

GUAM PUBLIC UTILITIES COMMISSION
REGULAR MEETING
August 31, 2017
Suite 202, GCIC BUILDING, HAGATNA



MINUTES

The Guam Public Utilities Commission [PUC] conducted a regular meeting commencing at 6:40 p.m. on August 31, 2017, pursuant to due and lawful notice. Commissioners Johnson, Perez, McDonald, Pangelinan, Montinola, and Niven were in attendance. The following matters were considered at the meeting under the agenda made *Attachment "A"* hereto.

1. Approval of Minutes

The Chairman announced that the first item of business on the agenda was approval of the minutes of July 27, 2017. Upon motion duly made, seconded and unanimously carried, the Commission approved the minutes subject to correction.

2. TeleGuam Holdings LLC

The Chairman announced that the next item of business on the agenda was GTA Docket 17-05, Petition for Annual USAC Certification, PUC Counsel Report, and Proposed Order. Counsel indicated that the PUC was very familiar with the USAC certification process and had gone through the process many times. The Commission is obligated to yearly review the petitions of the telecom companies and ascertain that such companies are using the federal universal support funds for the intended purposes under the law. Certification from the PUC is necessary before the telecom companies may receive these funds.

The Petition of TeleGuam Holdings LLC ["GTA"] includes a certification by its Executive Vice President that all federal high cost support received will be used only for the provision and maintenance and upgrade of the facilities and services for which support is intended. All the services provided were provided with these federal high cost support funds. GTA provides the 9 core services required to be provided with USAC support. Counsel examined GTA's five year plan. It basically shows that GTA is proceeding ahead with improvements to the system. These include further installation of VDSL, integration of the next generation network into the IP multimedia subsystem, upgrade of the fiber core, copper remediation and updates. These matters have been continuing for years. GTA has submitted a breakdown of its annual improvements.

GTA is attempting to improve its system and network connections. All other required matters were reported upon. There were no outages lasting 30 minutes or more. There were no unfulfilled requests for service. GTA is not aware of any complaints being filed. Therefore Counsel recommends that the PUC approve the USAC Certification for

TeleGuam Holdings LLC. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the 2018 USAC Certification for TeleGuam Holdings LLC, and adopted the Certification made *Attachment "B"* hereto.

The Chairman indicated that the next item of business was GTA Docket 17-06, Petition of GTA Pulse Mobile for Annual USAC Certification, PUC Counsel Report, and USAC Certification. Counsel indicated that Pulse Mobile is the CMRS Carrier for GTA. Pulse Mobile, similar to GTA has provided a five year plan that has continued improvements to its wireless network, including GSM, the 3G, and long-term evolution networks. Pulse continues to build out service for its network including LTE site coverage expansion, the 3G site coverage expansion, switching capacity upgrades, and a number of other improvements scheduled for 2018. The five year plan complies with requirements.

GTA provides the 9 core services required for the universal support funds and continues to provide E911 service. It complies with the advertising and consumer protection requirements. It has filed the necessary documentation of no outages affecting service, and has been able to fulfill all requests for services. Pulse received one complaint from the FCC, which it responded to and heard nothing further from the FCC. Pulse has the necessary emergency backup systems in place. Based upon its compliance with all requirements, and that Pulse is using funds for the intended purposes, Counsel recommends that the Pulse petition for USAC Certification be granted. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the 2018 USAC Certification for Pulse Mobile, and adopted the Certification made *Attachment "C"* hereto.

3. Guam Power Authority

The Chairman announced that the next item of business on the agenda was GPA Docket 17-04, Application Requesting Approval of Award for a PMC for the Management, Operation, and Maintenance of the GPA Fuel Farm Bulk Storage Facility, PUC Counsel Report, and Proposed Order. Counsel indicated that this matter had been before the Commissioners in April of this year. At that meeting, the Commission was ready to proceed and recommend approval of the PMC for the GPA Fuel Farm Bulk Storage Facility, but, on the eve of the hearing, there was a protest filed.

GPA had recommended that the contract be granted to IP&E, but the present provider, Vital, filed a protest. GPA denied Vital's protest and Vital did not appeal the denial to the Office of Public Accountability. Therefore, GPA's denial of the protest and award to IP&E is final. During the bid process GPA determined that IP&E was the lowest, most responsive bidder. For the Fuel Farm, the PMC manages, operates and maintains the fuel bulk storage facility, transfers fuel oil products to GPA owned and contracted facilities and locations, and ensures that products of GPA storage tanks meet the fuel specifications required by GPA. The PMC coordinates CIP requirements with GPA and

carries out compliance requirements with the Oil Pollution Act of 1990 (membership in Guam Response Services Limited, GRSL).

The PUC previously determined that the form of the proposed contract is adequate to require proper performance by the contractor, and that there is a need for the PMC. It is prudent and necessary to have a PMC operating the fuel farm. The cost of the contract is for two years. There is an annual renewal thereafter. The yearly amount for the next two years will be \$810,000; the year after the fee will be \$834,300. This is a higher fee than the original Vital contract, which was about \$675,000 per year. However the increase is not too great, likely based upon inflation and other cost factors to perform the services. Counsel recommends that the PMC Contract for the management, operation and maintenance of the GPA Fuel Farm Facility with IP&E be approved.

Commissioner Perez asked whether the price was negotiated for the two year contract. GPA Legal Counsel Botha indicated that it was not, as this was a bid. In its bid Vital had put down a negative number for O&M. GPA indicated that the bid was not adequate. IP&E was the lowest responsive bidder. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the award of the PMC Contract for management, operation and maintenance of the Fuel Farm Bulk Storage Facility to IP&E, and adopted the Order made *Attachment "D"* hereto.

4. Port Authority of Guam

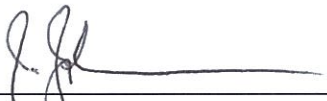
The Chairman announced that the next item of business was PAG Docket 16-01, Complaint by Cementon Micronesia, LLC., ALJ Report, and Proposed Order. ALJ Alcantara indicated that the record before the Commission in this case is voluminous—there are two volumes of the hearing transcripts that were provided to the Commission, as well as an exhibit binder submitted to the PUC during the two-day hearing. The ALJ requests that the Commission conduct an upcoming special meeting on September 12 to address this matter. The Chairman indicated that this would allow Commissioners adequate time to take everything into consideration. The Chairman indicated the ALJ was requesting that the matter be postponed. The ALJ concurred. The ALJ Report and the proposed Order were circulated to both Parties. The ALJ would prefer that the Commissioners spent a little more time to examine the issues raised. The Chairman indicated this matter would be postponed until September 12, so that the Commission would have a chance to digest the voluminous materials.

5. Administrative Matters

The Chairman asked Counsel if there were any administrative matters. Counsel mentioned one: it was time again for the Commission to prepare its budget for the upcoming year. The meeting time should be set for the Budget Committee to go over the budget proposed for FY 2018. Counsel indicated that generally the meeting occurs in September, a week or two before the next fiscal year budget is adopted. The Chairman indicated this could also be handled at the special meeting on September 12.

The Commissioners then discussed that the Budget Committee should not include a quorum of the Commissioners, so as not to be a "meeting"; the Chairman indicated that he, Commissioner Cantoria, and Counsel could meet as the Budget Committee on September 14 at 1pm.

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



Jeffrey C. Johnson
Chairman

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION
REGULAR MEETING
SUITE 202, GCIC BUILDING
414 W. SOLEDAD AVE., HAGATNA, GUAM
6:30 p.m., August 31, 2017**

Agenda

- 1. Approval of Minutes of July 27, 2017**
- 2. TeleGuam Holdings LLC**
 - **GTA Docket 17-05, Petition of GTA for Annual USAC Certification, PUC Counsel Report, and USAC Certification**
 - **GTA Docket 17-06, Petition of GTA/Pulse Mobile for Annual USAC Certification, PUC Counsel Report, and USAC Certification**
- 3. Guam Power Authority**
 - **GPA Docket 17-04, Application Requesting Approval of Award for a Performance Management contract (PMC) for the Management, Operation and Maintenance of the GPA Fuel Farm Bulk Storage, PUC Counsel Report, and Proposed Order**
- 4. Port Authority of Guam**
 - **PAG Docket 16-01, Complaint by Cementon Micronesia LLC, ALJ Report, and Proposed Order**
- 5. Administrative Matters**
- 6. Other Business**

Guam Public Utilities Commission

To: Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Irene M. Flannery
Vice-President – High Cost & Low Income Division
Universal Service Administration Company
2000 L Street, N.W. Suite 200
Washington, DC 20036

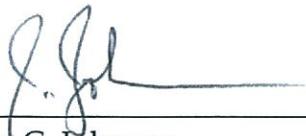
RE: CC Docket 96-45/WC Docket No. 10-90 –Annual State-Certification of
Support for Eligible Telecommunications Carriers Pursuant to 47 C.F.R.
§54.314

Pursuant to the requirements of 47 C.F.R §54.314, the Guam Public Utilities Commission hereby certifies to the Federal Communications Commission and the Universal Service Administrative Company that Teleguam Holdings, LLC, is eligible to receive federal high-cost support for the program years cited.

The Guam Public Utilities Commission certifies for Teleguam Holdings, LLC, that all federal high cost support provided to such carrier within Guam was used in the preceding calendar year (2016) and will be used in the coming calendar year (2018) only for the provisioning, maintenance and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Communications Act.

I am authorized to make this certification on behalf of the Guam Public Utilities Commission. This certification is for study area 663800 for the Territory of Guam.

Dated this 31st day of August, 2017.



Jeffrey C. Johnson
Chairman
Guam Public Utilities Commission

ATTACHMENT B

GTA Docket 17-05

PUC LEGAL COUNSEL REPORT

On August 8, 2017, TeleGuam Holdings LLC (“GTA”) filed its 2017 Annual USAC filing. It petitioned the PUC to issue a Certification that GTA will use federal universal service support funds for purposes in compliance with Section 254(e) of the Communications Act.¹ GTA 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 to the FCC and the Universal Service Administrative Company (USAC) that those funds will be used only for the purposes designated in the federal Act.² Absent such a Certification by PUC, GTA, as an “Eligible Telecommunications Carrier” (“ETC”), would be denied funds for each quarter of the year that certification is delayed.

GTA's Petition states that universal support funds received by it are all being used to support core services that are designated for USF support.³ The Executive Vice President- Legal & Regulatory has certified that all federal high-cost support received will be used only for the provision, maintenance, and upgrading of facilities and services for which support is intended.⁴

All federal high cost funds received are used to support core services.⁵ GTA indicates that the cost of providing these core services is covered by federal federal high cost fund support as intended by the federal USF programs.⁶

¹ GTA Petition for Annual USAC Certification, GTA Docket 17-05, filed August 8, 2017.

² Georgetown Consulting Group Report on USAC Certification – GTA Telecom, dated September 12, 2008.

³ GTA Petition, *supra*, at pg. 2.

⁴ Id. at p. 1.

⁵ GTA Petition, *supra*, at pg. 4 and attached 2017 High Cost Support Use Certification of TeleGuam Holdings, LLC (Robert W. Haulbrook, Jr., Chief Executive Officer).

⁶ *Id.*

On March 17, 2005, the FCC released its ETC (“Eligible Telecommunications Carrier”) Designation Order, which adopted specific requirements for ETCs granted designation pursuant to Section 214(e)(6) of the Federal Act.⁷ The FCC 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.⁸

COMPLIANCE WITH FCC AND ETC DESIGNATION ORDER REQUIREMENTS

In its Petition, GTA certifies that, in accordance with 47 C.F.R. §54.101, GTA provides all of the core services that are designated for USF support. It offered all of the services designated by the FCC for support pursuant to Section 254 (c) of the Federal Act during calendar year 2016 and to date in 2017.⁹ It provides those services as part of its basic residential and business local line service under its General Exchange Tariff approved by the PUC.¹⁰ Through GTA’s tariff, its customers are able to purchase single party, unlimited local usage telephone services that utilize dual tone multifrequency signaling. In addition, GTA provides access to 911 as well as access to operator services, directory assistance and access to interexchange services. It provides toll limitation for domestic and international toll calls.¹¹

GTA has submitted information to demonstrate that it is in compliance with the FCC requirements of the ETC Designation Order:

1. Progress report on the ETC’s five-year Service Quality Improvement Plan. The Federal Communications Commission requires ETCs to submit a five-year build-out plan in a manner consistent with Section 54.202(a)(1)(c) of the Commission’s Rules by July 1, 2014 and to submit annual progress reports thereafter.¹² Section 54.202(a)(1)(ii) requires the ETCs to submit a

⁷ *In the Matter of Federal –State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 05-46 (released March 17, 2005) (the “ETC Designation Order”).

⁸ Id.

⁹ GTA Petition, *supra*, at p. 3-4.

¹⁰ GTA Petition, *supra*, at p. 2.

¹¹ Id.

¹² See *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*; WC Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-61 (rel. Nov. 18, 2011) (*USF/ICC Transformation Order*) at Para. 587; *Connect America*

five-year plan that describes with specificity proposed improvements or upgrades to the ETC's network throughout its proposed service area, including an estimate of the area and population that will be served as a result of the improvements.¹³

In particular, the FCC March 5, 2013 Order specified that, for rate-of-return carriers [i.e. "GTA"], the five-year plans "should describe the carrier's network improvement plan, which should provide greater visibility into current plans to extend broadband service to unserved locations in rate-of-return service territories."¹⁴ The FCC has indicated that a key component of the certification issued by entities such as the Guam PUC under Section 254(e) is whether USF support is being used to maintain and extend modern networks capable of providing voice and broadband service.¹⁵

The FCC's five-year plan requirements require the ETC to describe with "specificity" the proposed improvements or upgrades to the ETC's network throughout its service area: (1) how signal quality, coverage, or capacity will improve due to the receipt of high-cost support throughout the area for which the ETC seeks designation; (2) the projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support; (3) the specific geographic areas where the improvements will be made; and (4) the estimated population that will be served as a result of the improvements.¹⁶

GTA has submitted, under seal, its Progress Report on its Five-Year Service Quality Improvement Plan.¹⁷ Exhibit A, Five Year Build Out Plan (Appendix A and Appendix B) set forth GTA's major network improvement projects for the seven calendar years 2015 through 2021,

Fund et al., WC Docket 10-90 *et al.*, Order, DA 13-332 (rel. Mar. 5, 2013) ("*March 5, 2013 Order*") at Para's. 4, 6-9. Delaying Five Year Plan until July 1, 2014 see WC Docket No. 10-90, Order, DA 13-1115, Para 8 (released May 16, 2013).

¹³ 47 C.F.R. §54.202(a)(1)(ii).

¹⁴ March 5, 2013 Order at Par. 9 *citing* Section 54.202(a)(1)(ii).

¹⁵ USF/ICC Transformation Order at Par. 612.

¹⁶ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 05-46 (rel. Mar. 17, 2005) ("*2005 ETC Order*").

¹⁷ GTA Petition, *supra*, Exhibit A-Five Year Build Out Plan (Appendix A and Appendix B, Progress Report on Five year Plan), GTA Docket 17-05, filed August 8, 2017.

along with the start and completion dates, capital costs, and areas and populations associated with those projects.¹⁸

GTA indicates that use of eligible funds for these projects will enhance its network and invest in new technology.¹⁹ Numerous projects are listed for 2017-2018, including: installation of VDSL; integration of Next Generation Network into IP Multimedia Subsystem; upgrade of the fiber core network; Copper Remediation and Update; Fiber Remediation & Capacity Upgrade; capacity enhancement; and ongoing cable maintenance and upgrades.²⁰ GTA has also indicated a breakdown of the estimated capital expenditures associated with the projects and operating expenses.²¹

Submitted as Attachments to its Petition are certifications by Teleguam Holdings LLC that it complies with applicable service quality standards and Consumer Protection Rules, and that it is able to function in emergency situations.²²

2. Detailed information on any outage lasting at least 30 minutes. GTA had zero outages that affected the landline and wireless service.²³
3. The number of requests for service from potential customers that were unfulfilled for the past year. There were no requests for service from potential customers that were unfulfilled for the past year, other than requests that GTA was unable to fulfill due to the subscriber's inability to pay the required deposits for delivery of service or service drops for new subscribers.²⁴
4. The number of complaints per 1,000 handsets or lines. During calendar year 2016 and to date 2017, GTA was not aware of any end user complaints filed with the PUC or any other regulatory body.²⁵

¹⁸ Id.

¹⁹ GPA Petition, *supra*, at pg. 4.

²⁰ GPA Petition, *supra*, Exhibit A (Appendix A, Progress Report on Five Year Plan).

²¹ Id., see also Appendix B, Report on Five Year Plan.

²² GPA Petition, *supra*, Attachments.

²³ GTA Petition, *supra*, at p. 3.

²⁴ Id.

²⁵ Id.

5. Certification that the ETC is complying with applicable service quality standards. GTA certifies that it adheres to all applicable PUC service quality standards.²⁶
6. Certification that ETC is able to function in emergency situations. GTA certifies that it has the ability to remain functional in emergency situations. Through the use of its backup electricity generators, buried copper and fiber plant, and backup battery power at its Central Office and Remote Equipment Centers, GTA has the necessary infrastructure and equipment to remain functional in situations that include fires, earthquakes or typhoons.²⁷
7. Certification that the ETC is offering a local usage plan that is comparable to the incumbent LEC. GTA is the incumbent LEC and offers an unlimited local usage plan to its subscribers.²⁸
8. Certification that the carrier acknowledges that the Commission may require it to provide equal access. GTA currently offers equal access to all of its subscribers and therefore is in compliance with this requirement.²⁹

GTA has also provided the required certification that it has advertised the availability of the supported services and charges through general media distribution, including direct mailing, Internet, newspaper advertising, and radio.³⁰

GTA indicates that, for calendar year 2016, it received \$6,977,692.00 in high cost loop support.³¹ For the 2017 calendar year to date, GTA received a total of \$2,312,590.00 in high cost universal service support.³² GTA has also submitted audited financial data for 2016 as an attachment to its Petition to demonstrate that all funds are being used to support core services.³³ Based upon the Petition and supporting exhibits submitted by GTA, it appears that the USF received in calendar year 2016 has been used as intended. Counsel is not aware of any evidence which contradicts the above certifications by GTA and believes that such certifications should be accepted. It is Legal Counsel's recommendation that GTA's request for USAC Certification be granted. The

²⁶ Id.

²⁷ Id.

²⁸ Id.

²⁹ Id.

³⁰ Id.

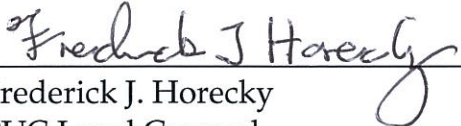
³¹ Id.

³² Id.

³³ Consolidated Financial Statements, attached Exhibit B to GTA Petition (GTA Audited Financial Data).

Commission may reasonably certify that future USF received by GTA will be appropriately used. A draft letter to the FCC approving Teleguam Holdings LLC "Use" certification is submitted herewith.

Dated this 21st day of August, 2017.



Frederick J. Horecky
PUC Legal Counsel

Guam Public Utilities Commission

**To: Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554**

**Irene M. Flannery
Vice-President – High Cost & Low Income Division
Universal Service Administration Company
2000 L Street, N.W. Suite 200
Washington, DC 20036**

**RE: CC Docket 96-45/WC Docket No. 10-90 – Annual State-Certification of
Support for Eligible Telecommunications Carriers Pursuant to 47 C.F.R.
§54.314**

Pursuant to the requirements of 47 C.F.R §54.314, the Guam Public Utilities Commission hereby certifies to the Federal Communications Commission and the Universal Service Administrative Company that Teleguam Holdings, LLC, f/k/a Pulse Mobile, LLC, is eligible to receive federal high-cost support for the program years cited.

The Guam Public Utilities Commission certifies for Teleguam Holdings, LLC, f/k/a Pulse Mobile, LLC, that all federal high cost support provided to such carrier within Guam was used in the preceding calendar year (2016) and will be used in the coming calendar year (2018) only for the provisioning, maintenance and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Communications Act.

I am authorized to make this certification on behalf of the Guam Public Utilities Commission. This certification is for study area 669003 for the Territory of Guam.

Dated this 31st day of August, 2017.



Jeffrey Q. Johnson
Chairman
Guam Public Utilities Commission

ATTACHMENT C

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



In the Matter of)

GTA Docket 17-06

TeleGuam Holdings, LLC (f/k/a Pulse
Mobile) USAC CERTIFICATION)

PUC COUNSEL REPORT

BACKGROUND

On August 8, 2017, TeleGuam Holdings LLC, f/k/a Pulse Mobile, filed its 2017 Annual USAC filing. Although TeleGuam Holdings LLC is the technical holder of the ETC designation, it operates as a CMRS carrier under the name of Pulse Mobile. Thus, "Pulse Mobile", as used herein, will interchangeably refer to TeleGuam Holdings.

Pulse Mobile has petitioned the PUC to issue a Certification that Pulse Mobile will use federal universal service support funds for purposes in compliance with Section 254(e) of the Communications Act.¹ It 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 to the FCC and the Universal Service Administrative Company (USAC) that those universal service funds will be used only for the purposes designated in the Federal Act. Absent such a Certification by PUC, TeleGuam Holdings LLC would be denied funds for each quarter of the year that certification is delayed.² Pulse receives monies from interstate universal service funds (USF) that are designated to accomplish the purposes set forth in Section 254(e) of the Communications Act.

On February 1, 2007, the PUC granted Pulse Mobile LLC's Petition for designation as an ETC.³ By virtue of PUC Order in GTA Docket 11-14 issued on May 25, 2012, Pulse Mobile's ETC Designation was transferred to TeleGuam Holdings LLC.⁴ ETCs are service providers eligible to receive federal support for local services from Universal Service Funds. In accordance with such Order, TeleGuam Holdings LLC annual designation as an ETC, d/b/a Pulse Mobile, 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 Communications Act.

¹ Id. at p. 1.

² Pulse Mobile Petition for Annual USAC Certification, Docket No. 12-08, filed September 12, 2012.

³ Application of Pulse Mobile, LLC for Designation as an Eligible Telecommunications Carrier (Order Approving Designation, Docket No. 06-8, issued February 1, 2007).

⁴ PUC Order, GTA Docket 11-14, dated May 25, 2012.

RECENT DEVELOPMENTS

In support of its certification, Pulse indicates that it has continued to make capital improvements to its wireless networks on Guam, including the GSM, 3G and LTE Networks.⁵ Pulse has continued to enhance its service and network, and to build out various aspects of its wireless network over the past year.⁶ GTA has also submitted a Coverage map, which indicates the reach of its wireless networks throughout Guam.⁷

During 2016-17, Pulse continued its LTE Site Coverage Expansion, 3G Site Coverage Expansion, and 3G Switch and Capacity Upgrades.⁸ In 2018 it intends to undertake IP Core Upgrade, IMS Core Implementation, Voice over Wifi, Tower and Infrastructure Maintenance, Wireless Backhaul Upgrade, and continued 3G and LTE Coverage Expansion.⁹

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 or before August 31 of each year, that Pulse Mobile (i) offers all of the services designated by the FCC for support 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 media of general distribution as described in its petition;

⁵ Exhibit A to Pulse's Petition, Pulse Mobile's Five Year Network Improvement Plan, Appendix A [Progress Report on Five-Year Plan] updated as of August 2017.

⁶ Id.

⁷ Exhibit B to Pulse's Petition, Pulse Mobile's Five Year Network Improvement Plan updated as of August 2017 [Pulse Mobile Coverage Map – Information provided as of August 2017].

⁸ Exhibit A to Pulse's Petition, Pulse Mobile's Five Year Network Improvement Plan, Appendix A [Progress Report on Five-Year Plan] updated as of August, 2017.

⁹ Id.

- (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 or before August 31 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 Mobile's 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.¹⁰ In its Petition, Pulse states 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.¹¹

(b) E911 Service-

Pulse indicates that it currently offers its customers access to operators throughout Guam to provide the requested services.¹² Pulse certifies that it continues to support 911 services and supports E911 services including providing the automatic numbering information throughout the territory of Guam.¹³ 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.¹⁴

(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.¹⁵ 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.¹⁶

(d) Notification of inability to provide service -

¹⁰ 47 U.S.C. §214(e).

¹¹ Pulse Petition for Annual USAC Certification, p. 2-3.

¹² Id at p. 3.

¹³ Id.

¹⁴ ORDER APPROVING DESIGNATION, Docket No. 06-8, p. 3.

¹⁵ Pulse Petition for Annual USAC Certification, supra, at p. 3.

¹⁶ Id. at pgs. 3 and 9.

Pulse Mobile certified that it “has been able to fulfill services to all requesting customers in accordance with FCC requirements.”¹⁷

(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.¹⁸ 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, through its Chief Executive Officer, 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.¹⁹

(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, 3G, and 4G LTE wireless networks and plans to continue to make such improvements over the next few years.²⁰

(ii) Information on any outages – Pulse had zero outages that affected wireless service.²¹

(iii) Unfulfilled requests for service – Pulse indicates that, to date, it has been able to fulfill services to all requesting customers in accordance with FCC requirements.²²

(iv) Complaints per 1,000 handsets – During calendar year 2016, Pulse received one end user informal complaint from the FCC. GTA responded to the

¹⁷ Id at p. 4.

¹⁸ Id. at p. 3; Exhibit A to Pulse’s Petition, Pulse Mobile’s Five Year Network Improvement Plan, updated as of August 2017.

¹⁹ 2017 High Cost Support Use Certification of TeleGuam Holdings, LLC, “Pulse Mobile”, attached to Pulse Petition for Annual USAC Certification, dated July 5, 2017.

²⁰ Exhibit A to Pulse Petition, Pulse Mobile Five Year Network Improvement Plan, updated as of August 2017.

²¹ Pulse Petition for Annual USAC Certification, at p. 4.

²² Id.

complaint and GTA received no further comment from the FCC. To date in calendar year 2017, GTA has not received end user complaints from the FCC.²³

(v) Compliance with CTIA Consumer Code – Pulse certifies that it is in compliance with the CTIA Consumer Code and all applicable service quality standards within the reporting period.²⁴ These include: disclosure of rates and terms of service to consumers; making maps available showing where service is generally available; providing contract terms to customers and confirming changes in services; allowing a trial period for new service; providing specific disclosures in advertising; separately identifying carrier charges from taxes on billing statements; providing customers the right to terminate service for changes in contract terms; providing ready access to customer service, promptly responding to consumer inquiries and complaints received from government agencies; abiding by policies for protection of customer privacy; and providing consumers with free notifications for voice, data and message usage and international roaming.²⁵

(vi) Ability to function in emergency situations – Pulse has certified that it has the ability to remain functional in emergency situations without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations as required. It can change call routing translations as needed to reroute traffic around damaged facilities.²⁶

(vii) Certification of local usage plan – Pulse offers a comparable local usage plan that offers unlimited minutes for local calling.²⁷

(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.²⁸

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

²³ Id.

²⁴ Pulse Petition for Annual USAC Certification, at pgs. 4-8.

²⁵ Id. at pgs. 4-8.

²⁶ Id. at pg. 8.

²⁷ Id. at pg. 8.

²⁸ Id. at pg. 9.

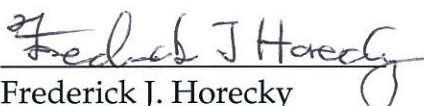
Pulse must promptly submit to the Commission any additional information or reports that the Commission may reasonably request from time to time. Pulse has been responsive in providing any additional information requested by Legal Counsel. Legal Counsel has not become aware of any contrary evidence which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

RECOMMENDATION

Pulse indicates that, for calendar year 2016, it received \$1,183,224.00 in USF.²⁹ To date in 2017, it has received \$493,010.00.³⁰ 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.

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 2018 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 Certification to the FCC is submitted herewith.

Dated this 24th day of August, 2017.


Frederick J. Horecky
PUC Legal Counsel

²⁹ Id.

³⁰ Id.

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:

) GPA Docket 17-04

)
)
) The Application of the Guam Power
) Authority to Approve the Performance
) Management Contract (PMC) for the GPA
) Fuel Farm Bulk Storage Facility with IP&E
) Guam LLC.
)

ORDER

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Petition of Guam Power Authority ["GPA"] for review and approval of the Performance Management Contract (PMC) for the Management, Operation and Maintenance of the GPA Fuel Farm Bulk Storage Facility.¹

BACKGROUND

2. On October 27, 2016, the PUC issued an Order approving the Petition of GPA to procure a performance management contract for the fuel bulk storage facility.²
3. GPA's current contract with Vital Energy, Inc. for the management of the GPA Fuel Bulk Storage Facility will expire on May 31, 2017.³
4. In November 2016, GPA issued a new Multi-Step Invitation for Bid, IFB GPA-014-17, for the Management, Operation, and Maintenance of the Fuel Bulk Storage Facility.⁴
5. Three bidders submitted bids for GPA's consideration: IP&E Guam LLC, Tristar Terminals Guam, and Vital Energy Inc.⁵
6. Vital Energy Inc. was disqualified for submitting a price proposal that was determined to be non-compliant with the requirements of the bid.⁶

¹ GPA Petition for Review and Approval of the Performance Management Contract for the GPA Fuel Farm Bulk Storage Facility, GPA Docket 17-04, filed April 14, 2017.

² PUC Order, GPA Docket 17-04, issued October 27, 2016, at p. 3.

³ Guam Consolidated Commission on Utilities, Resolution No. 2017-10, adopted April 18, 2017, at p. 1.

⁴ Id. at p. 1.

⁵ Id.

⁶ Id.

7. IP&E Guam LLC was determined to be the lowest, most responsive and responsible bidder.⁷
8. On April 18, 2017, the Guam Consolidated Commissions on Utilities issued Resolution No. 2017-10, which approved the selection of IP&E Guam LLC as the lowest, most responsive bidder for award of the Performance Management Contract for the Fuel Bulk Storage Facility.⁸
9. Subject to PUC approval, the GPA General Manager was authorized to enter into a PMC contract with IP&E Guam LLC.⁹
10. Under the proposed Contract, IP&E Guam LLC's initial term will be for two years, with three optional 1-year extensions.¹⁰ The total cost for the 2-year base period is \$1,644,300.00 for mandatory services.¹¹
11. This matter was originally scheduled to be heard at the PUC Meeting held on April 27, 2017. However, at that meeting GPA advised the PUC that a protest had been filed by Vital, which meant that PUC could not proceed at that time with considering GPA's Application for Approval of Contract Award.
12. Subsequent to a meeting with Vital, GPA denied Vital's protest. GPA now represents that the period for Vital to file an appeal with the Office of Public Accountability has expired. GPA has not received a protest appeal nor is there any filing on the OPA website.¹² This matter is now ripe for consideration by the PUC.

DETERMINATIONS

13. The PUC previously determined that the proposed Contract for the PMC for the Fuel Bulk Storage Facility should be adequate to require proper performance by the contractor, and that a PMC for the Fuel Farm is responsible, prudent and necessary.¹³

⁷ See Exhibit "1" attached hereto.

⁸ CCU Resolution No. 2017-10, issued April 18, 2017, at p. 1.

⁹ Id. at p. 2.

¹⁰ Id. at p. 1.

¹¹ Id.

¹² Email from GPA Counsel Graham Botha to PUC Counsel Fred Horecky, Re: Docket 17-04, dated August 18, 2017.

¹³ Id. at p. 3.

14. The current PMC, Vital, was disqualified in the bid process. Vital did not submit the required Operation and Maintenance Budget bid in accordance with Bid Item No. 6.¹⁴
15. The PUC is not a procurement board and must rely upon GPA with regard to procedure by which the lowest responsible bidder is selected. In accordance with GPA's determination, it appears that IP&E Guam LLC was the lowest responsive bidder and should be awarded the contract.
16. The per-year annual cost for the 2-year base period of the IP&E PMC contract is \$810,000.00 and \$834,300.00 respectively. Under the original Vital PMC contract from 2012 to 2015, the annual cost was roughly \$675,273.38 per year.¹⁵ While the annual cost has increased for the new contract, such increase does not appear to be out of line given inflation and other rising cost factors.

ORDERING PROVISIONS

After careful review and consideration of the above determinations, the Petition of GPA, the Contract for the management, operation, and maintenance of the GPA Fuel Farm Bulk Storage Facility, the Report of PUC Counsel, and the record herein, for good cause shown, and on motion duly made, seconded, and carried by the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY ORDERS** that:


1. GPA's award of the Performance Management Contract to IP&E Guam LLC., for the management, operation and maintenance of the GPA Fuel Farm Bulk Storage Facility, is approved.
2. GPA is authorized to expend up the amount of \$1,644,300.00 for the two year base period of the PMC.
3. GPA shall seek approval for any extension of the PMC with the PUC.
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

¹⁴ Telephone conversation between GPA Legal Counsel Graham Botha and PUC Counsel Fred Horecky on April 21, 2017.

¹⁵ PUC Order, GPA Docket 10-08, dated June 11, 2012, at p. 2.

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 31st day of August, 2017.



Jeffrey C. Johnson
Chairman



Rowena E. Perez
Commissioner

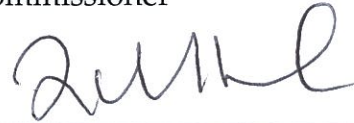


Michael A. Pangelinan
Commissioner

Filomena M. Cantoria
Commissioner



Joseph M. McDonald
Commissioner



Peter Montinola
Commissioner



Andrew L. Niven
Commissioner