

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

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In Re: Joint Application of TeleGuam)
Holdings, LLC and GTA Telecom LLC for) GTA Docket 10-09
Approval of the Transfer of Control of)
TeleGuam Holdings, LLC and GTA)
Telecom LLC to AP TeleGuam Holdings,)
LLC)
_____)

PRELIMINARY ORDER

On December 15, 2010, the Administrative Law Judge issued an ORDER GRANTING REQUEST FOR REHEARING.¹ In accordance therewith, PUC has issued Public Notice inviting interested persons to file comments on the record regarding the Joint Application for Approval by the PUC of Transfer of Ownership and Control of Teleguam Holdings LLC and GTA Telecom LLC to AP Teleguam Holdings LLC. Such comments are due on or before January 24, 2011. In addition, the PUC will conduct a public hearing commencing at 6 p.m. on January 27, 2011, to receive public comment and testimony on the Joint Application. A true and correct copy of the Public Notice is attached hereto as Exhibit "A".

On December 16, 2010, Pacific Data Systems Inc. filed certain comments and concerns regarding the Joint Application.² Therein, PDS made two requests: (1) that the PUC engage Georgetown Consulting Group (GCG) "to perform a 3rd party review of the request and submit a report and recommendations as to any special conditions or restrictions that GPUC should impose on the transfer"; and (2) that PUC should require that the Joint Application be modified to also include the proposed new owner, AP Teleguam Holdings LLC, as a party to the application for transfer."³ The ALJ forwarded the comments of PDS to all parties in the proceeding and requested responses thereto by December 29, 2010.⁴ The PUC received a statement from NTT Docomo Pacific supporting the request of PDS.⁵

¹ Order Granting Request for Rehearing, GTA Docket 10-09, issued December 15, 2010.

² Email from John Day to Frederick J. Horecky, GTA Docket 10-09, dated December 16, 2010.

³ Id.

⁴ Email from Frederick J. Horecky to PDS and all parties, GTA Docket 10-09, dated December 19, 2010.

⁵ Email from James W. Hofman to Frederick J. Horecky, GTA Docket 10-09, dated December 21, 2010.

Having considered comments submitted by PDS and the other parties herein, the Administrative Law Judge hereby ORDERS as follows:

1. At the present time there is no need for the PUC to retain the Georgetown Consulting Group or other consultant “to perform a third party review.” The ALJ, and/or the PUC Legal Counsel, are “independent” non-parties in this matter and can advise the PUC as to any necessary requirements for determining the appropriateness of the transfer of control of a telecommunications company or the issuance of Certificates of Authority pursuant to 12 GCA §12103(c) and (g). It is at the sole discretion of the PUC as to when, and under what circumstances, it chooses to retain consultants. To date, the PUC has not requested that any other consultants be retained in this matter; at present the ALJ does not feel that it is necessary to advise to the PUC to do so.

Under the statute, the Commission itself is responsible for approving the transfer of control of a telecommunications company after it makes certain determinations. The most recent example of an Application for Certificate of Authority before the PUC was GT Docket 09-01 (Application of Guam Telecom LLC for Certificate of Authority under 12 GCA §12103); there, the Commission, with the assistance of Counsel, fully considered such application and the standards set forth in 12 GCA §12103(c), made the required statutory determinations, and issued a Certificate of Authority to Guam Telecom LLC.⁶ The ALJ herein can provide any necessary advice or assistance to the Commission in applying the applicable statutory standards. Of course, the PUC has the right to determine that any consulting assistance is needed at a later time; it always reserves the right to retain such assistance if deemed necessary.

2. AP Teleguam Holdings LLC should be required to be a “party” to the Joint Application. Although AP Teleguam Holdings LLC will

⁶ See PUC Legal Counsel Report on Application for Certificate of Authority, GT Docket 09-01, filed on or about May 12, 2010, and Certificate of Authority, GT Docket 09-01, issued on May 28, 2009.

not technically be the holder of either Certificate of Authority (i.e. the existing Certificates of Authority will continue to be held by the present owners, Teleguam Holdings LLC and GTA Telecom LLC) AP Teleguam Holdings LLC will effectively own and control the companies which presently hold the Certificates of Authority. The PUC should have assurance that AP Teleguam Holdings fully joins in and concurs with the Joint Application of Teleguam Holdings LLC and GTA Telecom LLC.

On or before January 12, 2011 AP Teleguam Holdings LLC, including the AP Funds, shall file a *Notice of Appearance* herein, through its authorized representative; AP Teleguam Holdings LLC and the AP Funds involved in this transaction shall file a *Joinder* in the Joint Application of Teleguam Holdings and GTA Telecom. Furthermore, AP Teleguam Holdings LLC shall file a sworn statement certifying that: (1) all information contained in the GTA Response to Information Requests, GTA Docket 10-09, filed with the PUC on November 24, 2010 under seal, is true and correct; (2) AP Teleguam Holdings LLC, and the AP Funds, will comply with all terms and conditions contained in the Certificates of Authority presently held by Teleguam Holdings LLC and GTA Telecom LLC, if the transfer of control is approved.

3. The PUC is required to make two specific determinations herein prior to approving any transfer of control of a telecommunications company: that the applicant possesses sufficient technical, financial and managerial resources and abilities to provide the telecommunications services in Guam for which it seeks a certificate of authority; and that the granting of a Certificate of Authority to the applicant would not be contrary to the public interest. The parties to this proceeding are requested to bring any specific concerns they have, which they believe should be addressed by the PUC and relate to the two statutory criteria, to the attention of the ALJ at their earliest convenience, with a copy thereof to all parties of record.

ALJ Preliminary Order
GTA Docket 10-09
Joint Application for
Transfer of Control
January 5, 2011

SO ORDERED this 5th day of January, 2011.

Frederick J. Horecky
Administrative Law Judge