

GUAM PUBLIC UTILITIES COMMISSION
REGULAR MEETING
September 27, 2018
Suite 202, GCIC BUILDING, HAGATNA



MINUTES

The Guam Public Utilities Commission [PUC] conducted a regular meeting commencing at 6:33 p.m. on September 27, 2018, pursuant to due and lawful notice. Commissioners Perez, McDonald, Cantoria, Pangelinan, and Montinola were in attendance. The following matters were considered at the meeting under the agenda made *Attachment "A"* hereto.

1. Approval of Minutes

The Chairperson announced that the first item of business on the agenda was approval of the minutes of August 30, 2018. Upon motion duly made, seconded and unanimously carried, the Commission approved the minutes subject to correction.

2. PTI Pacifica Inc.

The Chairperson announced that the next item on the agenda was PTI Pacifica Inc., PTI Docket 18-01, PTI Petition for Annual USAC Certification, PUC Counsel Report, and USAC Certification. In order to obtain federal universal support funds, PTI requests a certification from the PUC that PTI has expended and will expend federal universal support funds received for the purposes intended by federal law. Here PTI has certified, through its general Counsel, that it provides all of the 9 basic services required to be provided under the Code of Federal Regulations. Secondly, the general Counsel has certified that PTI has used all federal universal support funds only for the purposes intended by federal law, which are basically for system and network improvements.

PTI is required to submit a five-year plan with its petition, demonstrating the improvements that have been made to its systems. PTI has indicated numerous improvements, including backhaul upgrades for fiber, backhaul projects for the wireless network, and the upgrading of networks for hardware, software and licenses. It has added numerous sites and projects, and as many as 10 new sites in 2019 are anticipated. No complaints were filed with regulatory authorities, and there were no outages.

Counsel indicates that PTI has satisfied all of the requirements of federal law, and that the PUC should issue the certification requested. Commissioner Pangelinan moved to authorize the Acting Chairperson to execute the USAC Certification for PTI Pacifica, which motion was seconded by Commissioner Montinola. The motion carried unanimously.

3. Docomo Pacific Inc.

The Chairperson announced that the next item of business was Docomo Docket 18-01, Petition for Annual USAC Certification, PUC Counsel Report and USAC Certification. Initially, Commissioner Pangelinan recused himself from this matter due to the petitioner being a client of his law firm. Counsel indicated that Docomo has provided a certification that it provides the 9 core services required for universal support funds. Docomo Chief Legal Officer has also certified and will use federal support funds only for the purposes of federal law. Docomo provided a five-year plan that satisfies the requirements of law. Detailed improvements are listed for the five-year period from 2016 through 2020. It has completed fiber replacement projects and will continue, in 2018 and thereafter, there is projects designed to improve the underground fiber infrastructure in major highways throughout Guam. In 2020, Docomo will begin connecting local resident homes with direct fiber connection. It has no outages to report, nor complaints to regulatory authorities. It has the ability to function in emergency situations. Counsel finds that there is a sufficient factual and evidentiary basis upon which the Commission can certify that the universal support funds distributed to Docomo in the calendar year 2019 will be used in accord with federal law. He recommends approval of the Application.

Commissioner Montinola moved to approve the USAC Certification for Docomo, which motion was seconded by Commissioner Cantoria. The motion carried unanimously.

4. Guam Power Authority

The Chairperson announced that the next item of business on the agenda was GPA Docket 18-17, Petition to Approve FY2019 CIP Ceiling Cap, PUC Counsel Report, and Proposed Order. Counsel indicated that GPA is required annually to submit its capital improvement project ceiling cap for approval by the PUC. The cap includes expenditures for general plant and engineering projects. The cap this year is the total amount of \$22,022,011.00. That consists of general plant in the amount of \$19,614,000.87, and engineering projects in the amount of \$2,407,924.00. The Petition includes a listing of expenditures for general plant and engineering.

It is the case that GPA does not usually expend the entire CIP cap budget. This year's cap includes expenses for a digger, software implementation, bucket trucks, circuit-breaker upgrades, main generator overhaul, unit 2 burner components renovation, water treatment facilities upgrade, lobby kiosks and other expenditures. This year's Cap is consistent with that of prior years.

Although this year's cap is at \$22M, and the last few years ranged between \$18M and \$20M, many of the items in this year's cap budget are carryovers from prior years. The proposed engineering projects have all been contemplated for many years and have been reviewed previously by the PUC. Based upon the fact that the budget this year is consistent with prior year budgets, Counsel recommends that the PUC approve the

proposed FY2019 ceiling cap in the amount of \$22,022,011.00. In response to Commissioner Pangelinan's question, Counsel indicated that the standard of PUC review for the ceiling cap was reasonableness. Capital improvement funds should be used and spent on the purposes indicated.

A conversation ensued between the Commissioners and GPA GM Benavente concerning why budget funds are often not spent, and that the procurement and delivery process can take years to complete. Commissioner Montinola moved to approve GPA's CIP ceiling cap, which motion was seconded by Commissioner Pangelinan. The motion carried unanimously.

The Chairperson announced that the next item on the agenda was GPA Docket 18-18, Filing of the FY2019-2021 Construction Budget, for informational purposes. Counsel indicated that, under the Contract Review Protocol, GPA is only obligated to file its 3-year Construction Budget. Counsel notes that over \$37M out of \$41M in the budget are anticipated expenditures from 2014 bond funds.

5. Administrative Matters

The Chairperson indicated that the next item of business was the FY2019 Administrative Budget and Annual Assessment Order. Counsel suggested that the PUC Commissioners first review the budget and determine whether they concur with it. Commissioner Montinola moved to approve the FY2019 PUC Budget, which motion was seconded by Commissioner McDonald.

Counsel indicated then that the Commissioners should next consider the Assessment Order. This is the order that assesses the cost of the PUC budget. Telecom companies and each of the utilities each pay a share of \$99,960. The total share of the Telecom companies is apportioned among each of such companies. Commissioner Pangelinan moved to approve the Assessment Order, which was seconded by Commissioner Montinola. The motion carried unanimously.

The Chairperson indicated that the next item on the agenda was PUC Resolution 18-03, for approval of PUC Consultant, ALJ, and Legal Counsel Contracts, and Issuance of the Final Awards. Counsel explained the process by which the consultants and other PUC staff had been selected. After selection by the Commissioners, contracts were signed between the PUC and all 9 consultants to provide services. Counsel indicated the consultants that had been selected for each utility subject matter, and those selected for Legal Counsel and Administrative Law Judge for FY 2019.

The scope of services for each consultant contract was the same as set forth in the Requests for Proposals. Counsel reviewed the pricing of the contracts with the Commissioners. In general, he indicated that consultant fees had risen considerably since Consultant contracts were last entered into. Consultants would not be authorized

to hire their own separate attorneys. At the request of Commissioner Pangelinan, Counsel provided the Commissioners with the rate sheets for each of the consultants.

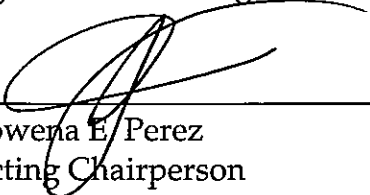
Counsel stated that each consultant contract was for a five-year period, but with 5 one-year terms. The term would automatically continue after each year unless the Commission opted out. A discussion followed to the effect that Consultants should be required to provide their reports on time for consideration by the Commissioners, and that costs should be kept in line.

Commissioner Pangelinan moved to approve Resolution No. 18-03, all consultant contracts, and the issuance of Final Awards to all selected consultants, which motion was seconded by Commissioner Cantoria. The motion carried unanimously.

The Chairperson announced that the next item of business was Deliberations concerning Extension of the PUC Contract for PUC Administrator. Counsel stated that the contract extension would be for another year for Ms. Palomo. She has worked a total of 16 years with the PUC. The contract is a one-year extension and would raise her salary. The contract is an annual contract with a one-year term. Commissioner Montinola moved to approve the one-year contract extension for the PUC Administrator, which motion was seconded by Commissioner Cantoria.

The Chairperson indicated that the last item of business on the agenda was Testimony of the Chairman on Bill No. 325-34. Counsel explained that this testimony was provided for information. The Bill amend the E911 law and broaden the scope of complaints that the PUC would be required to consider. The Chairman's testimony suggested that there be clarification concerning the exact scope of complaints that the PUC would be required to consider. The scope should be limited to violations of existing provisions of the law. The PUC testified before the Legislature that the requirement that complaints be addressed by the PUC within 10 days was too short and should be extended to 30 or 60 days.

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



Rowena E. Perez
Acting Chairperson

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION
REGULAR MEETING
SUITE 202, GCIC BUILDING
414 W. SOLEDAD AVE., HAGATNA, GUAM
6:30 p.m., September 27, 2018**

Agenda

- 1. Approval of Minutes of August 30, 2018**
- 2. PTI Pacifica Inc.**
 - **PTI Docket 18-01, PTI Petition for Annual USAC Certification, PUC Counsel Report, and USAC Certification**
- 3. Docomo Pacific Inc.**
 - **Docomo Docket 18-01, Petition for Annual USAC Certification, PUC Counsel Report, and USAC Certification**
- 4. Guam Power Authority**
 - **GPA Docket 18-17, GPA Petition to Approve FY2019 CIP Ceiling Cap, PUC Counsel Report, and Proposed Order**
 - **GPA Docket 18-18, Filing of the FY2019-2021 Construction Budget**
- 5. Administrative Matters**
 - **FY2019 Administrative Budget/Annual Assessment Order**
 - **PUC Resolution 18-03 for Approval of PUC Consultant, ALJ, and Legal Counsel Contracts and Issuance of Notices of Final Awards**
 - **Deliberations concerning Extension of PUC Contract for PUC Administrator**
 - **Testimony of Chairman on Bill No. 325-34**
- 6. Other Business**

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



In the Matter of:) PTI Docket 18-01
)
PTI PACIFICA INC.)
USAC CERTIFICATION) PUC COUNSEL REPORT
)
_____)

BACKGROUND

On September 12, 2018, PTI Pacifica Inc. (“PTI”) petitioned the Guam Public Utilities Commission (“PUC”) to issue a certification that PTI will use federal universal service support funds for purposes in compliance with Section 254(e) of the Telecommunications Act.¹ PTI seeks a finding by the PUC that it will comply with §254(e), which states that universal service funds (“USF”), may be used only for the purposes designated in the Federal Act.

PTI receives monies from interstate 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 Federal Communications Commission (“FCC”) and the Universal Service Administrative Company (“USAC”) that universal service funds will be used only for the purposes designated in the Federal Act. Absent such a Certification by PUC, PTI, as an “Eligible Telecommunications Carrier” (“ETC”), would be denied funds for each quarter of the year that certification is delayed.

On January 7, 2008, the PUC granted PTI’s Petition for Designation as an ETC throughout the Territory of Guam.² In accord with such Order, PTI’s annual designation as an ETC is subject to its provision of annual certifications and data submissions to the PUC. PUC requires such information so that it can ensure that funds received by PTI will be expended in accordance with the requirements of the Telecommunications Act. Based upon the certifications and documentation provided by PTI in its 2017 Annual Compliance Filing, 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 PTI in calendar year 2018 will be used in accord with the purposes and requirements designated in the Federal Act. Counsel recommends that PTI’s request for USAC certification be GRANTED with respect to wireless services. A draft letter to the FCC is submitted herewith.

¹ PTI 2018 Annual Compliance Filing, PTI Docket 18-01, filed September 12, 2018.

² PUC Order Approving Designation, Docket 08-05, issued January 7, 2008.

RECENT DEVELOPMENTS IN PTI OPERATION

On May 2, 2008, PTI acquired the telecommunications assets of IT&E, a carrier that had been certified as an ETC by the FCC. This transaction included all of IT&E's wireless and wire line operations, including its CLEC operations. In addition, on May 28, 2009, the PUC issued an ORDER approving the assignment and transfer of the Certificate of Authority of IT&E to PTI.³

In 2009, PTI decided to retain its official corporate name but to use IT&E as a trade name on both Guam and in the CNMI so that subscribers on all four of the islands PTI serves realize they are being provided service by the same company.⁴

This is the tenth annual USAC filing by PTI. In 2009 through 2017, the PUC Chairman, on behalf of the PUC, issued USAC Certifications for each year that PTI Pacifica Inc. would use federal high cost support funds only for the provisioning, maintenance and upgrading of facilities and services for which the support is intended, consistent with §254(e) of the Communications Act.⁵

Along with its Filing, PTI is required to include a detailed build-out plan satisfying the FCC's requirements as part of its annual submission (Five Year Quality Service Improvement Plan). PTI has filed an updated build out plan, in satisfaction of the FCC requirements.⁶ The plan provides site by site descriptions of the improvements that have been made and those planned in the next few years, through 2023. In compliance with the requirements of 47 C.F.R. §54.209 (a) (1), PTI has filed actual expenditures for 2017 and a listing of expenditures on a site by site basis by wire centers.⁷ PTI states that it has invested funds in excess of payments received from the Universal Support Fund in improving the service quality of its network to provide the supported services in Guam.⁸

³ PUC Order Approving Assignment and Transfer of IT&E Overseas Inc. Certificate of Authority to PTI Pacifica Inc., issued May 28, 2009.

⁴ PTI 2011 Annual Compliance Filing, PTI Docket 11-01, Exhibit 3 [Five Year Service Quality Improvement Plan, Guam, August 2011], filed August 19, 2011.

⁵ PUC "Use" Certification, CC Docket 96-45, dated September 15, 2009; PUC "Use" Certification, CC Docket 96-45, dated September 15, 2010; PUC "Use" Certification, CC Docket 96-45, dated September 19, 2011; PUC "Use" Certification, CC Docket 96-45, dated September 1, 2012; PUC "Use" Certification, CC Docket 96-45, dated November 26, 2013, as amended January 9, 2014; PUC "Use" Certification, CC Docket 96-45, dated September 26, 2014; PUC "Use" Certification, CC Docket 96-45, dated September 24, 2015; PUC "Use" Certification, CC Docket 96-45, dated September 29, 2016; and PUC "Use" Certification, CC Docket 96-45, dated September 28, 2017.

⁶ PTI 2018 Annual Compliance Filing, PTI Docket 18-01, FIVE YEAR SERVICE QUALITY IMPROVEMENT PLAN, filed September 12, 2018; The Five-Year Service Quality Improvement Plan is filed under a Claim of Confidentiality pursuant to the PUC Rules governing Telecommunications Companies.

⁷ Id. at pgs. 1-3.

⁸ Id. at p. 1.

During the present reporting period, PTI made a considerable number of improvements to existing sites. In 2017, PTI installed additional new sites in Guam, installed additional carrier capacity at sites, implemented backhaul upgrades for fiber backhaul projects for its wireless network, and upgraded various Network Core hardware, software, and licenses.⁹

In 2018, PTI has installed several new sites and plans to add at least 2 more by the end of this year.¹⁰ In 2019, PTI intends to install 10 new sites at a projected cost of \$75,000 or more.¹¹ Also, in 2019, PTI will introduce Voice over LTE (“VoLTE”). PTI will also introduce MIMO 4 x 4 upgrades to the existing wireless network.¹² Thereafter through 2022, PTI intends to add an additional 5 new wireless sites per year.¹³ PTI will focus on certain improvements to its overall network, including improvements in 5G and fiber to the Cell Sites.¹⁴

REQUIREMENTS

The PTI ETC Designation Order contains the following requirements:

- (a) PTI must comply with any local usage requirements prescribed by the FCC;
- (b) PTI must comply with any FCC requirements concerning E911 services when implemented in the Territory of Guam;
- (c) PTI must certify to the Commission that PTI (i) offers all of the services designated by the FCC for support pursuant to §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 related charges using media of general distribution;
- (d) PTI 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) PTI must file a detailed build-out plan satisfying the FCC’s requirements;

⁹ Id. at pgs. 3.

¹⁰ Supplement PTI ETC Filing by PTI General Counsel Steven Carrara, dated September 24, 2018.

¹¹ Id.

¹² Id.

¹³ PTI 2018 Annual Compliance Filing, PTI Docket 18-01, FIVE YEAR SERVICE QUALITY IMPROVEMENT PLAN, filed September 12, 2018; The Five-Year Service Quality Improvement Plan is filed under a Claim of Confidentiality pursuant to the PUC Rules governing Telecommunications Companies, at p. 3.

¹⁴ Supplement PTI ETC Filing by PTI General Counsel Steven Carrara, dated September 24, 2018.

- (f) PTI must file with the Commission by August 31 of each year an annual certification in substantially the form required by §314(b) of the Act and §54.314(c) of the FCC's rules to verify that PTI will use federal high-cost support only for those facilities and services for which the support is intended;
- (g) PTI must annually submit to the Commission by August 31 of each year the following records and documentation:
 - (i) PTI'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 PTI's service area that were unfulfilled for the past year;
 - (iv) the number of complaints per 1,000 handsets;
 - (v) PTI's compliance with the CTIA Consumer Code;
 - (vi) PTI's certification that it is able to function in emergency situations;
 - (vii) PTI's certification that it is offering a local usage plan comparable to that offered by the incumbent local exchange carrier; and
 - (viii) PTI'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) PTI 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) *Local usage requirements*—

PTI certified that it does offer all of the core services identified for USF.¹⁵

¹⁵ PTI 2018 Annual ETC Compliance Filing, PTI Docket 18-01, Exhibit 1 [CERTIFICATION REGARDING PROVISION AND ADVERTISING OF SUPPORTED SERVICES, DECLARATION OF STEVEN CARRARA,

(b) *E911 service-*

In its application for ETC designation, PTI indicated that it would support 911 service and E911 once implemented by the Government of Guam. PTI continues to support 911 services by forwarding such calls to the applicable government agencies. If and when E911 is adopted in Guam, PTI will comply with such requirements.¹⁶

(c) *Certification of services-*

PTI has provided a certification that it offers all of the services designated by the FCC for support pursuant to §254(c) of the Federal Act either using its own facilities or a combination of its own facilities and resale. It further certified that it advertises the availability of supported services in media of general distribution.¹⁷

(d) *Notification of inability to provide service to a requesting customer-*

PTI reports that for the period of July 1, 2017, through June 30, 2018, it had no unfulfilled requests for voice service interconnected with the public telephone network.¹⁸

(e) *Filing of a detailed build-out plan satisfying the FCC's requirements –*

PTI has filed a detailed Five-year service quality improvement plan which appears to be in compliance with applicable requirements [see further discussion with regard to paragraph (g)(i) below].

(f) *Filing of annual certification under Section 54.314(b)-*

GENERAL COUNSEL].

¹⁶ PTI 2018 Annual ETC Compliance Filing, PTI Docket 18-01, Exhibit 3, FILED September 12, 2018. [CERTIFICATION REGARDING PROVISION OF 911 SERVICES, DECLARATION OF STEVEN CARRARA, GENERAL COUNSEL].

¹⁷ PTI 2018 Annual ETC Compliance Filing, PTI Docket 18-01, Exhibit 1 [CERTIFICATION REGARDING PROVISION AND ADVERTISING OF SUPPORTED SERVICES, DECLARATION OF STEVEN CARRARA, GENERAL COUNSEL].

¹⁸ PTI 2018 Annual ETC Compliance Filing, PTI Docket 18-01, at p. 3.

PTI has certified that all federal high-cost support provided to it in the Territory of Guam will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.¹⁹

(g) *Documentation-*

(i) PTI's progress towards meeting its build-out plans – PTI made progress in 2017 in installing additional new sites in Guam, additional carrier capacity at sites, implementing backhaul upgrades for fiber backhaul projects for its wireless network, and upgrading various Network Core hardware, software, and licenses.²⁰ For 2017-2022, PTI plans five new wireless sites per year.²¹ To support this expansion, the company will extend its in ground and arial fiber.²² PTI will continue to deploy specific network improvement projects dependent upon the actual amount of support that has been received.²³ It continues to appear that PTI has demonstrated substantial progress in achieving the service improvements envisioned by the Federal USF programs.²⁴

(ii) Information on any outages – PTI reported that it did not have any outages lasting at least 30 minutes and potentially affecting either at least 10 percent of the end users served or 911 facilities within the period of July 1, 2017, through June 31, 2018.²⁵

(iii) Unfulfilled requests for service – - PTI indicates that it had no unfulfilled requests for voice service interconnected with the public telephone network for the period of July 1, 2017, through June 31, 2018.²⁶

(iv) Complaints per 1,000 handsets - PTI reports that for the period of July 1, 2017, through June 30, 2018, that 20 complaints per 1,000 handsets were filed.²⁷

¹⁹ PTI 2018 Annual ETC Compliance Filing, PTI Docket 18-01, Exhibit 2 [CERTIFICATION SUPPORTING FILING UNDER FCC RULE 54.314, DECLARATION OF STEVEN CARRARA, GENERAL COUNSEL].

²⁰ PTI 2018 Annual Compliance Filing, PTI Docket 18-01, FIVE YEAR SERVICE QUALITY IMPROVEMENT PLAN, filed September 12, 2018, at pg. 3.

²¹ Id.

²² Id.

²³ Id. at p. 2.

²⁴ PTI 2018 Annual ETC Compliance Filing, PTI Docket 18-01, FIVE YEAR SERVICE QUALITY IMPROVEMENT PLAN, filed September 12, 2018, at p. 3.

²⁵ PTI 2018 Annual ETC Compliance Filing, PTI Docket 18-01, at p. 2.

²⁶ Id. at p. 3.

²⁷ Id.

(v) Compliance with the CTIA Consumer Code - PTI certifies that it is in compliance with the CTIA Consumer Code during the reporting period.²⁸

(vi) Ability to function in emergency situations – PTI certified that it has the ability to remain functional in emergency situations. There is a reasonable amount of backup power to ensure functionality without an external power source. PTI indicated that it can reroute traffic around damaged facilities and is capable of managing traffic spikes resulting from emergency situations.²⁹

(vii) Certification of local usage plan – PTI presently offers an unlimited usage local calling plan available to all customers. It currently offers various local usage plans that provide consumer value that are reasonably comparable to the plans offered by the ILEC, GTA Telecom. It is continuing to assess its rate plans in Guam, and will report to the Commission at least annually on its offerings, consistent with its ETC reporting requirement.³⁰

(viii) Equal access certification - PTI has certified that the PUC may require it to provide it equal access to long distance carriers in the event that no other ETC is providing equal access in the service area.³¹

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

PTI must promptly submit to the Commission any additional information or reports that the Commission may reasonably request from time to time. PTI has been responsive in providing information requested by PUC Legal Counsel.

PTI indicates that, during the calendar year 2017, it received \$1,814,172 in USF support funds. It further states that these funds have all been used to improve the service quality of PTI's network in Guam.³² Legal Counsel has not become aware of any contrary evidence which would contradict the above certifications by PTI. It is Legal Counsel's belief that PTI has satisfied all of the criteria set forth in the PTI ETC Designation Order and the FCC's requirements. PTI has already made major and substantial progress on its network and

²⁸ Id.

²⁹ Letter Certification dated August 31, 2018, from Steven Carrara, General Counsel, IT&E, to Federal Communications Commission and USAC, filed September 12, 2018; PTI 2018 Annual ETC Compliance Filing, PTI Docket 18-01, at p. 3.

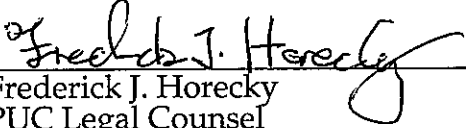
³⁰ PTI 2018 Annual ETC Compliance Filing, PTI Docket 18-01, at pgs. 3-4.

³¹ Id. at p. 4.

³² PTI 2018 Annual ETC Compliance Filing, PTI Docket 18-01, FIVE YEAR SERVICE QUALITY IMPROVEMENT PLAN, filed September 12, 2018, at p. 1.

service improvement plans. There is no basis upon which it would be expected that future USF support will not be used for the purposes intended. Therefore, Legal Counsel recommends approval of PTI's request for USAC certification

Dated this 24th day of September, 2018.


Frederick J. Horecky
PUC Legal Counsel



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:

)) DOCOMO DOCKET 18-01

DOCOMO PACIFIC, INC.
USAC CERTIFICATION

)) PUC COUNSEL REPORT
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))
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BACKGROUND

On November 29, 2010, the PUC granted Guam Telecom LLC.'s ["GT"] Petition for Designation as an Eligible Telecommunications Carrier ("ETC") throughout the Territory of Guam.¹ In accord with such Order, GT's annual designation as an ETC was subject to the provision of annual certifications and data submissions to the PUC.

On March 31, 2016, the PUC transferred Guam Telecom's ETC Designation and its Certificates of Authority to Docomo Pacific Inc.²

It is now Docomo Pacific's obligation to file its annual USAC Certification for study area code 669005. On August 24, 2018, Docomo Pacific, Inc. ["Docomo"] petitioned the Guam Public Utilities Commission ("PUC") to issue a certification that Docomo will use federal universal service support funds for purposes in compliance with Section 254(e) of the Telecommunications Act.³ Docomo seeks a finding by the PUC that Docomo will comply with §254(e), which states that universal service funds ("USF"), may be used only for the purposes designated in the Federal Act. Based upon such a finding by the PUC, Docomo will be eligible to receive support pursuant to 47 C.F.R. §§54.301, 54.305, and/or 54.307, in the first, second, third and fourth quarters of the upcoming year.⁴

REQUIREMENTS AND COMPLIANCE THEREWITH

1. The requirements for an eligible telecommunications carrier to qualify for the receipt of universal service support funds are set forth in 47 C.F.R. Part 54.⁵

¹ PUC Order Approving Designation, GT Docket 10-01, issued November 29, 2010.
² PUC Order, Joint Application of Guam Telecom, LLC and Docomo Pacific, Inc. for Approval of the Transfer of Guam Telecom, LLC's Certificates of Authority to Docomo Pacific, Docomo Docket 16-01, at p. 11 ["...the assignment and transfer of GT's ETC designation to Docomo Pacific is approved."]
³ Docomo Pacific Inc. Petition for Annual Certification from the Guam Public Utilities Commission Re: Universal Service Funds (47 C.F.R. §54.314), Docomo Docket 18-01, filed August 24, 2018.
⁴ Id. at p. 1.
⁵ 47 C.F.R. Part 54, Universal Service.

- (a) A carrier that receives federal universal service support must use that support only for the provision, maintenance and upgrading of facilities and services for which the support is intended.⁶ Attached as Exhibit A to Docomo's Petition is the certification and declaration by James W. Hofman II, the Chief Legal Officer of Docomo, that Docomo will use federal high cost support funds only for the provisioning, maintenance and upgrading of facilities and services for which the support is intended, consistent with §254(e) of the Communications Act. This certification is for study area 669005.⁷
- (b) Pursuant to 47 C.F.R. §54.101(a), an eligible telecommunications carrier must offer each of the designated services in order to receive federal universal service support.⁸ In particular, an ETC is required to provide the following services in order to be supported by Federal Universal Service Support mechanisms:
- (1) Voice grade access to the public switched network;
 - (2) Local Usage;
 - (3) Dual tone multi-frequency or its functional equivalent;
 - (4) Single-party service or its functional equivalent;
 - (5) Access to emergency services (such as 911 and enhanced 911);
 - (6) Access to operator services;
 - (7) Access to interexchange service;
 - (8) Access to directory assistance; and

⁶ 47 C.F.R. §54.7.

⁷ Docomo Pacific Inc. Petition for Annual Certification from the Guam Public Utilities Commission Re: Universal Service Funds (47 C.F.R. §54.314), Docomo Docket 18-01, filed August 24, 2018, Exhibit A [Declaration of James W. Hofman II].

⁸ 47 C.F.R. §54.101(a).

(9) Toll limitation for qualifying low-income consumers.⁹

2. Docomo has certified that it complies with its ETC Designation Order Requirements as set forth in 47 C.F.R. §54.101(a).¹⁰
 - (a) Local Usage. Docomo certifies that it currently provides throughout Guam all of the services and functionality supported by the federal universal service program enumerated in 47 C.F.R. §54.101(a).¹¹
 - (b) E911 Service. Docomo has certified that it currently provides its subscribers with 911 and enhanced 911 through arrangements with the incumbent local exchange carrier, GTA, which has the sole connection to the government of Guam's PSAP in the service area.¹²
 - (c) Certification of Service. Docomo has provided a certification that it offers all of the services designated by the FCC for support pursuant to §254(c) of the Federal Act either using its own facilities or a combination of its own facilities and resale. It further certifies that it advertises the availability of supported services through general television advertisements and on radio stations, and will continue to expand such advertising. Lifeline Assistance Service and Operator Assisted Services are included in its General Exchange Tariff No. 1.¹³
 - (d) Notification of Inability to Provide Service to a Requesting Customer. An ETC such as Docomo is required to report "the number of requests for service from potential customers within the eligible telecommunication carrier's service areas that were unfulfilled during the past year."¹⁴ Docomo certifies that, for the period of January 1, 2017 to December 31, 2017, it had no unfulfilled requests for voice service interconnected with the public phone network.¹⁵

⁹ Id.

¹⁰ Docomo Pacific Inc. Petition for Annual Certification from the Guam Public Utilities Commission Re: Universal Service Funds (47 C.F.R. §54.314), Docomo Docket 18-01, filed August 24, 2018, at pg. 2-4.

¹¹ Id. at p. 2.

¹² Id.

¹³ Id.

¹⁴ 47 C.F.R. §54.209(a)(3).

¹⁵ Docomo Pacific Inc. Petition for Annual Certification from the Guam Public Utilities Commission Re: Universal Service Funds (47 C.F.R. §54.314), Docomo Docket 18-01, filed August 24, 2018, at pg. 2.

- (e) Filing of a Detailed Build-Out Plan Satisfying the FCC's Requirements. Docomo is required to submit a five-year plan that describes with specificity proposed improvements or upgrades in its network.¹⁶ Docomo's Five Year Network Improvement Plan is set forth as Exhibit B to its Petition, filed under a claim of confidentiality with the PUC, on August 24, 2018.¹⁷ The Plan provides a description of the detailed improvements to its network structure over a five year period from 2016 through 2020, which improvements are ongoing for periods of up to eight years and which Docomo has made or intends to make to its network.¹⁸ It completed its fiber placement project along Route 1/Aga Blvd. to Route 15 in Northern Guam.¹⁹ In 2018 and thereafter, it will continue with various projects designed to improve its underground fiber infrastructure in major highways throughout Guam.²⁰ In 2019, Docomo will continue to place underground fiber infrastructure in both northern and southern villages of Guam.²¹ In 2020, Docomo plans to begin connecting local residents' homes with direct fiber connections.²² Since 2016, Docomo has made improvements in expanding its Network and placing its aerial network in protected, underground conduits in stages throughout the Island.²³
- (f) Filing of Annual Certification under 47 C.F.R. §54.314(b). As required, Docomo has certified that all federal high-cost support provided to it in the Territory of Guam will be used only for the provision, maintenance and upgrading of facilities and services for which the support is intended. It will file with the PUC, by August 31 of each year, an annual certification verifying that high cost support will only be used for those facilities and services for which the support is intended.²⁴

¹⁶ 47 C.F.R. §54.202(a)(1)(ii).

¹⁷ Confidential Submission of Exhibit B to Petition for Annual Certification from the Guam Public Utilities Commission [Docomo's Five Year Network Improvement Plan Progress Report], Docomo Docket 18-01, filed August 24, 2018.

¹⁸ Id. at pgs. 4-7.

¹⁹ Id. at p. 5.

²⁰ Id. at p. 6.

²¹ Id. at p. 7.

²² Id. at p. 7.

²³ Id. at p. 4.

²⁴ Docomo Pacific Inc. Petition for Annual Certification from the Guam Public Utilities Commission Re: Universal Service Funds (47 C.F.R. §54.314), Docomo Docket 18-01, filed August 24, 2018, at p. 3.

- (g) Required Documentation. In accordance with the FCC ETC Designation Order²⁵ and Order Approving ETC Designation for GT²⁶, Docomo is required to file certain documentation to maintain its ETC Designation Status and to obtain an Order from the PUC approving its annual USAC Certification.
- (1) Five Year Network Plan. As outlined above, Docomo has demonstrated substantial progress in meeting its 5-year network improvement plan.²⁷ Once it receives the universal support funds anticipated, it will more likely be able to achieve its goals in the plan.
- (2) Information on any outages. For the period of January 1, 2017, to December 31, 2017, Docomo does not have any outages to report.²⁸
- (3) Unfulfilled Requests for Service. For the period of January 1, 2017 to December 31, 2017, Docomo did not have any unfulfilled requests for service from potential customers within Docomo's service area.²⁹
- (4) Complaints per 1,000 lines. For the period of January 1, 2017, to December 31, 2017, Docomo is not aware of any complaints filed with the PUC or any other regulatory body.³⁰
- (5) Service Quality Standards and Consumer Protection Rules. Docomo certifies that it is complying with applicable service quality standards and consumer protection rules.³¹
- (6) Ability to Function in Emergency Situations. Docomo certifies that it is able to function in emergency situations.³² It currently deploys battery backup units to its network nodes in addition to co-locating

²⁵ *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).*

²⁶ PUC Order Approving Designation, GT Docket 10-02, filed November 29, 2010.

²⁷ Docomo Pacific Inc. Petition for Annual Certification from the Guam Public Utilities Commission Re: Universal Service Funds (47 C.F.R. §54.314), Docomo Docket 18-01, filed August 24, 2018, at pg. 3; see also Exhibit B.

²⁸ *Id.* at p. 3.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.* at p. 4.

network hub equipment in commercial buildings that have back up power generators in case of power outages.³³

- (7) Certification of Local Usage Plan. Docomo includes unlimited local usage in its service rate plans and certifies that it is offering a local usage plan comparable to that offered by the incumbent local exchange carrier, GTA TeleGuam.³⁴
- (8) Equal Access Certification. Docomo acknowledges and certifies that the PUC 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.³⁵

RECOMMENDATION

Docomo indicates that, during the calendar year 2017, it received \$347,676.00 from USAC's High Cost support program. Based upon the Petition and supporting exhibits submitted by Docomo, it appears that the USF received in calendar year 2017 has been used as intended. 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 Docomo in calendar year 2019 will be used in accord with the purposes and requirements stated in the Federal Act and Code of Federal Regulations. Counsel recommends that Docomo's request for USAC certification be GRANTED.

Legal Counsel has not become aware of any contrary evidence which would contradict any of the above certifications by Docomo. It is Legal Counsel's belief that Docomo has satisfied all of the requirements set forth in the Code of Federal Regulations, the Docomo ETC Designation Order, and the FCC's requirements. There is no basis upon which it would be expected that USF support will not be used by Docomo for the purposes intended.

Therefore, Legal counsel recommends approval of Docomo's request for USAC certification.

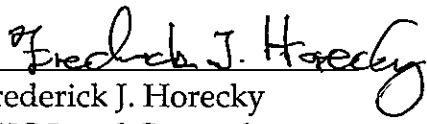
³³ Id.

³⁴ Id.

³⁵ Id.

PUC Counsel Report
In the Matter of Docomo Pacific, Inc.
USAC Certification
Docomo Docket 18-01
September 24 2018

Dated this 24th day of September, 2018.


Frederick J. Horecky
PUC Legal Counsel

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:)
) GPA Docket 18-17
)
 The Application of the Guam Power)
 Authority to Approve the FY2019 GPA) ORDER
 CIP Ceiling Cap)
 _____)

INTRODUCTION

This matter comes before the Guam Public Utilities Commission [PUC] upon GPA’s Petition for Request for Approval of FY2019 GPA CIP Ceiling Cap.¹ Therein, GPA requests PUC approval of its FY2019 Capital Improvement Project Cap in the amount of \$22,022,011, which consists of General Plant (\$19,614,087) and Engineering (\$2,407,924).² GPA’s proposed FY2019 Ceiling Cap also includes \$4,451,434 for Line Extensions. However, pursuant to the GPA Contract Review Protocol, regulatory review is not required for blanket job orders and line extensions.³ The Guam Consolidated Commission on Utilities [CCU] approved the FY2019 Capital Improvement Project Ceiling Cap.⁴

BACKGROUND

The Background of this matter is fully addressed in the PUC Counsel Report dated September 20, 2018. The Commission adopts the Counsel Report and the recommendations set forth herein.

DETERMINATIONS

This year’s requested cap includes some large “plant” items: (1) Digger, \$1,033,998 (carryover from FY2018); (2) E1 Software Implementation, \$1,000,000; (3) 3 each 55 ft. bucket trucks; (4) SF 6 Circuit Breaker Upgrades, \$685,620 (carryover from FY2018); (5) Unit 2 Burner front components renovation, \$550,000; (6) Main Generator Overhaul,

¹ GPA Petition for Contract Review (Application to Approve the FY2019 GPA CIP Ceiling Budget), GPA Docket 18-17, filed September 14, 2018.

² Id. at p. 2.

³ Contract Review Protocol for GPA, Administrative Docket, February 15, 2008, Sec. 1a.

⁴ Guam Consolidated Commission on Utilities (CCU) Resolution No. 2018-19, Relative to the Adoption of a Budget for the Guam Power Authority for Fiscal Year 2019, adopted September 6, 2018.

\$543,678 (carryover from FY2018); (7) existing Water Treatment Facilities Upgrade to RO +EDI System; (8) 1 each mobile truck crane 40 ton, \$500,000; (9) Lobby Kiosks for Customer Payments, \$459,600 (carryover from FY2017); (10) Design and rebuilt of Yigo CT water, \$450,000 (carryover from FY2018); (11) No. Feed Water Heater Replacement, \$400,000.⁵

The prior year cap levels were as follows:

FY2018 Cap \$20,959,813
FY2017 Cap \$18,798,120
FY2016 Cap: \$12,067,780
FY2015 Cap: \$9,974,000
FY2014 Cap: \$7,363,110.
FY2013 Cap: \$10,135,760.
FY2012 Cap: \$13.581M.
FY2011 Cap: \$5M.⁶
FY2010 Cap: \$16,390,707.⁷

The proposed FY2019 CIP cap, \$22,022,011, exceeds the FY2018 cap by over \$1M. The FY2018 cap, \$20,959,813, exceeded the FY2017 cap (\$ \$18,798,120) by over \$2M. Thus, it would appear that the amount of the CIP cap has been increasing dramatically in recent years.

However, a closer examination of the numbers indicates that, in fact, the cap has not really been increasing. Exhibit A, attached to the PUC Counsel Report, is a breakdown of the CIP Ceiling Caps for FY 2017, 2018, and proposed 2019.⁸ The Proposed CIP Ceiling Cap for FY 2019 indicates that \$6,176,661 of this year's Ceiling cap is **carryover** amounts. What this means is that projects costing that amount were simply carried over from prior year ceiling caps. GPA's Exhibit (A) to its Petition, which lists the General Plant expenditures, includes 16 projects which were carried over to 2019 from 2017 and 2018.

With regard to the proposed engineering projects for FY2019, with a cap of \$2,407,924,

⁵ GPA Petition for Contract Review (Application to Approve the FY2019 GPA CIP Ceiling Budget), GPA Docket 18-17, filed September 14, 2018, Exhibit (A).

⁶ PUC Order, GPA Docket 13-16, dated October 29, 2013, at pgs. 1-2.

⁷ PUC Order, GPA Docket 10-05, dated October 29, 2010, at pg. 1.

⁸ This breakdown was provided to PUC Counsel on September 19, 2018, by GPA CFO John Kim after a conference call also involving GPA Counsel Graham Botha.

\$1,363,924 is from FY2018 carryover projects. The large number of carryover projects could indicate that some projects are taking longer to complete than anticipated.

The proposed Engineering CIP projects appear reasonable and should improve the IWPS. Major projects include Tank Farm Pipeline Upgrade, \$676,465; Network Communication, Fiber to All Substations, \$350,000; and Primary Underground and Secondary Hybrid Conversion, \$189,574.⁹

GPA will need to seek approval under the Contract Review Protocol for procurement of any items included within the CIP cap which exceed the \$1.5M threshold. No specific items appear to exceed the \$1.5M threshold, but there could be amounts under multi-year contracts which, in total, do exceed the threshold.

Based upon the recognition that the FY2019 general plant budget is consistent with that of prior fiscal years, subject to GPA's ability to carry out the capital improvement projects using internally-funded dollars, the PUC should approve the proposed FY2019 \$22,022,011 Ceiling Cap. Such CIP cap is reasonable, prudent and in the interest of the ratepayers.

ORDERING PROVISIONS

Upon consideration of the record herein, the Petition of GPA, and the PUC Counsel 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 FY2019 internally funded CIP ceiling cap, which consists of General Plant and Engineering, is approved in the amount of \$22,022,011.
2. The General Plant and Engineering budgets are consistent with prior budgets and appears reasonable; no prudency concerns are noted.
3. GPA shall file a complete reconciliation of the FY2018 expenditures on or before December 15, 2018, as required by the Contract Review Protocol.

⁹ GPA FY2019 Approved Engineering Projects (Revenue Funded), attached to the PUC Counsel Report as Exhibit B.

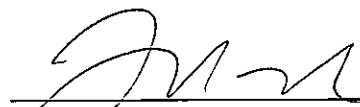
4. GPA must obtain Contract Review approval from the PUC before it expends amounts for those projects which exceed the contract review threshold of \$1.5M.
5. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

Dated this 27th day of September, 2018.

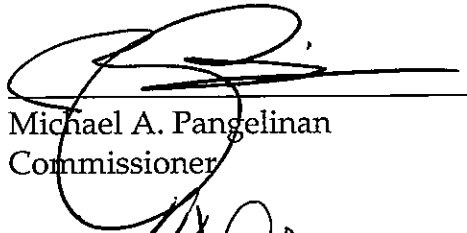
Jeffrey C. Johnson
Chairman



Rowena E. Perez
Commissioner




Joseph M. McDonald
Commissioner



Michael A. Pangelinan
Commissioner



Peter Montinola
Commissioner



Filomena M. Cantoria
Commissioner