

GUAM PUBLIC UTILITIES COMMISSION  
SPECIAL MEETING  
February 1, 2018  
Suite 202, GCIC BUILDING, HAGATNA



MINUTES

The Guam Public Utilities Commission [PUC] conducted a special meeting commencing at 6:40 p.m. on February 1, 2018, pursuant to due and lawful notice. Commissioners Johnson, Pangelinan, Montinola, Niven, Cantoria, and McDonald were in attendance. The following matters were considered at the meeting under the agenda made *Attachment "A"* hereto.

**1. TeleGuam Holdings LLC**

The Chairman announced that the only item on the agenda was GTA Docket 18-01, Joint Petition of TeleGuam Holdings LLC and Pacific Data Systems, Inc. for Arbitration of Interconnection Agreement, ALJ Recommendation, and Proposed Arbitration Order. Counsel indicated that this docket involves the Fourth Interconnection Agreement of GTA and PDS. In 2007, the parties started the process of negotiating an agreement that would implement the interconnection obligations of the parties under the 1996 Federal Telecommunications Act. With the current ICA, there was a demand by GTA to PDS that the ICA should be renegotiated. In September of last year, the parties submitted a joint petition bringing this arbitration matter before the PUC. The PUC and the ALJ act as arbitrators under the Interconnection Implementation Rules. When there is a dispute between the parties, there is a formal arbitration proceeding with the ALJ sitting as the Arbitrator.

In this case, the parties started with approximately 100 issues. These concern the language of the Interconnection Agreement and the terms that should be included in the Agreement. As a result of negotiations, the parties were able to whittle the issues down to about 18. There was a good faith effort by the parties to eliminate as many issues as possible in the arbitration.

In December, the ALJ conducted a formal arbitration hearing; briefs were filed by the parties and arguments heard on the different provisions of the ICA. There was a recording of the proceedings, which the ALJ has consulted in proposing his written recommendations dated January 12, 2018. These recommendations indicate his view as to how each issue concerning the ICA should be handled. If the Commissioners tonight adopt the ALJ Recommendations, they would also adopt the Arbitration Order as written.

Counsel indicated that he would not go into detail about all of the issues, but just attempt to highlight the main points. There were various issues concerning general terms and conditions, involving the obligation of the parties under 47 USC 251 and 252. The prior ICA referenced the obligations of GTA but not so much those of PDS. The federal law does impose mutual obligations on the parties. The ALJ felt that the changes indicating mutual obligations were appropriate and recommended that the Commissioners adopt them.

There were also changes proposed to the Interconnection Attachment. These define exactly what services GTA provides to PDS under the interconnection agreement. It primarily relates to local area service, that is calls originating on Guam, telephone calls and other communications, but does not include interstate calls and what we call toll traffic. There were efforts by GTA to define exactly what services are included under the Interconnection Agreement. PDS felt that some of these issues, such as nomadic traffic, calls masquerading as local (i.e. appear that they are local, but are in reality from a U.S. phone number) were not really problems with PDS.

The ALJ felt that GTA was attempting to define exactly what kind of service is local traffic and is covered under the ICA. He recommended that these changes are appropriate and be adopted. No harm results to PDS from the changes, and they are a good method of more clearly defining the types of service included under the ICA.

There were many provisions that further defined glossary terms such as "loop", "main distribution frame", "REC", (Remote Equipment Center) and others. In the TELRIC Docket there was a major change in the GTA network. Previously there had been 18 wire centers including Agana, Tumon etc. All of the RECs out in the field were called wire centers. But as a result of switch and other changes, there is now only one wire center: Agana. GTA sought to define Remote Equipment Centers.

However, the ALJ found that there should be a more adequate definition for Remote Equipment Center. The GTA definition merely defines it as "one of the 18 centers defined in the TELRIC Study." The parties have been requested to provide a more functional definition. If a REC is not a wire center now, how exactly does it function within GTA's network?

Previously the ICA defined a main distribution frame as the interconnect point between the wire centers and the customer premises or out in the field. But now, with the RECs, the RECs no longer have a main distribution frame, they have something called a feeder distribution interface. In practice it appears to be exactly the same thing. GTA has not changed the technology in the RECs, but it is defining the equipment differently. The ALJ has asked for more clarity in the agreement about these terms.

Another major point was the Collocation Attachment to the ICA. Since 2007, there was a dispute between the parties about the rights of PDS to collocate. This issue goes to the heart of what the Federal Communications Act addresses, which is the purpose to broaden competition in allowing CLECS such as PDS to collocate in GTA's facilities. There were battles fought over the years on this issue. The PUC had issued an Order requiring GTA to provide collocation. The Collocation Attachment now talks about initial collocation requirements. But as GTA pointed out, PDS has already collocated in 16 of the facilities. GTA seeks to eliminate the Collocation Attachment. But PDS felt that it should be kept because it would also further provide definition as to what a REC IS and what its attributes are.

In light of the past battles on this issue, the ALJ believes that the Collocation Attachment should be kept in the ICA, but updated. It should be more in the nature of what collocation exists now, what are the requirements of the collocation facilities, and what kind of cage or space is used, and what are the power requirements to update the collocation attachment. The ALJ recommendation is that the Collocation Attachment remain in the ICA, and that the parties work out the details of the Attachment further.

A lot of the discussion involved the definition of loops and sub-loops. This was a major disagreement between the parties. GTA basically defined these terms according to what its network infrastructure is now. But PDS felt that there were some issues that needed further clarification, for example, what is the cross-connect point in the RECs and pricing issues. PDS explained differences caused by the changes implemented by GTA in its network.

However, the ALJ attempted to determine which proposal more accurately reflected the TELRIC Agreement. During the TELRIC Study, it was recognized that pricing was being done for 10 loops and 2 sub-loops. There were 18 wire centers at that time; we know that after the TELRIC Study, the network infrastructure was changing so that these RECs would no longer be wire centers. What is the practical affect? When the RECs were wire centers, loops coming out of those wire centers were all "loops" and not "sub-loops." But when you say that a REC is no longer a wire center, there are two kinds of loops that come out of the RECs. The loop from the REC itself becomes a sub-loop, and then something called a non-REC loop becomes a "non-REC sub-loop."

As far as the ALJ can tell, there is no harm in changing the terminology as GTA suggests. It is really only a change in name, and this was authorized in the TELRIC proceeding. What were "loops" from the RECs are now priced as "sub-loops." PDS will not pay any more for sub-loops than it did for what was previously a loop. The nature of the service will not change at all. Although there are some definitional issues, basically PDS will be provided with the same service. Even if you call the connect point in the REC a "feeder distribution interface", rather than calling it a mainframe distribution, the nature of the equipment is the same. There is no practical difference.

PDS wished to price all sub-loops as they were defined in the TELRIC Study. However, the TELRIC Study only priced "loops" less than 10,000 feet. GTA argued that it would not be fair to price loops which are longer than 10,000 feet in that manner. PDS argued it could give up all loops more than 10,000 feet. However, the ALJ believes that GTA's definition was more consistent with what had been done in the TELRIC Study. The ALJ, for definition of loops and sub-loops, recommends the adoption of GTA's position.

PDS indicates that it has over 700 loops total at present. The total difference in cost to PDS between adopting its version of loop pricing and that of GTA is about \$2,000.00 a month. It does not seem as if the difference is so significant. There does not appear to be any real harm to PDS from adopting the definition that GTA has advocated.

The proposed ICA deletes certain services such as inside wire, dark fiber transport, and dedicated transport. The Commission has already approved these deletions previously. In the dark fiber proceeding, the Commission had concluded that GTA was not required to provide dark fiber any longer. The ICA also makes it clear that GTA only has to provide loops where there are homerun copper facilities available. All of the loops and sub-loops presently provided by GTA to PDS are homerun copper loops. Under federal law, an ILEC such as GTA does not have the obligation to offer hybrid loops, a combination of copper and fiber, to PDS, or to offer internet protocol services. So, the revision proposed by GTA appears to be consistent with federal law.

GTA submitted its Pricing Attachment. That attachment incorporates the changes GTA had made, changing the names of loops and sub-loops. The Attachment appears to be in accordance with the definitions that the ALJ recommended the PUC accept.

Issues were raised concerning the provision of notice. Notice for changes in service. PDS argued that, in all cases, the notice should be 180 days. However, all of the ICA's have previously provided that, at a minimum, GTA should provide 90 days. If practical and it can do so, GTA should give 180 days' notice. The ALJ determined that the existing provision only requires 90 days, and that such provision is more in accord with both the FCC and prior PUC precedent.

The FCC recently held in its Copper Wire Retirement Order that 90 days' notice is adequate. The reason why the FCC reduced the notice requirement is that an ILEC must have the ability to make rapid changes in this day of increasing technology regarding the existing network. Based upon this precedent, the ALJ recommends that the notice provision not be changed. The parties did agree to one change in the notice provision: if either party makes changes to the network that could materially affect the other party, it will give direct notice to the other party. Previously, notice was only required through the federal register and publication. This change was agreed upon by the parties.

GTA recommended certain changes to loop testing procedures. When a loop is put in, GTA has to do certain tests, and PDS has the right to understand that the loop is working and that everything is functionable. GTA advocated a type of pass-fail test for the loop rather than a requirement for the submission of test results. The ALJ determined that the testing procedure has been in affect under the ICA for many years. He was not aware of any problem that had occurred. He recommended that the PUC not change the loop testing procedures.

GTA made another proposal to change the installation interval for the provision of UNE loops. There are certain timeframes now. GTA suggested that, if it had to install more than three in any one day or 15 in one week, that somehow the provisioning deadline should be altered for installation. The ALJ did not find that GTA had presented any problematic cases or situations where the existing timeframes could not be met. The ALJ recommends that the PUC not alter the existing installation interval timeframes.

Finally, the ALJ found that both parties acted in good faith in these negotiations; therefore, they should equally share the regulatory fees. The ALJ is requested to weigh the positions of the parties and to come up with a fair and reasonable recommendation. That is what he attempted to do in this proceeding. If the Commissioners agree with the recommendations, then the parties will go back and make final revisions to the ICA they will then submit final ICA in February and the ICA will come before the Commissioners for final approval.

GTA Legal Counsel Serge Quenga then spoke on behalf of GTA. He thanked the ALJ for the numerous hours that he had put into this arbitration. It was a long process, and he also thanked PDS. The task was daunting. GTA believed that the ICA basically is closing the loop from the major dockets that GTA has had over the past three years since the arbitration docket for the 2014 interconnection agreement between GTA and PDS. There were also the dark fiber docket and the major TELRIC hearings last year. There were a lot of loose ends and house cleaning that were necessary for the ICA based upon the prior proceedings.

Many definitions had to be changed. It was an appropriate time to revamp and update the interconnection agreement. The loop is being closed on these prior issues and the agreement being updated. GTA did not prevail on all the issues before the ALJ, but, generally, it is satisfied. It does not have objections to the recommendations that the ALJ has put forth, which are reasonable. GTA has already begun to redraft certain provisions.

President John Day spoke on behalf of PDS. Neither party was looking forward to going through this process on the ICA. There were previously hundreds of proposed changes. It was reduced to 18 by the time the arbitration commenced. The parties were

unusually cooperative. Mr. Day shares the sentiments that Serge mentioned and appreciates the work the ALJ has done. However, Mr. Day did wish to share some concerns.

This was the fourth ICA. With the previous agreements, there were not anywhere near the number of changes that have occurred in this agreement. There are major structural changes in this agreement and major definitional changes. The obligations have changed quite a bit, and the technology is changing in our industry. Technology changes will stress the agreement as we go forward. Some of the changes are untested language in the agreement. This untested language could result in the parties not agreeing on the terms or what certain aspects of the agreement mean. These issues may have to be resolved through dispute resolution and ultimately bring these matters before the Commission.

There is a higher likelihood that in the past that the PUC will see the parties as they try to resolve the rough edges in the agreement. He hopes that does not happen, but it is something we need to be prepared for. There are significant definitional changes, such as the definition of the REC. It is a GTA-created definition. So, that creates potential issues as we move forward. The ALJ's decisions will assist in flushing the issues out. But there is the potential for disagreement. There are a few issues for which the parties "kick the can down the road." The issue of PDS interconnecting with GTA out in the field was not resolved.

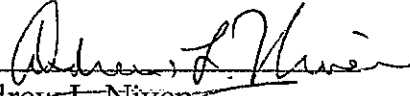
PDS interconnection remains the same as it has for the last 10 years, but GTA's network is changing. Those changes may require PDS to connect with GTA, not at the REC locations, but out in the field. For now, the parties agree they would not define how important that was to PDS. That is an issue that the parties have agreed to negotiate in the future in good faith. An evolving part of the agreement is not contained in this agreement. If need be, we will come back and work on that further. Although not entirely happy with the process, Mr. Day is glad that its almost over. He looks forward to signing the finalized agreement and bringing it back before the Commission.

Mr. Dan Tydingco, Executive Vice President of GTA, said a few words. He indicated one minor correction concerning a name on the ALJ Recommendations. Mr. Tydingco also felt that the parties have reached a good agreement. The agreement shows the dynamic nature of the telecom industry, not only in terms of technological advancement, but also with regard to regulation. The industry is moving towards deregulation and it reflects a lot of orders that have already been expressed and articulated by the FCC and stateside.

The Chairman indicated that he appreciated the cooperation between the parties. Mr. Day again indicated that the technologies are changing, and copper loops probably aren't going to be that important in the future. It's the technology that is changing.

After the fight about dark fiber, PDS' need for GTA's dark fiber is rather expired. The maturity of the network and regulatory technology changes in the industry will change a lot of what the requirements are. The Chairman asked if the Commissioners had any questions. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the Recommendations of the ALJ and adopted the Arbitration Order made *Attachment "B"* hereto.

There being no further business, the meeting was adjourned.

  
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Andrew L. Niven  
Chairman

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION  
SPECIAL MEETING  
SUITE 202, GCIC BUILDING  
414 W. SOLEDAD AVE., HAGATNA, GUAM  
6:30 p.m., February 1, 2018**

**Agenda**

- 1. TeleGuam Holdings LLC**
  - GTA Docket 18-01, Joint Petition of TeleGuam Holdings, LLC, And Pacific Data Systems Inc. for Arbitration of Interconnection Agreement, Administrative Law Judge Recommendations, and Proposed Arbitration Order**

ATTACHMENT A



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF: ) GTA DOCKET 18-01
)
THE JOINT PETITION OF TELEGUAM )
HOLDINGS LLC AND PACIFIC DATA ) ORDER
SYSTEMS INC FOR ARBITRATION OF )
INTERCONNECTION AGREEMENT )
\_\_\_\_\_ )

INTRODUCTION

This matter comes before the Guam Public Utilities Commission ["PUC"] upon Recommendations issued by Administrative Law Judge ["ALJ"] Frederick J. Horecky on January 12, 2018, which is made Attachment "A" hereto, in the arbitration proceedings in this Docket.

On April 28, 2017, pursuant to 27 U.S.C. §§ 251 and 252, TeleGuam Holdings, LLC ("GTA") submitted to Pacific Data Systems, Inc. ("PDS") a request to negotiate the Interconnection Agreement ("ICA") between the Parties. Since 2007, the Parties have entered into a series of ICAs to formalize their obligations under the 1996 Federal Telecommunications Act. The Parties are now in the process of negotiating their fourth ICA.

On October 3, 2017, the Parties submitted to the Guam Public Utilities Commission ("PUC") a Joint Petition for Arbitration of issues. On November 22, 2017, GTA and PDS submitted their joint list of remaining issues for arbitration in this matter.

ATTACHMENT B

On December 15, 2017, the remaining issues came before the ALJ for formal arbitration. Both Parties submitted Exhibits into evidence, and the ALJ received testimony and argument from the Parties.

On January 12, 2018, the ALJ issued his Recommendations to the PUC concerning each of the remaining issues pursuant to the Rules for Practice and Procedure before the Commission and Interconnection Implementation Rule 4(h).

### **RECOMMENDATIONS OF THE ALJ**

The PUC hereby adopts the Recommendations of the ALJ concerning the remaining eighteen (18) open issues in the negotiations between the Parties on the fourth ICA. The Commission concludes that the ALJ has fairly and equitably reviewed the remaining disputes between the Parties, and that his Recommendations will result in a final ICA that fully takes into account the interests of both Parties. In particular, the ICA must be revised to address changes that GTA has made to the current network architecture with regard to the nomenclature for loops and sub-loops, as well as their pricing.

The PUC previously recognized that GTA would be able to incorporate the new terminology “sub-loop” in the Interconnection Agreement, and to alter its billing and provisioning terminology as necessary to reflect its network architecture.

### **ORDERING PROVISIONS**

The PUC is required to issue a final order accepting or rejecting, in whole or in part, the recommendations of the Arbitrator [ALJ] within ten (10) days after the

recommendation has been filed. Having considered the record of the proceedings herein, the pleadings of the Parties and the ALJ Recommendations, and good cause appearing, the Guam Public Utilities Commission hereby **ORDERS** as follows:

1. The recommendations of the Administrative Law Judge dated January 12, 2018, are adopted.
2. Proposed Sections 1.1.1, 1.1.2, and 1.1.3 of the GENERAL TERMS AND CONDITIONS (Issues 3A and 3B) shall be included in the ICA; Sections 2.1 through 2.9 of the INTERCONNECTION ATTACHMENT (ISSUE 49) shall also be included in the ICA. These provisions accurately state the mutual obligations of the Parties (ILEC and CLEC) under the ICA.
3. Proposed Sections 2.1 through 2.9 of the INTERCONNECTION ATTACHMENT (Issue 49) shall be included in the ICA; these provisions more carefully define the local/extended area service that is subject to the ICA, and identifies and prohibits improper telecommunications practices.
4. Paragraph 28 of the ICA concerning the Notice of Network Changes (ISSUE 12) shall remain as is in the current ICA, with the addition of direct notice to the affected party. The amended provision will now provide adequate notice of network changes to the Parties.
5. Sections 2.64 and 2.66 concerning GLOSSARY TERMS “Loop” and “Main Distribution Frame (MDF)” (ISSUES 21 and 28) shall be included in the ICA.

These terms, as defined, accurately describe the functions of these elements in the GTA network.

6. The definition of Remote Equipment Center (REC) in Section 2.94 of the GLOSSARY shall be expanded to include a functional definition of what a REC is, and how it functions in GTA's Network.
7. A revised Collocation Attachment, Exhibit "A", shall continue to be included in the new ICA to assist in the definition of a REC (ISSUES 77 and 78). The Collocation Attachment shall be revised in accordance with the ALJ recommendations.
8. Section 5.5, Demarcation Point, in the Collocation Attachment, shall indicate what the connection point is in the REC, if not an "MDF"; if the MDFs at the RECs are "Feeder Distribution Interfaces" ("FDIs"), this should be specified in Section 5.5.
9. The changes proposed by GTA in provisions concerning "sub-loops" in the ICA shall be included in the new ICA. A "Sub-loop Feeder Facility", as defined in § 2.107 of ICA shall be eliminated (ISSUE 14).
10. The Glossary Definitions of "Sub-Loop", "Sub-Loop REC", and "Sub-Loop Non-REC" (Sections 2.102, 2.10X and 2.10Y) shall be adopted, as they are in accord with network changes that GTA has made.
11. The deletions in Section 2 of the Network Elements Attachment for certain services no longer provided, such as Inside Wire, Dark Fiber Transport, and Dedicated Transport, are approved; these provisions shall no longer be required in the ICA (ISSUE 59). Also, loops and sub-loops need only be available to PDS "where Home

Run Copper Facilities are available” (ISSUE 60). GTA does not have an obligation to offer Hybrid Loops using IP feeder to PDS, nor to offer IP services.

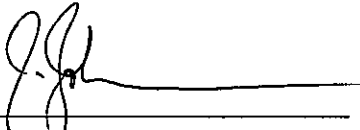
12. Proposed Section 4.1 of the Network Elements Attachment clarifies that GTA is only required to provide access to a sub-loop distribution facility to PDS in accordance with Applicable Law and the Arbitration Order (ISSUE 65). This proposed section shall be included in the ICA. The definitions of Sub-loop in Section 4.1.1 of the Network Elements Attachment shall also be included in the ICA.
13. The Pricing Attachment, GTA Exhibit 5, is approved and shall be included in the ICA (ISSUE 85).
14. Proposed provision Section 1.5 of the Network Elements Attachment, which provides that GTA may discontinue provision of UNEs if a requirement for provision of such UNEs is altered by Applicable Law (ISSUE 58). Such provision shall be included in the ICA, as it is consistent with current law.
15. The proposal for alteration of loop testing procedures to provide for “pass/fail indications”, as proposed in Section 3.4.1 (ISSUE 62) is not adopted and shall not be included in the ICA. GTA has not demonstrated that there is a need to change or alter existing testing procedures.
16. GTA’s proposal in Section 4.2.1.5 of the Service Order Attachment to change the installation interval for the provision of UNE loops or sub-loops shall not be included in the ICA (ISSUE 100). GTA has not demonstrated that the present

installation interval requirements are burdensome, or that GTA has been unable to comply with them.

17. GTA and PDS shall equally share the regulatory fees and expenses incurred in the Docket, including without limitation, Counsel and ALJ fees and expenses, and including fees and expenses for conducting the hearing/arbitration process.

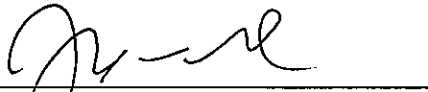
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SO ORDERED this 1<sup>st</sup> day of February, 2018.

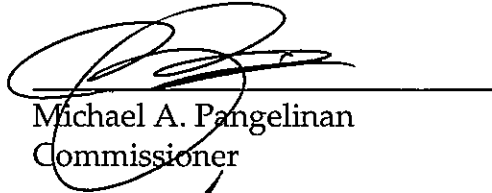


Jeffrey C. Johnson  
Chairman

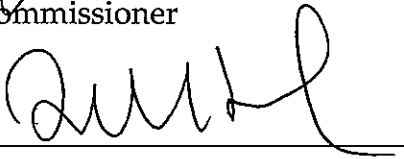
Rowena E. Perez  
Commissioner



Joseph M. McDonald  
Commissioner



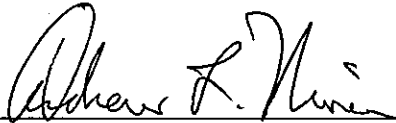
Michael A. Pangelinan  
Commissioner



Peter Montinola  
Commissioner



Filomena M. Cantoria  
Commissioner



Andrew L. Niven  
Commissioner