

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN RE:)
PACIFIC DATA SYSTEMS, INC.) PDS Docket 11-01
REQUEST FOR RULEMAKING RE: PUC)
ADMINISTRATIVE ASSESSMENT FOR)
TELECOMMUNICATIONS COMPANIES)
_____)

ORDER

Introduction

1. This matter comes before the Guam Public Utilities Commission [PUC] upon the request of Pacific Data Systems Inc. [PDS] that PUC examine the methodology by which it assesses annual administrative expenses against telecommunications companies.¹
2. In its filing, PDS lists various reasons why it believes that the current assessment methodology must be changed. PDS claims that the current assessment methodology is both flawed and possibly discriminatory.

Background and Course of the Proceedings

3. The current methodology for assessment of PUC administrative expenses against telecommunications companies is set forth in the PUC Rules Governing Regulatory Fees for Telecommunications companies.²
4. The PUC is authorized under 12 GCA §12104(c) (7) to adopt reasonable rules to apportion its reasonable operating expenses among telecommunications companies.³
5. The current methodology utilized by the PUC for assessment of its administrative expenses is explained in the Administrative Law Judge Report filed on September 14, 2011.⁴ The Commission adopts the statement of background and course of proceedings contained therein.

¹ PDS Filing Re: GPUC Telecom Assessment for FY2011, PDS Docket 11-01, filed November 15, 2010.

² Guam Telecommunications Act of 2004, Docket 05-01, Rules Governing Regulatory fees for telecommunications companies, adopted on July 27, 2005.

³Id. at Sec. 1a.

⁴ ALJ Report, PDS Docket 11-01, filed September 14, 2011.

Determinations

6. The use of the current allocation methodology for administrative expenses does not result in any “double assessment” to telecom companies. Telecommunications companies do not pay “100% of any costs associated with telecommunications related dockets” through regulatory fees. Regulatory assessments only pay the fees that PUC Consultants, the Administrative Law Judge, and Legal Counsel charge to the particular regulatory docket.
7. Administrative assessments which telecom companies pay to the PUC are used to pay administrative expenses incurred by the Commission in carrying out its statutory mandates. These include such items as office rent, PUC Administrator salary, equipment costs, operational costs and expenses, and other administrative costs.
8. CMRS providers do not get a “free ride”: if one examines the PUC Assessment Orders for FY2009 through 2011, it is evident that various CMRS providers have been assessed administrative expenses.⁵
9. Regulatory fees for E911 are not assessed by the PUC directly to telecom companies, but are paid by GTA out of the E911 receipts. Telecom carriers do not directly pay regulatory fees to PUC for E911 matters. Regulatory Fees for E911 are properly excluded from the calculation of the allocation of administrative expenses.
10. There is nothing in the Rules that require separate assessments against GTA Telecom LLC and MPulse Wireless (Pulse Mobile). The Rules Governing Regulatory Fees expressly provide that the administrative fees assessed against carriers “shall be the responsibility of Teleguam Holdings LLC, or its successor, as the dominant carrier...”.⁶
11. PDS has not presented any evidence that the current assessment methodology is “unreasonable”. It has not shown that the present methodology unduly burdens or penalizes PDS, or unfairly apportions the operating expenses of GPUC.
12. In PDS Docket 09-02, the Commission specifically adopted, at PDS’ request, an amendment to its Rules Governing Regulatory Fees for Telecommunications

⁵ See Administrative Assessment Orders for FY2009, 2010, and 2011.

⁶ Guam Telecommunications Act of 2004, Docket 05-01, Rules Governing Regulatory fees for telecommunications companies, adopted on July 27, 2005, at Sec. 2a.

Companies. That amendment allows the Commission to apportion regulatory expenses in proceedings. The current framework for assessment of Administrative expense specifically allows PDS to shift unjustified regulatory expenses from itself to another carrier **if it convinces the PUC to do so.**

13. The current methodology fairly places the burden of PUC administrative expenses upon the parties who utilize the resources of the PUC the most.
14. PDS, as the proponent of a change in the current assessment methodology, has not satisfied its burden to justify a change.

Ordering Provisions

After careful review of the record herein, the PDS Filing dated November 15, 2010, and the ALJ Report, for good cause shown, on motion duly made, seconded unanimously carried by the undersigned Commissioners, the Guam Public Utilities Commission hereby **ORDERS** that:

1. The PUC adopts the analysis and recommendations contained in the ALJ Report filed herein.
2. The current administrative expense assessment methodology contained in the Rules Governing Regulatory Fees for Telecommunications Companies has been in effect for over six years and has functioned reasonably well in providing for the administrative expenses of the PUC.
3. PDS has not met its burden in demonstrating that the current assessment methodology should be changed. PDS has not provided any specific recommendation for changes in the methodology.
4. Other than PDS, no carrier in Guam indicated any dissatisfaction with the current methodology for assessment of PUC administrative expenses; no party other than PDS submitted any public comments or testimony in support of changing the current methodology.
5. PDS is ordered to pay for the PUC's regulatory fees and expenses incurred in this Docket, including, without limitation, consulting and counsel fees and expenses. Assessments of the PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §12002(b) and 12024(b), 12104, 12103, the Rules Governing Regulatory fees for

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Telecommunications Companies, and Rule 40 of the Rules of Practice and Procedure before the PUC.

Dated this 7th day of November, 2011.

Jeffrey C. Johnson
Chairman

Joseph M. McDonald
Commissioner

Filomena M. Cantoria
Commissioner

Rowena E. Perez
Commissioner

Michael A. Pangelinan
Commissioner