LLC for Designation as an Eligible Telecommunications Carrier (Order Approving Designation, Docket No. 06-8, issued February 1, 2007).

RECENT DEVELOPMENTS

In support of its certification, Pulse indicates that it currently provides two separate wireless networks on Guam, a GSM network and a 3G network. Coverage maps are attached to its petition which indicate the reach of its two wireless networks throughout Guam. It has also provided a list indicating percentage of coverage for each village of Guam by its two networks.³ The percentage of areas covered has been increasing, and Pulse has committed to a Five Year Plan which will enhance its services and networks. Pulse's Five Year Plan indicates that over the next five years it will continue to enhance its service and network. It will seek to increase full island capacity and coverage and remote area coverage.⁴

During 2011-12, Pulse intends to continue to enhance its services and network and build out various aspects of its GSM/UMTS wireless network. It plans to continue to expand its core island coverage and capacity by adding additional cell sites. It is increasing its coverage footprint as well as overall capacity for voice traffic.⁵ Pulse is expanding its dual band coverage.⁶ It is offering enhanced features to its subscribers and upgrading its high speed mobile data coverage through upgrading of its GSM Network to UMTS/HSPA⁷ and continues to evolve its network to include Long Term Evolution ("LTE") or 4G network throughout Guam and is looking at newer technologies for continued broadband development.⁸

REQUIREMENTS

The Pulse ETC Designation Order contains the following requirements:

- (a) Pulse Mobile must comply with any local usage requirements prescribed by the FCC;
- (b) Pulse Mobile must comply with any FCC requirements concerning E911 service when implemented in the Territory of Guam;
- (c) Pulse Mobile must certify to the Commission on October 1 of each year, that Pulse Mobile (i) offers all of the services designated by the FCC for support

³ Attachment Pulse A to Pulse's Petition, Pulse Mobile's Five Year Build-Out Plan Updated - August 2011 [Pulse Mobile Percentage of Guam Coverage by Village - Information provided as of August 15, 2011].

⁴ Attachment A to Pulse's Petition, Pulse Mobile's Five Year Build-out Plan.

⁵ Id. at pgs. 1- 2.

⁶ Id. at p. 3.

⁷ Id. at pgs. 4-5.

⁸ Id. at p. 8.

- pursuant to Section 254(c) of the Federal Act either using its own facilities or a combination of its own facilities and resale and (ii) advertises the availability of supported services and the charges there for using medial of general distribution as described in its petition;
- (d) Pulse Mobile must notify the Commission within thirty (30) days of any determination that it cannot provide service to a requesting customer in accordance with the FCC's requirements;
 - (e) Pulse Mobile must file a detailed build-out plan satisfying the FCC's requirements.
 - (f) Pulse Mobile will file with the Commission as part of its annual submission of certification and documentation by August 31 of each year, an annual certification in substantially the form required by Section 54.314(b) and 54.314(c) of the FCC's Rules to verify that Pulse will use federal high-cost support only for those facilities and services for which the support is intended.
 - (g) Pulse Mobile must submit to the Commission on October 1 of each year the following documentation: (i) Pulse Mobile's progress towards meeting its build-out plans; (ii) information on any outage lasting at least 30 minutes and potentially affecting either at least 10 percent of the end users served or 911 facilities; (iii) the number of requests for service from potential customers within Pulse Mobiles' service area that were unfulfilled for the past year; (iv) the number of complaints per 1,000 handsets; (v) Pulse Mobile's compliance with the CTIA Consumer Code; (vi) Pulse Mobile's certification that it is able to function in emergency situations; (vii) Pulse Mobile's certification that it is offering a local usage plan comparable to that offered by the incumbent local exchange carrier; and (viii) Pulse Mobile's certification that it acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access in the service area.
 - (h) Pulse Mobile must promptly submit to the Commission any additional information or reports that the Commission may reasonably request from time to time.

COMPLIANCE WITH REQUIREMENTS

(a) *FCC Local usage requirements-*

The FCC has designated nine core services that are eligible for Universal Service Fund (USF) support: single party service; local usage; voice grade access to the public switched telephone network; dual tone multifrequency signaling; access to emergency

services; access to operator services; access to interexchange services; access to directory assistance; and toll limitation service for qualifying low-income consumers.⁹ In its Petition, Pulse certifies that, in accordance with 47 C.F.R. §54.101, it provides all of the core services that are designated for support for USF throughout its licensed service territory.¹⁰

(b) E911 Service-

Pulse indicates that it currently offers its customers access to operators throughout Guam to provide the requested services.¹¹ Pulse certifies that it continues to support 911 services and supports E911 services including providing the automatic numbering information throughout the territory of Guam.¹² In accordance with the ORDER APPROVING DESIGNATION, Pulse is required, to the extent that a governmental authority in Guam implements E911 systems, to provide E911 service. Pulse's designation as an ETC is also conditioned on its compliance with any FCC requirements concerning E911 service when implemented in Guam.¹³

(c) Certification of services -

In compliance with Pulse's ETC Designation Order, and FCC 05-46, it certifies to the PUC that it offers all of the services designated by the FCC for support pursuant to Section 254(c) of the Federal Act by using its own facilities and advertising the availability of supported services and charges using media distribution available on Guam.¹⁴ Pulse also advertises its services on its website and through direct mail. It provides advertising and education of lifeline services through its website to eligible low income subscribers and has advertised such services through flyers distributed through various government agencies, and publication in newspapers of general circulation.¹⁵

(d) Notification of inability to provide service -

⁹ 47 U.S.C. §214(e).

¹⁰ Pulse Petition for Annual USAC Certification, p. 6.

¹¹ Id at p. 3.

¹² Id., see also Exhibit B.

¹³ ORDER APPROVING DESIGNATION, Docket No. 06-8, p. 3.

¹⁴ Pulse Petition for Annual USAC Certification, Id. at p. 4.

¹⁵ Id.; see also Exhibit B.

Pulse Mobile certified that it “has been able to fulfill services to all requesting customers in accordance with FCC requirements.”¹⁶

(e) *Filing of detailed build-out plan-*

Pulse Mobile filed its detailed five year build-out plan, under confidentiality, as an attachment to its Petition.¹⁷ The projects described in the plan support the provision of the core services for which service was intended.

(f) *Filing of annual certification under Section 54.314(b)-*

Pulse has certified that all Federal High-Cost support provided to it will be used only for the provision, maintenance and upgrading of facilities and services for which support is intended. Pulse Mobile made appropriate certifications by letter dated August 31, 2011.¹⁸

(g) *Filing Documentation-*

(i) Pulse’s progress toward meeting its build-out plans – Pulse’s five year plan indicates that it has made substantial improvements to its GSM wireless network and plans to continue to make such improvements over the next five years.¹⁹

(ii) Information on any outages – Pulse did not have any voice outages during calendar year 2010 that lasted 30 minutes.²⁰

(iii) Unfulfilled requests for service – Pulse indicates to date it has been able to fulfill services to all requesting customers in accordance with FCC Requirements.²¹

(iv) Complaints per 1,000 handsets – During calendar year 2010 Pulse is not aware of any complaints filed with any regulatory body.²²

¹⁶ Id at p. 5.

¹⁷ Id. at p. 4; Exhibit A to Pulse Petition, Pulse Mobile Five Year Build-Out Plan.

¹⁸ Certification filed by Eric N. Votaw, Vice President – Regulatory, GTA Docket 11-10, on August 31, 2011.

¹⁹ Exhibit A to Pulse Petition, Pulse Mobile Five Year Build-Out Plan.

²⁰ Pulse Petition for Annual USAC Certification, p. 4.

²¹ Id. at p. 5.

²² Id.

(v) Compliance with CTIA Consumer Code – Pulse certifies that it is in compliance with the CTIA Consumer Code within the reporting period.²³

(vi) Ability to function in emergency situations – Pulse has certified that it has the ability to remain functional in emergency situations. Through the use of its backup electricity generators and backup battery power at its mobile switching offices and towers, Pulse has the necessary infrastructure and equipment to remain functional in situations that include fires, earthquakes or typhoons.²⁴

(vii) Certification of local usage plan – Pulse offers a comparable local usage plan to that of the incumbent LEC that offers 3,000 minutes per month for local calling.²⁵

(viii) Equal access certification – Pulse acknowledges that it currently is not required to offer equal access to long distance carriers but acknowledges that it may be required to do so in the event that no other ETC is providing equal access in service area.²⁶

(h) *Prompt submission of information or reports-*

Pulse must promptly submit to the Commission any additional information or reports that the Commission may reasonably request from time to time. Pulse has been responsive in providing additional information requested by Legal Counsel on August 31, 2011. Legal Counsel has not become aware of any contrary evidence which would contradict the above certifications by Pulse.

RECOMMENDATION

Pulse indicates that, for calendar year 2010, it received \$1,260,205 in USF.²⁷ To date through August 2011, it has received \$1,934,847, which includes a true-up amount of almost \$1M because of previous USAC under payments to Pulse.²⁸ It is Legal Counsel's belief that Pulse has satisfied all of the criteria set forth in the Pulse ETC Designation Order and the FCC's requirements. Pulse Mobile's Five Year Plan has demonstrated a commitment to further build-out and upgrade its wireless local networks. It has

²³ Id.

²⁴ Id. at p. 6.

²⁵ Id.

²⁶ Id.

²⁷ Id.

²⁸ Id.

satisfied the requirements of the Order Approving Designation. Therefore, Counsel recommends to the Commission that it certify to the FCC that Pulse Mobile has used universal service funds for the purpose intended.

Dated this 5th day of September, 2011.

Frederick J. Horecky
PUC Legal Counsel