

GUAM PUBLIC UTILITIES COMMISSION
SPECIAL MEETING
March 25, 2010
SUITE 202, GCIC BUILDING, HAGATNA



MINUTES

The Guam Public Utilities Commission [PUC] conducted a meeting commencing at 6:23 p.m. on March 25, 2010 pursuant to due and lawful notice. Commissioners Johnson, Perez, McDonald, and Pangelinan were in attendance. The following matters were considered at the meeting under the agenda made *Attachment "A"* hereto.

1. Approval of Minutes

The PUC reviewed the minutes of the meeting conducted on February 25, 2010. Upon motion duly made, seconded and unanimously carried, the minutes were approved.

2. GTA Telecom

Chairman Johnson indicated that the first matter before the Commission for consideration was the Joint Petition of GTA and Guam Telecom for Approval of an Amendment to their Interconnection Agreement, GTA Docket 10-03. There was a PUC Counsel Report on file and a proposed order. PUC Counsel indicated that the Commission reviews amendments to Interconnection Agreements under the Interconnection Implementation Rules. Parties such as GTA and Guam Telecom [GT] come to the PUC for approval of such amendments. Here GTA and GT agree that amendment is needed to their Interconnection Agreement for the establishment of Mid-Span Fiber Meeting [MSFM].

The parties have explained to Counsel that they need to have a point at which they can splice their fiber so they can exchange traffic on the fiber line. Their existing agreement, which was adopted from provisions contained in the GTA/IT& E Overseas Inc. Agreement, provides that the MSFM is the GTA Tumon office. However, the parties wish to amend their Interconnection Agreement so that the MSFM would be the GTA Agana Central Office location. Having the GTA Agana Central Office location as the MSFM is a more suitable environment for both parties to terminate any spare fiber optic cable and complete the fiber splice for termination of their fiber optic cables in the GTA hand hole.

Certain billing rates are established in the Amendment to the Interconnection Agreement. The Agreement also covers the transmission and routing of agreed upon traffic on separate and distinct trunk groups, transmission characteristics and requirements of fiber cable, and maintenance and restoration. In the Amendment, the

parties agree that they will maintain their respective state access tariffs, such as those established by PUC, and National Exchange Carrier Association [NECA] tariffs. The Amendment has a detailed calculation as to how the parties will determine responsibility for billing for traffic occurring in accordance with a formula set forth. The parties have agreed to pricing and there is no apparent problem.

Counsel stated that the Amendment does not violate standards which the PUC uses in considering Interconnection Agreements pursuant to 47 USC §252. The Amendment does not discriminate against a telecommunications carrier not a party to the Interconnection Agreement. The parties have established a need for an arrangement for their Mid-Span Fiber Meeting as the GTA Tumon office is not appropriate. Mid-Span Fiber service is available to other parties as such parties wishing to establish MSFM are able to do so (as witnessed by the GTA/IT&E Agreement). The Amendment is also consistent with the public interest, convenience and necessity. GTA and GT will be able to exchange traffic for customers and more customers will have access to this service. Counsel indicated that he had prepared a proposed Order which included his recommendations.

Commissioner Pangelinan recused himself from this matter, as GT is a client of his law firm. A discussion ensued between Commissioners, Counsel and the parties concerning Commissioner Pangelinan's participation. As an alternative approach, Counsel suggested that the Chairman could be authorized by the Commission to approve the Amendment of GTA and GT, subject to subsequent ratification by the Commission. Commissioner Perez recognized that both parties had worked collaboratively on this Amendment, and it was critical to their operations that a decision be made. She also recognized that Commissioner Pangelinan needed to maintain the integrity of his position. She supported authorizing the Chairman to sign an Order approving the Amendment, subject to ratification by the Commission at its next meeting. Upon motion duly made, seconded and unanimously carried, the Commissioners authorized the Chairman to approve the Amendment, subject to ratification by the Commissioners at the next meeting.

3. Port Authority of Guam

The Chairman indicated that the next matter before the Commission was Port Docket 09-01, PAG Procurement for Tariff/Rate Consultant; and Request for Authorization for Chairman to Approve Procurement, subject to subsequent ratification by the Commission. PUC Counsel indicated that, on March 17, 2010, the Port had filed a Procurement with the Commission seeking to hire its own Tariff/Rate Consultant. Counsel indicated that, pursuant to P.L. 30-52, the Port must hire a rate consultant and has no discretion. By law, it is mandated, by December 31, 2010, to submit to the PUC the results from a study of existing rates, charges and costs of services. The Port's Request for Proposals is subject to the prior review and approval of the Commission

prior to issuance. The Contract entered into by the Port for such services is also subject to prior approval of the Commission.

The Port is now attempting to comply with its statutory obligation. Counsel has commenced his review and it does not initially seem that there are any problems concerning the procurement. He may have a few suggestions for strengthening the RFP. However, Counsel needs additional time to complete his review. Mr. Guevara of the Port had indicated to Counsel that there is a strict statutory deadline here and that the Port needs to proceed with providing public notice for the RFP as soon as possible. Counsel indicated that this is a situation where action by the Commission cannot be delayed until the April meeting.

Counsel suggests that, in the interim, upon a favorable Legal Counsel recommendation, that the Commissioners authorize the Chair to approve the procurement, subject to ratification by the Commissioners at the next meeting. Commissioner Perez asked a series of questions to both Counsel and the Port representative, Mr. Guevara, as to whether the Port could complete a comprehensive tariff rate study within the timeframe required. Counsel and Mr. Guevara indicated their belief that the Port could do so. In response to further questions from Commissioner Perez concerning the cost of the study, Mr. Guevara indicated that the Port had budgeted \$200,000 for the rate study. Prior Port rate consultant, Cornell, as well as the existing Port Management Consultant PB, had indicated an interest in performing the rate study. Mr. Guevara believed that the Port could complete the study process within one hundred and eighty days, and submit the study to the Commission in October for review.

Counsel indicated that the Port needs a rate plan and analysis as to what permanent rates the PUC should adopt; the PUC can utilize the Port Consultant's Report, in conjunction with the recommendations of its own consultant, as the basis for long term rates. The Port must be authorized to undertake this study, and the only question is whether the PUC approves the form of the procurement. Counsel suggested that the PUC approve a motion to authorize the Chairman to act on the procurement, subject to ratification by the Commission. Upon ascertainment by Commissioner Perez that Counsel was comfortable with his initial review, upon motion duly made, seconded and unanimously carried, the Commissioners voted to approve authorization for the Chairman to approve the Rate Study Procurement of the Port, subject to ratification by the Commission at the next meeting.

4. Guam International Country Club

The Chairman then indicated that the next matter to be considered by the Commission is Guam International Country Club, Docket 08-004, Status Report: Counsel Compliance Report and ALJ Order Scheduling Hearing. PUC Counsel proceeded to give a status report on this matter. Counsel indicated that GICC had not paid any of the regulatory

fees ordered by the Commission in its December 2008 Decision and Order, which was issued after a full rate case. Counsel attempted to address this issue through a demand letter to GICC Counsel in November 2009. GICC Counsel had verbally responded that he presented the demand letter to his client, but otherwise there was no response and no payment. In the Decision and Order, the PUC had imposed a duty upon PUC Legal Counsel to monitor GICC's compliance.

Counsel further indicated that GICC has also not complied with other orders in the December 29, 2008 Decision and Order of the Commission. GICC had not proposed a new panel of members, that is, comparable facilities in the mainland United States, consistent with the requirements of Public Law 19-34, which could be used to set appropriate rates. GICC had a duty to propose a new panel no later than one year from the date of the Order or within 120 days from when it filed a new rate petition, whichever is sooner. Since no rate petition has been filed, GICC had a duty to propose a new panel of members no later than December 29, 2009. GICC was also supposed to propose a methodology using the newly determined panel members to set appropriate rates, which it has not done.

No progress has been made. GICC is not in compliance with the December 29, 2008 Decision and Order and hasn't paid any regulatory fees.

PUC Counsel submitted his Compliance Report to the Administrative Law Judge and recommended that he conduct a hearing concerning GICC's lack of compliance. He also recommended that GICC be required to show cause why it hasn't complied with the Commission's Decision and Order, and recommended other actions to be taken by the ALJ. The Administrative Law Judge issued an Order on March 10, 2010, in response to the PUC Counsel Compliance Report. The ALJ required GICC Counsel to submit a written response to the PUC Counsel Compliance Report, and to address whether the Commission should take various actions recommended by PUC Counsel, which included revocation of the rate and fee increases previously approved by the Commission, penalties, and requirements that GICC submit its bank records to the Commission. A hearing was set for April 6, 2010.

Counsel was submitting this report to the Commission to in order to make it aware of situation and to fulfill Counsel's duty to report concerning compliance. No Commission action is required at the present time, but may be so required subsequent to the hearing conducted by the Administrative Law Judge.

5. Guam Power Authority

The Chairman indicated that the next matter to be considered by the Commission is Docket 02-04, Supplemental Baker & Tilly Report on the Certified, Technical, Professional Salary Impact. This report was presented to the Commissioners for

informational purposes only. Counsel indicated that CTP issues had been of concern to the Commission. In the Order approved by the Commission concerning the GPA Management Audit, the Commission indicated that Baker Tilly had not fully addressed the CTP issue, as the scope of work had requested. In response to issues concerning Baker Tilly's compliance with the Commission's Order, Baker Tilly had submitted its Report to the Commission on March 9, 2010, concerning CTP impact on the Guam Power Authority.

Commissioner Pangelinan indicated that the Report expressed concerns about the efficient operation of the Authority. He asked whether there was a timeframe under the public laws requiring implementation of the CTP salary increases and Counsel stated that he was not certain. Commissioner Pangelinan also asked whether the PUC was responsible for approving CTP increases. The Chairman stated that there was confusion in the second paragraph in the Baker Tilly report, which stated its understanding "that the PUC, who are responsible for authorizing increases in CTP salaries per Public Laws 28-159 and 29-133, are [sic] concerned about the rate at which GPA will implement the increases...". The Chairman stated that such authority was in reality given to GPA, not the PUC, through the legislative process.

The Chairman requested that PUC Counsel examine the public laws regarding CTP to determine the exact language and to address any confusion that Baker Tilly may have on this issue. Other Commissioners also expressed concerns that GPA, and not the PUC, sets CTP salary increases. Commissioner Perez also inquired as to when GPA intends to implement the CTP increases. The Chairman responded that the chart in the report indicated "anticipated timing" for the percentile increases for the next three successive Januaries. Commissioner Perez also asked if PUC Counsel could determine under the law which employees are included in the CTP. The Chair thought that as many as 90% of the GPA employees were covered by CTP.

A discussion then ensued among the Commissioners concerning the implications of the Report and whether it placed responsibility for inefficiencies and lack of accountability upon Management at GPA. The Chair indicated that the PUC role is to examine the appropriate staffing level on an annual basis. Commissioner Perez requested Counsel to correct any impression that the PUC sets CTP salary. Counsel indicated that he would determine whether there are timelines under the applicable public laws for implementation of CTP salary increase, who is responsible for implementing CTP under the laws, and related issues.

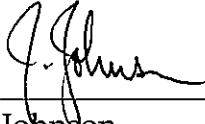
6. PUC Website

Legal Counsel indicated that he had sent certain information to AJ Rosario correcting information on the website. Counsel indicated that he still needed to set up

arrangements for photographs and to provide Commissioners with the information required for the bios. Arrangements would be made for photo taking at a later time.

7. Other Business

There being no further business, the Commissioners moved to adjourn the meeting.



Jeffrey C. Johnson
Chairman

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

**SPECIAL MEETING
SUITE 202 GCIC BUILDING
414 W. SOLEDAD AVE. HAGATNA, GUAM
6:00 p.m. March 25, 2010**

- 1. Approval of Minutes of the Meeting of February 25, 2010.**
- 2. GTA Telecom**
 - GTA Docket 10-03, Joint Petition of GTA and Guam Telecom for Approval of Amendment to the Interconnection Agreement pursuant to Sections 251 and 252 of the Telecommunications Act of 1996; PUC Counsel Report and Proposed Order.
- 3. Guam International Country Club**
 - Docket 08-004, Status Report: Counsel Compliance Report and ALJ Order Scheduling Hearing.
- 4. Guam Power Authority**
 - Docket 02-04, Management Audit: Supplemental Baker & Tilly Report on the CTP Impact (for information only).
- 5. Administrative Matters**
- 6. PUC Website**
- 7. Other Business**