

GUAM PUBLIC UTILITIES COMMISSION
SPECIAL MEETING
NOVEMBER 7, 2011
SUITE 202, GCIC BUILDING, HAGATNA



MINUTES

The Guam Public Utilities Commission [PUC] conducted a special meeting commencing at 7:30 p.m. on November 7, 2011, pursuant to due and lawful notice. Commissioners Johnson, McDonald, Perez, 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 September 19, 2011. Upon motion duly made, seconded and unanimously carried, the minutes were approved.

2. Ratification

The Chairman announced that the next order of business was certain matters for "Ratification." However, since a quorum was not present, the Chairman indicated that these matters would be postponed and deferred.

3. GTA Telecom LLC

The Chairman indicated that the next order of business was GTA Telecom Docket 11-09, GTA Petition for Expedited Dispute Resolution, Stipulation of the Parties, and Proposed Order. Counsel stated that GTA had requested expedited dispute resolution of a matter involving forecasts of services that PDS would need from GTA. After discussions, the parties were able to resolve the matter. In the Stipulation, a timeline was agreed to, the provision of certain forecasts, and the filing of future forecasts by PDS within 30 days after PDS received a valid request from GTA. Each party agrees to pay its own costs and to split PUC costs and expenses. The proposed Order would approve the Stipulation. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the Stipulation and adopted the Order made *Attachment "B"* hereto.

The Chairman announced that the next item of business was GTA Docket 11-12, Tariff Transmittal No. 18, PUC Counsel Report and a Proposed Order. The Chairman then indicated that the Commission would take public comment. Mr. John Day, the President of Pacific Data Systems Inc., indicated that he would supplement his written comments with this oral testimony. His initial point was that the proposed tariff modification itself was invalid, as the underlying Tariff is

not in the name of GTA Telecom. Previously the Tariff had been transferred to TeleGuam Holdings. GTA TeleGuam continues to file tariff amendments for GTA Telecom, which is the company with the Certificate of Authority. Previously GTA Telecom LLC indicated that it would file a new tariff within 90 days. However instead of filing a new tariff, GTA has continued to try to modify or amend an invalid tariff.

Second, PDS believes there is ambiguity in the proposed amendment. GTA is taking a service that is today a fixed price service for a certain number of channels of communication, and it is now breaking out that service into a per channel charge. The Tariff is not clear whether GTA will charge for both types of channels associated with that type of service. This ambiguity should be cleared up, and, in the meantime, the Commission should suspend the current tariff amendment from going into effect.

Legal Counsel then gave his comments. A primary rate interface service already exists. This fractional primary rate interface service would allow businesses to buy a product in lesser quantity. The primary interface is 23 voice channels, one data channel. But, under the proposed amendment, a business could buy six voice channels and one data channel: that's why it's fractional. The proposed amendment will increase the ability of businesses to buy this service, making it more accessible, allowing more customers to purchase it, which is in accordance with the requirements of the Telecom Act. Counsel recommends that the tariff amendment be approved. The Commission has previously held that the existing Tariff does apply to GTA Telecom notwithstanding the fact that originally, Guam TeleGuam had issued the Tariff. GTA has 90 days from September 19 to file an amended Tariff, so it is not presently in non-compliance. As for the ambiguity alleged by PDS, GTA has submitted a revised Tariff. That Tariff clarifies that the charge only applies to the voice channels, not the data channels. Commissioner Perez asked whether the provision addresses the ambiguity concern, and the Chairman responded that it did. Upon motion duly made, seconded, and unanimously carried, the Commissioners approved the Order, made *Attachment "C"* hereto, approving Tariff Transmittal No. 18 as amended [for the Introduction of Fractional Primary Rate Interface-Integrated Services Digital Network [FPRI]].

The Chairman indicated that the next item on the Agenda was GTA Docket 11-06, the BIT Petition Re: GTA Metro Ethernet Services, and GCG Report. However, the Chairman indicated that the matter was not yet quite ready for resolution, which fact was confirmed by Legal Counsel.

4. Guam Power Authority

The Chairman stated that the next matter for consideration was GPA Docket 11-10, FY2012 CIP Ceiling Cap Filing, Contract Review, GCG Report, and Proposed Order. PUC Counsel stated that Capital Improvement Project Cap is required to

be approved annually by the PUC under the Contract Review Protocol. The proposed cap for this fiscal year is approximately \$8.4+M. That includes engineering projects and general plant. The plant is comprised of items such as vehicles, office equipment, supplies, etc. GCG prepared an analysis of the projects and indicated that some of the general plant items, such as vehicles, might require a contract review if they exceeded \$1.5M over the life of the contract. GCG recommended that the cap of approximately \$8.4+M be approved: the proposed Order recites the requirements of the filing, the amount of the cap, and why the cap is actually reduced from some prior years.

In prior years, PMC repairs that were funded through internal funds are now funded through bond revenues. Counsel indicated that the cap for this year was consistent with the cap amounts for prior years. No prudence concerns are apparent. The cap appears to be reasonable, prudent and in the interest of ratepayers. The proposed Order would approve a cap of \$8.473M and further order GPA to file a complete reconciliation of the FY2011 expenditures on or before December 1, 2011, as required by the Contract Review Protocol. Upon motion duly made, seconded and unanimously carried, the Commissioners approve GPA's proposed CIP Cap and adopted the Order made *Attachment "D"* hereto.

The Chairman announced that the next item for consideration was GPA Docket 11-11, FY2012 Construction Budget, GCG Report, and proposed Order. Counsel indicated that there is a requirement under the Contract Review Protocol that GPA file its three year estimates for the construction budget with the PUC; however there is no requirement under the Contract Review Protocol that the Commission approve GPA's Construction Budget. Counsel suggests to GPA that next year it does not need to file a Contract Review Petition for the construction budget, but only file its estimates on the budget.

The entire Construction Budget for FY2012 is approximately \$58M, which includes numerous revenue bond projects. Revenue bond projects include the new 2010 projects, but also some 1999 revenue bond projects. Most of these projects have been approved by the Commission. The proposed Order indicates that PUC approval of the construction budget is not required, nor does the Commission need to take further action at the present time until such time as GPA files for approval of any unapproved projects within the Construction Budget.

Commissioner Perez asked what caused the delay of the 1999 projects. Ms. Melinda Camacho, the AGMO of GPA, stated that some of the projects were originally for pole hardening, but GPA considered converting those projects to underground. GPA then suspended the projects, to rescope the pole hardening to underground. The other projects were on hold. Other than the Marbo-Pagat

line, most of the projects are done except for the weather control system for Cabras 1 & 2. Commissioner Perez asked whether GPA received a grant from FEMA for underground. Ms. Camacho indicated that it did and those projects were implemented. The projects are complete. Ms. Camacho indicated to Commissioner Perez that \$20M was received for those projects.

Commissioner Perez asked whether it was the Marbo-Pagat project that was delayed, and Ms. Camacho indicated that it was. Ms. Camacho indicated that, presently, trenching is occurring for the Marbo-Pagat project and the closing of lanes to install the underground. There is a 30% completion. Ms. Camacho indicated that the project should be done by next summer. The Chairman asked whether that was a double line system, and Ms. Camacho indicated that it was. The project is completely underground now. Legal Counsel then asked Ms. Camacho concerning the two Hagatna substation projects.

Ms. Camacho mentioned that the Agana refurbishment project was initially funded by revenue funds, but was converted to a bond-funded project (strictly for the replacement of the high voltage breakers). The Agana Upgrade project is an upgrade of the transformers to increase the load and the capacity at Agana Sub conversion from 22 mva to a 30 mva. Ms. Camacho clarified for Counsel that both projects have been approved under the Contract review protocol. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the Order made *Attachment "E"* hereto.

5. Pacific Data Systems Inc.

The Chairman indicated that the next order of business was PDS Docket 11-01, Rule-Making Re: Administrative Assessment for Telecom Companies, PDS filing for Request to make changes to Administrative Assessments, PUC Request for Public Comment, ALJ Report, and Proposed Order. Counsel indicated that this matter had been discussed extensively at the last meeting of the PUC. The Administrative Law Judge Report had been provided indicating why the ALJ believed that the present assessment methodology was adequate. Mr. John Day, president of PDS, had presented testimony opposing the methodology and requesting changes. The Chairman had indicated at that time his belief that the Commission should not take formal action but that the current methodology should continue to be used at present. At that time a quorum was not present. Upon motion duly made, seconded, and unanimously carried, the Commissioners approved the proposed Order, made *Attachment "F"* hereto which retains the current methodology for assessment of PUC Administrative expenses for telecommunications companies.

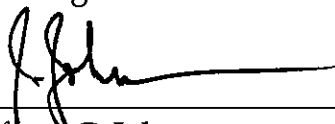
6. Administrative Matters

The Chairman indicated that the next matter for consideration was Administrative Matters, Counsel Report on the status of the PUC RFPs for a consultant for GPA/GWA, and for Telecommunications. Counsel indicated that the RFPs had been issued, and three proposals have been received for the PUC consultant for water/power. Likewise, for the telecom consultant, PUC received three proposals. The proposals appeared to be good ones. The next step is for the Commissioners to meet and discuss the water/power consultant proposals. Upon discussion by the Commissioners, it was determined that the Commissioners would meet on November 15 at 6:30 p.m. at the Commission to discuss the potential consultants for water/power.

7. PUC Website

Counsel and the Administrator briefly discussed some issues regarding the contract for maintenance of the PUC website with ICON. A letter had been received from ICON which indicated that it was severing its relationship with Ninth Design, and that Ninth Design would now be providing the website maintenance services. There was further discussion concerning website services needed.

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



Jeffrey C. Johnson
Chairman

**THE GUAM PUBLIC UTILITIES COMMISSION
NOTICE OF PUBLIC MEETING**

NOTICE IS HEREBY GIVEN that the Guam Public Utilities Commission [PUC] will conduct a special business meeting, commencing at 7:00 p.m. on November 7, 2011, at Suite 202 GCIC Building, 414 W. Soledad Ave., Hagatna.

The following business will be transacted:

Agenda

- 1. Approval of Minutes of September 19, 2011.**
- 2. Ratification**
 - Order, CP Docket 11-01, iConnect Request for Determination on Jurisdiction to Designate Eligible Telecommunications Carrier Status, PUC Counsel Report, and Proposed Order
 - Use Certification, PTI Docket 11-01, PTI Petition for Annual USAC Certification, PUC Legal Counsel Report, and Use Certification
 - Use Certification, GT Docket 11-03, Petition for Annual USAC Certification, PUC Legal Counsel Report, and Use Certification.
- 3. GTA Telecom LLC**
 - GTA Docket 11-09, GTA Petition for Expedited Dispute Resolution [Interconnection Agreement Dispute between GTA Telecom LLC and Pacific Data Systems], PDS Response, Stipulation of the Parties, and Proposed Order
 - GTA Docket 11-12, Tariff Transmittal No. 18 [Introduction of Fractional Primary Rate Interface-Integrated Services Digital Network [FPRI], GTA Filing, Public Notice, PUC Counsel Report, and Proposed Order
 - GTA Docket 11-06, BIT Petition Re: GTA Metro Ethernet Services, GCG Report, ALJ Report, and proposed Order
- 4. Guam Power Authority**
 - GPA Docket 11-10, FY 2012 CIP Ceiling Cap Filing, Contract Review, GCG Report, proposed Order
 - GPA Docket 11-11, FY 2012 Construction Budget (New Bond Funded CIPs-Existing Bond Funded Projects, Contract Review) GCG Report, and proposed Order
- 5. Pacific Data Systems Inc.**

- **PDS Docket 11-01, Rule Making Re: See Administrative Assessment for Telecom Companies, PDS Filing Requested Changes in Administrative Assessments in PUC Administrative Assessment for Telecom Companies, PUC Request for Public Comment dated August 6, 2011, ALJ Report and Proposed Order.**
6. **PUC Website**
 - **update**
 7. **Administrative Matters**
 - **Counsel Report on Status of RFP 11-01 (PUC Consulting Services regarding GPA and GWA) and RFP 11-02 (PUC Consulting Services regarding Telecommunications); Commission Action**
 8. **Other Business**



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:)
GTA TELECOM LLC PETITION FOR) GTA Docket 11-09
EXPEDITED DISPUTE RESOLUTION)
AGAINST PACIFIC DATA SYSTEMS)
INC. (REGARDING ICA SECTION 16) ORDER
FORECASTS))
_____)

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Petition of GTA Telecom LLC ["GTA"] for expedited dispute resolution pursuant to the Interconnection Agreement between GTA and Pacific Data Systems ["PDS"], filed on August 22, 2011.¹ GTA and PDS are collectively referred to herein as "the Parties."
2. GTA alleged that PDS had not provided the required "forecasting" documents concerning its anticipated need for services, as required by the Interconnection Agreement ["ICA"] between GTA and PDS. According to GTA, such failure by PDS to provide the necessary forecasted service requirements directly affected GTA's ability to continue to provision services in a timely manner as outlined in Interconnection Implementation Rule ["IIR"] 7(h).²

COURSE OF THE PROCEEDINGS

3. On August 29, 2011, the Administrative Law Judge ["ALJ"] advised the Parties that if they were unable to resolve this matter, he would schedule an expedited dispute resolution.³
4. On September 2, 2011, the Parties advised the ALJ that they had met and conferred on this matter and had negotiated and agreed upon certain itemized terms. The Parties requested that the ALJ suspend further proceedings in the matter pending

¹ GTA Petition for Expedited Dispute Resolution [Interconnection Agreement between GTA Telecom LLC and Pacific Data Systems (GTA Docket 11-09), filed August 22, 2011.]

² Id. at p. 2.

³ Email from Frederick J. Horecky to Eric Votaw and John Day, dated August 29, 2011.

the submission of the Stipulation to close the docket after all remaining items were resolved.⁴

5. Based upon the request of the Parties, the ALJ suspended the proceedings.⁵
6. On November 2, 2011, the Parties submitted their finalized and signed Stipulation in this Docket, a true and correct copy of which is attached hereto as Exhibit "1". Therein the Parties have reached agreement concerning filing timelines for the forecasts and an acceptable format for Unbundled Network Elements related to Section 16 of the ICA.

DETERMINATIONS

7. The parties appear to have resolved their disputes concerning the filing of "forecasts" by PDS under Section 16 of the ICA, which resolution is embodied in Exhibit "1" attached hereto; the proposed Stipulation appears to be reasonable.
8. The proposed Stipulation should be approved in the interest of avoiding further unnecessary dispute resolution and administrative costs.

ORDERING PROVISIONS

In consideration of the record herein, the Petition of GTA, the Stipulation filed by the Parties, for good cause shown, on motion duly made, seconded and unanimously carried by the affirmative vote of the undersigned Commissioners, the Commission hereby **ORDERS** that:

1. The Stipulation filed by the Parties herein, Exhibit "1", is hereby approved.
2. The Parties hereto shall comply with their specified duties and obligations in accordance with the Stipulation.
3. In accordance with the Stipulation, the Parties shall pay their respective legal costs and share equally in the PUC docket costs and expenses. ~~GTA and PDS shall pay to the PUC, in equal shares, the PUC's regulatory fees and expenses incurred in this Docket.~~

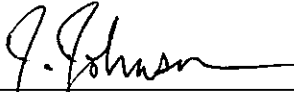
⁴ Email from Serge Quenga, GTA Legal Counsel to ALJ and Parties, dated September 2, 2011.

⁵ Email from Frederick J. Horecky, ALJ, to Serge Quenga and Parties, GTA Docket 11-09, dated September 2, 2011.

ORDER
GTA Petition for Expedited
Dispute Resolution against PDS
GTA Docket 11-09
November 7, 2011

4. This Docket is dismissed without prejudice.

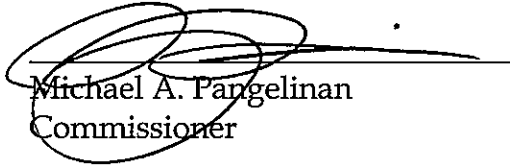
Dated this 7th day of November, 2011.




Jeffrey C. Johnson
Chairman



Rowena E. Perez
Commissioner



Michael A. Pangelinan
Commissioner



Joseph M. McDonald
Commissioner

Filomena M. Cantoria
Commissioner

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

GTA TELECOM, LLC COMPLAINT
VS.
PACIFIC DATA SYSTEMS, INC.
REGARDING ICA SECTION 16 FORECASTS

DOCKET 11-09 GTA

STIPULATION
TO DISMISS DOCKET

Comes now GTA Telecom, LLC (GTA) and Pacific Data Systems (PDS) to stipulate and agree to resolve the above reference complaint pertaining to Docket 11-09 via agreement as follows:

1. The timeline for PDS to respond to future GTA Section 16 Forecasts requests will be 30 days after PDS receives a valid request from GTA.
2. The parties have agreed to an acceptable forecast format for Unbundled Network Elements related to Section 16.
3. September 2011 forecast was provided by PDS on September 9, 2011 and forecasts for October 2011 through December 2011 were provided by PDS on September 30, 2011. The format used by PDS for these forecasts is acceptable and this format will be used for future Section 16 Forecasts.
4. The parties agree to pay their respective legal costs and to split any GPUC docket costs evenly.

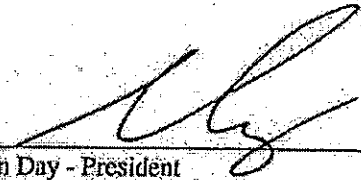
NOW THEREFORE, the parties agree and request the Public Utilities Commission of Guam dismiss without prejudice the above captioned Docket.

DOCKET 11-09
GPUC STIPULATION
Page 2

SO STIPULATED:

PDS

By:



John Day - President

Date:

11/02/2011

GTA

By:


Andrew S. Quenga, Legal Counsel

Date:

10/21/11

DETERMINATIONS

6. The new service offering by GTA for Fractional Primary Rate Interface will allow business customers flexibility to purchase B-Channels in smaller increments beginning at 6 B-Channels and 1 D-Channels up to 23 B-Channels and 1 D-Channel.⁶ Thus, the customer may purchase at least 6 B-Channels and any number thereof up to 23 B-Channels and 1 D-Channel.
7. The offering will thus provide greater access to customers for new and innovative telecommunications services. The purpose of the Guam Telecommunications Act of 2004 is to provide the people of Guam with access to modern, innovative, and affordable telecommunications services.⁷
8. The new offering promotes the goal of the Telecommunications Act to make telecom services more accessible to the public.⁸

ORDERING PROVISIONS

In consideration of the record herein, Tariff Transmittal No. 18, filed by GTA on October 5, 2011, and the Report of PUC Counsel, for good cause shown and on motion duly made, seconded and unanimously carried by the affirmative vote of the undersigned Commissioners, the Commission hereby orders that:

1. GTA's Tariff Transmittal No. 18, Fractional Primary Rate Interface, was properly filed pursuant to 12 GCA §12106(a), which requires telecommunications companies such as GTA to file tariffs indicating the rates, classifications, and terms and conditions of its telecommunications services.
2. Tariff Transmittal No. 18, including all changes, revisions, and additions therein to GTA's General Exchange Tariff No. 1, is hereby approved and adopted.
3. Fractional Primary Rate Interface service contained in Tariff Transmittal No. 18 shall be effective November 5, 2011.
4. GTA shall file its Revised Tariff with the PUC, and shall also provide notice of the same to its Customers on its website.

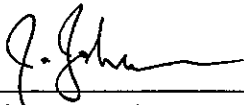
⁶ GTA Tariff Transmittal No. 18, GTA Docket 11-12 at pgs. 2-3 [First Revision of Page No. 64, Section 5, General Exchange Tariff No. 1] Miscellaneous Services - VI Digital (ISDN) Single Line Service Integrated Services Digital Network (ISDN) - Digital (ISDN) Single Line Service)

⁷ 12 GCA §12101(b)

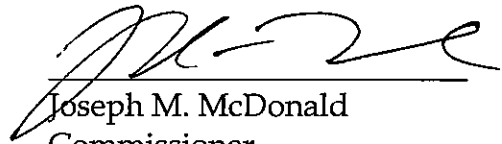
⁸ Id.

5. GTA is ordered to pay for the PUC's regulatory fees and expenses incurred in this Docket, including, without limitations, 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 Telecommunications Companies, and Rule 40 of the Rules of Practice and Procedure before the PUC.

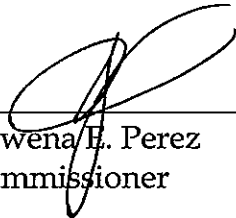
Dated this 7th day of November, 2011.



Jeffrey C. Johnson
Chairman

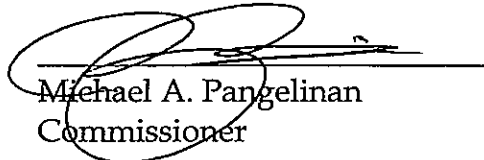


Joseph M. McDonald
Commissioner



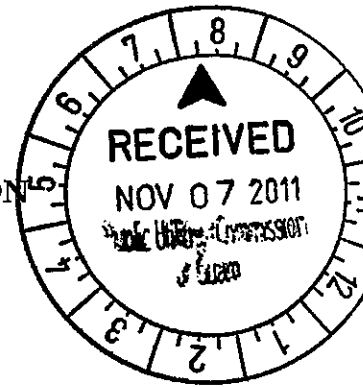
Rowena E. Perez
Commissioner

Filomena M. Cantoria
Commissioner



Michael A. Pangelinan
Commissioner

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:)
) GPA Docket 11-10
)
 The Application of the Guam Power)
 Authority to Approve the FY2012 GPA)
 CIP Ceiling Cap)
 _____)

ORDER

This matter comes before the Guam Public Utilities Commission [PUC] upon GPA's Petition for Contract review, filed September 15, 2011. Therein, GPA requests PUC approval of its FY2012 Capital Improvement Project Ceiling Cap, which consists of General Plant and Engineering, in the amount of \$8,473,000.¹

Georgetown Consulting Group, Inc. [GCG], the Commission's independent Consultant, filed its Report on GPA's Petition on October 27, 2011. As GCG points out, the Contract Review Protocol for the Guam Power Authority requires that GPA's annual level ("cap") of internally funded Capital Improvement Projects ("CIP") be set by the PUC before November 15th of each fiscal year.² According to GCG, the total amount of the GPA internally funded capital budget for FY12 is \$13.6 Million, which includes \$5.1M in internally-funded line extensions and blanket job orders.³ However, the Contract Review Protocol does not require PUC approval of such internally funded line extensions and blanket job orders.⁴

The GCG Report indicates that in both FY2011 and FY2012, CIP programs (internally funded) were reduced from prior levels, since there is funding available from bond proceeds that could be used for GPA engineering and PMC projects (Cabras Units 1-4, while in prior years engineering projects and PMC projects were internally funded at least in part.⁵ In prior CIP ceiling requests, GPA included projects to be performed on Cabras Units 1-4, which were financed (short term) by the Performance Management

¹ GPA Petition for Contract Review (Application to Approve the FY2012 GPA CIP Ceiling Cap), GPA Docket 11-10, filed on September 15, 2011.

² GCG Report on Contract Review, FY2012 CIP cap, GPA Docket 11-10, filed October 27, 2011, citing §1.F of the Contract Review Protocol, at p. 2.

³ GCG Report, Id.

⁴ Contract Review Protocol, May 2007, ¶1.a.

⁵ GCG Report at p. 2.

Contractors (“PMCs”).⁶ In FY2011 and projected FY2012, GPA financed these projects through the FY2010 revenue bonds rather than making payments to the PMC through revenues from rates.⁷ The FY2012 CIP budget also includes a relatively small amount of engineering projects.⁸

None of the Engineering projects for FY2012 require specific PUC approval under the Contract Review Protocol.⁹ The CIP funding for “General Plant” encompasses such items as desks, chairs, cabinets, personal computers, vehicles and other equipment, tools and materials and various other items. One of the larger items for the three year period is the replacement of existing vehicles.¹⁰ However, the vehicle budget (for bucket trucks and associated light and heavy vehicles) in the General Plant category will need specific approval by the PUC; GPA has concurred with the need for such approval.¹¹

Based upon its analysis, GCG recommends that the fiscal 2012 CIP cap of approximately \$8.5 million should be approved; the general plant budget is consistent with prior budgets and it appears reasonable. No prudence concerns have been noted by GCG.¹² For the reasons set forth in GCG’s Report, the PUC finds that approval of GPA’s FY2012 Internally funded CIP ceiling cap, consisting of general plant in the amount of \$8,473,000, should be approved. Such CIP cap is reasonable, prudent and in the interest of the rate payers.

Upon consideration of the record herein, the Petition of GPA, the GCG Report and for good cause shown, on motion duly made, seconded, and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS that:

1. The GPA FY2012 internally funded CIP ceiling cap, which consists of General Plant, is approved in the amount of \$8,473,000.
2. The General Plant budget is consistent with prior budgets and appears reasonable; no prudence concerns are noted.

⁶ Id.

⁷ Id.

⁸ Id.

⁹ Id.

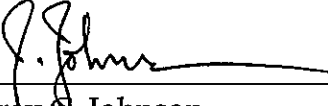
¹⁰ Id. at p. 3.

¹¹ Id. at p. 3-4

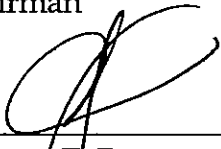
¹² Id. at p. 4.

3. GPA shall file a complete reconciliation of the FY2011 expenditures on or before December 1, 2011, as required by the Contract Review Protocol.
4. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

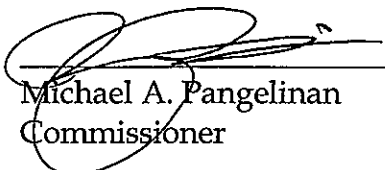
Dated this 7th day of November, 2011.



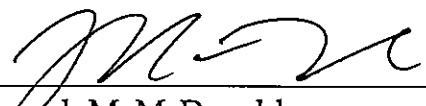
Jeffrey C. Johnson
Chairman



Rowena E. Perez
Commissioner

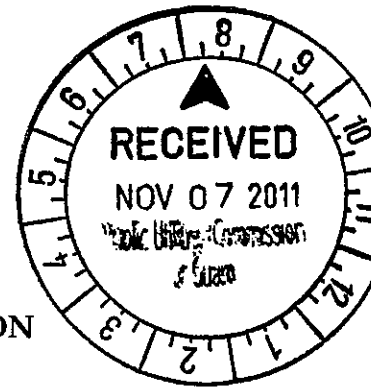


Michael A. Pangelinan
Commissioner



Joseph M. McDonald
Commissioner

Filomena M. Cantoria
Commissioner



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:)
) GPA Docket 11-11
)
The Application of the Guam Power)
Authority to Approve the FY2012 GPA)
Construction Budget)
_____)

This matter comes before the Guam Public Utilities Commission [PUC] upon the Petition of Guam Power Authority for review and approval of GPA’s FY2012 Construction Budget.1 GPA requests approval of its Construction Budget in the total amount of \$57,905,000, which consists of new bond financed capital improvement projects in the amount of \$47,170,000 (the 2010 Revenue Bond Projects), existing bond funded projects in the amount of \$9,802,000 (the 1999 Revenue Bond Projects), and revenue funded Engineering CIPs in the amount of \$933,000.2 The FY2012 Construction Budget was approved by the Consolidated Commission on Utilities at its meeting on September 6, 2011.3

Georgetown Consulting Group Inc., the independent Consultant of the PUC, filed its Report in this matter on November 1, 2011.4 GCG points out that GPA, under the Contract Review Protocol, is not required to seek “review and approval” from the PUC for its annual construction budget. GPA is only required to file a construction budget annually on or before September 15 of each year.5 The filing is to include the budget for the upcoming fiscal year, estimates for the subsequent two fiscal years, and a description of each CIP contained within the budget and estimates.6 Under the Contract Review Protocol, GPA is also required to seek PUC approval for all internally-funded construction or projects that will exceed \$1.5 Million, and all projects funded by

1 GPA Petition for Contract Review (Application to Approve the FY2012 GPA Construction Budget), GPA Docket 11-11, filed on September 15, 2011.

2 Id. at p. 1.

3 Id.

4 GCG Report (Review FY2012 Construction Budget), GPA Docket 11-11, filed November 1, 2011.

5 Id. at p. 1; see Contract Review Protocol, Docket 94-04 (approved by the PUC on February 15, 2008), section 6.

6 Contract Review Protocol, id. at section 6.

debt whether or not the total cost exceeds the \$1.5M threshold.⁷ With regard to the internally funded CIP's GCG does not find any project scheduled for FY 2012 within this category of capital expenditures that requires specific PUC approval.⁸ With regard to the 1999 Revenue Bond Projects (\$9,802,000), these projects were previously identified by GPA in its FY2011 filing; GPA states that all of the above have prior approvals from the PUC.⁹ GCG does raise an issue of whether these 1999 revenue bond fund projects may require further approval from the PUC and/or the Guam Legislature. Approval would be needed for projects that are expected to cost in excess of 120% of the amounts previously approved by the PUC.¹⁰ In addition, such projects may need approval by the Guam Legislature if uses of such bonds are not within the specific restrictions previously approved by the Legislature.¹¹

With regard to the 2010 Revenue Bond Projects, GCG has attached to its Report as "Appendix B" an updated and more current listing of the current and projected uses during FY2011 of revenue bond proceeds.¹² One project which has not yet received the approval of the PUC is the GPA New Main Office & Operation Facility Improvements. GPA will seek approval of such project as well as authorization of use of the remaining amounts under the Smart Grid program.¹³ Another project, the Automatic Generation Control bond funded project (which has been approved by the PUC), may require further PUC approval if the funding for such project exceeds the 120% threshold.

GCG concludes that no immediate action is required at this time by the PUC to "approve" the three-year construction budget or even the FY2012 construction budget. GCG has already recommended approval of the internally funded FY2012 budget cap in its response in Docket 1-10.¹⁴

Upon consideration of the record herein, the Petition of GPA, the GCG Report and for good cause should, upon motion duly made, seconded, and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS that:

1. Approval by the PUC of the FY2012 Construction budget is not required under the Contract Review Protocol.

⁷ GCG Report, id., at pgs. 1-2; Contract Review Protocol sections 1(b) and (d).

⁸ Id. at p. 3.

⁹ Id.

¹⁰ Id. at p. 4.

¹¹ Id.

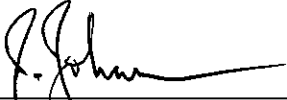
¹² Id. at p. 5.

¹³ GCG Report, id. at p. 5.

¹⁴ Id. at p. 6.

2. The Commission need not take further action upon the FY2012 Construction Budget until such time as GPA files for approval of those projects included within the FY2012 Construction Budget which have not yet been approved by the PUC.
3. GPA shall resubmit any project which exceeds the 120% expenditure threshold to the PUC for further review and approval.
4. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.


Dated this 7th day of November, 2011.



Jeffrey C. Johnson
Chairman

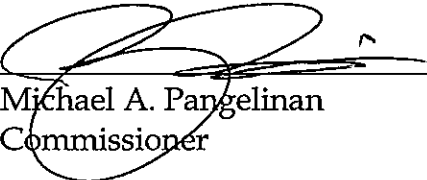


Joseph M. McDonald
Commissioner



Rowena E. Perez
Commissioner

Filomena M. Cantoria
Commissioner



Michael A. Pangelinan
Commissioner

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN RE:)
PACIFIC DATA SYSTEMS, INC.)
REQUEST FOR RULEMAKING RE: PUC)
ADMINISTRATIVE ASSESSMENT FOR)
TELECOMMUNICATIONS COMPANIES)
_____)

PDS Docket 11-01

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.

³ Id. 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

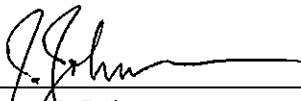
After careful review of the record herein, the PDS Filing dated November 15, 2010, and the ALJ Report, for good cause shown, on motion duly made, seconded unanimously carried by the undersigned Commissioners, the Guam Public Utilities Commission hereby **ORDERS** that:

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


Order
PDS Request for Rulemaking
PDS Docket 11-01
November 7, 2011

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

Dated this 7th day of November, 2011.

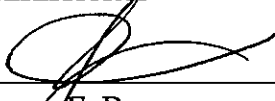


Jeffrey C. Johnson
Chairman




Joseph M. McDonald
Commissioner

Filomena M. Cantoria
Commissioner



Rowena E. Perez
Commissioner



Michael A. Pangelinan
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