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Fred Horecky, Esq.
The Guam Public Utilities Commission
Suite 207, GCIC Building
Hagatna, Guam 96932

Re: E911 Fiscal 2010 Surcharge Summary

Dear Mr. Horecky,

This letter is being provided to you in response to your recent request for investigation under PL28-44 and predecessor laws, which require the provision of a report regarding the E911 surcharge results to the Governor, Legislature and Public Auditor for each fiscal year. As described further below, certain new issues have been identified this year based on information supplied from the Collection Agents (“Agents”) that have not yet been resolved and are pending receipt of additional information.

Seven telecommunications carriers have been designated as Agents. Three are landlines carriers: GTA Telecom, Guam Telecom, and Pacific Data Systems (“PDS”). The remaining four Agents, Pulse Mobile, PTI Pacifica d/b/a IT&E, I-Connect, and DOCOMO d/b/a Guam Cellular Communications, are cellular carriers. The Agents are required by the Public Utilities Commission (“PUC” or “Commission”) to file quarterly reports summarizing the billing, collections and disbursements resulting from the \$1 per month surcharge implemented by the PUC. This surcharge was designed to contribute toward the operation of the E911 system.

We have tabulated and reviewed the information as filed by the individual Agents in compiling this report.¹ The data are for the Government of Guam fiscal year 2010 which ends September 30, 2010.

Guam Telecom and PDS are included in this report for the first time. Guam Telecom’s data covered less than a full year. It appears that this Agent only started collecting the E911 surcharge in July, 2010, presumably after it was contacted by the Office of the Public Auditor.

In the past, we only provided a summary of the data submitted by each Agent. This was done to protect the confidentiality of each carrier’s market share as defined by the number of access lines or telephone sets served. Four of the Agents (GTA Telecom, Pulse, PTI and DOCOMO) are also

¹ PTI said it discovered some errors in the original submission and provided a corrected version which was used in this report.

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Eligible Telecommunications Carriers (“ETCs”) under the federal Telecommunications Act of 1996. ETCs receive federal universal service support (“USF”) and are required to publicly disclose their line counts to the FCC and Universal Service Administrative Company (“USAC”). USAC uses these line counts to distribute USF. On the other hand, PDS, I-Connect and Guam Telecom are not ETCs and are not required to publicly disclose line counts. In this report, we continue to maintain confidential treatment for all Agents that are not ETCs. We are not taking a position at this time regarding whether line counts should be considered proprietary and afforded confidential treatment. Instead, we recommend that the PUC should inquire into whether the individual carriers believe confidentiality of line counts is required.

The following table shows total information in aggregate from all of the Agents as of September 30, 2010:

Table 1
Island-Wide Year End Total

	Fiscal 2010
Total Lines	158,854
Exempt Lines	2,621
Fund Balance	\$51,900
Uncollected Surcharge	\$37,989
Uncollectible Surcharge	\$0
Revenues Billed	\$1,825,784
Cash Collected	\$1,823,798
Funds Retained by Agent/PUC	\$145,691
Transfers to DOA	\$1,563,606

Regarding the number of lines in Table 1, we have reported the representations made by the Agents in their filings without an audit or review of supporting data. However, in an attempt to validate the data as much as possible, we have also undertaken a comparison of the number of lines reported for USF purposes by those Agents which are also ETCs with the total number of lines reported for E911. We recognize that the USF line count data are normally reported by USAC a year after the close of each quarter and take this into account when reconciling the discrepancies noted. For example, line counts as of December 31, 2009, are used in USAC’s reports to the FCC for the first quarter of 2011. Consequently, the time periods for the analysis must be appropriately matched.

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	GTA Telecom	Pulse Mobile	DOCOMO	PTI
E911 12/08	45,128	11,993	45,784	27,787
USAC 1Q/10	54,935	20,753	51,309	27,331
E911 12/09	40,973	13,930	46,725	41,874
USAC 1Q11	50,852	27,817	53,157	43,146

Based on our preliminary review, there are material differences between the two line counts for all four ETCs. In almost every case, the USAC counts were significantly higher than the E911 counts. We asked the carriers to explain the differences with limited success. They point out that Internet access data lines, private lines, leased circuits, and inbound PBX trunks are exempted from the E911 surcharge. It is our understanding that those lines are also excluded from USF support. We do not have any quantification of those lines. Additional review will be required to resolve these differences.

More significantly, all customer lines over 25 per account are exempt from the E911 surcharge but are counted for USF. Many business customers have more than 25 lines, particularly if they are Centrex or government customers. The Agents have never been required to report their line count data at a fine enough level of granularity to determine how the number of exempt lines was determined. Further, GTA Telecom says it cannot report the number of exempt lines due to programming problems. GTA Telecom reported more than 10,000 exempt lines until October, 2007 and zero thereafter. Currently, they report the net number of lines that are billed the surcharge. Assuming the number of multiline customers remained about the same, this would account for the difference for GTA Telecom. If greater detail is requested, additional review and information will be required.

We have no information to support the difference in line counts for Pulse Mobile. The company reported both total and exempt line counts but exempt line counts were not significant.

Unlike GTA Telecom, DOCOMO and PTI reported both their total and exempt lines. However, these companies said that "active" prepaid wireless customers with zero balances or balances below \$1.00 are not assessed the surcharge but are counted for USF purposes until they are dropped from their billing systems. We do not have any information on the number of such accounts. If greater detail is requested, additional review and information will be required.

The Public Auditor has suggested that line counts should be verified using independent data. However, as noted above, the comparison of USAC vs. E911 line counts is limited since three of the Agents are not ETCs and the composition of the line counts for ETCs may not be the same for E911 and USAC. There is no other independent source of line count data. Other than GTA Telecom, the Agents are only lightly regulated and are not required to report operational information such as line

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counts to the FCC or PUC. Further, we do not believe that it is not feasible for GCG or the Commission to independently verify line counts since that would require access to the Agent's billing and provisioning systems. It is not clear if the Commission has the authority under current law to get access to all of these systems unless voluntarily provided by the Agents, particularly for those Agents not subject to the Commission's ratemaking authority.

Of the cellular Agents, DOCOMO and Pulse Mobile did not provide a breakdown between pre-paid and post-paid services² and, therefore, we cannot provide any certainty that these two Agents are assessing the E911 surcharge on both prepaid and postpaid cellular accounts as required. We have not performed an audit of how the prepaid amounts are determined by the other wireless carriers. If greater detail is requested additional review and information will be required.

In prior years, the vast majority of exempt lines were GTA Telecom customers. As noted earlier, GTA Telecom has told us that programming problems now prevent its reporting the total E911 lines and exempt lines. Consequently, the reported line counts are equal to revenues collected. PTI, PDS and DOCOMO are the only entities currently showing exempt lines. Guam Telecom reported that it had no customers with greater than 25 lines.

Only PTI and Guam Telecom reported uncollected surcharges. GTA Telecom, Pulse Mobile, DOCOMO and I-Connect reported receipts equal to billed surcharges for the entire year. No Agent reported any uncollectible surcharges.

The Agents are further required by law to submit the names of those customers that refuse to pay. PTI has provided a small number of telephone numbers of subscribers who refuse to pay. These numbers were assigned to an office of the Department of Defense. This issue has arisen in the past with a claim of federal exemption and has not yet been reviewed or resolved.

We have reviewed the level of funds retained as indicated by each Agent for compliance with prior PUC orders. The PUC permitted retention of some of the E911 revenues received for administrative and start-up costs³ as approved by the PUC. For the period under review, PTI withheld \$2,131 per month, I-Connect retained \$813 per month and DOCOMO retained \$1,245 per month. GTA retained \$7,393 per month and paid a total of \$10,348 for PUC administrative expenses during the year. These amounts are consistent with the Commission's Cost Reimbursement Orders.⁴ PL28-55 permits retention by the Agent of actual costs of administering the surcharge. However, the last

² Neither P.L. 28-44, which explicitly required collection of the E911 surcharge from prepaid wireless service customers, nor any of the PUC Orders implementing the law require separate reporting of prepaid and postpaid lines.

³ GTA Telecom, PTI, DOCOMO and I-Connect submitted cost information in connection with the Cost Reimbursement Orders, identifying initial start-up costs and ongoing costs. All of the initial start-up costs have been reimbursed to the Agents.

⁴ PUC Docket 99-10 reimbursement orders: GTA Telecom dated June 23, 2003, PTI dated June 23, 2003 and July 27, 2005, I-Connect dated April 22, 2005 and DOCOMO dated March 30, 2004.

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time the Agents' costs were examined in any detail was more than five years ago. The Reimbursement Orders did not contain sunset provisions but the staffing levels required or the company operations in support of the surcharge may have changed since reimbursement levels were authorized. Therefore, the reimbursement level may no longer reflect actual costs. We recommend that the PUC consider a new proceeding to review the reimbursement level as appropriate.

PDS submitted a report covering the period from September, 2008, to August, 2010. During this period, PDS says it incurred \$10,326 in administrative costs, an amount greater than the amount it collected. As a result, it said no funds are due to the Department of Administration ("DOA"). The E911 law requires prior PUC approval of administrative costs before they are reimbursed and therefore the funds collected to date should have been deposited with DOA as required by law. The Commission has established a new docket, 10-04 to consider PDS' claims for administrative expenses and has asked GCG to review them. We have received a breakdown from PDS and will provide a report and recommendations in a separate letter once the information is received.

Although the E911 fund amounts transferred to the DOA have generally increased year over year, there has been a significant decline in 2010 as indicated by the following table:

Table 2
Island-Wide Transfers to DOA

Fiscal 2004	\$1,000,000	<i>est</i>
Fiscal 2005	933,827	
Fiscal 2006	1,170,809	
Fiscal 2007	1,223,160	
Fiscal 2008	1,421,186	
Fiscal 2009	1,653,388	
Fiscal 2010	1,563,606	

The principal reason for the decline is that DOCOMO did not transfer any funds to DOA starting June, 2010. The company claims that it had been sending \$10-12 thousand dollars each month in excess of the amount it reported as billed surcharge revenues starting May, 2008 and ending May, 2010, the month that this Agent ceased sending receipts to the DOA. It claims to have overpaid by more than \$150 thousand.⁵ This is a major unresolved issue currently under review.

In the recently concluded review of E911 collections, the Public Auditor suggested that the PUC should be responsible for reviewing the handling of E911 funds by the Department of Administration and that these funds should only be used to pay for the upgrade and operation of the E911 system.⁶ Although it is not clear that the Commission has any authority to review the handling

⁵ If DOCOMO's claim is correct, the overpayment should have been reclaimed by October, 2010. The PUC should review DOCOMO's next quarterly report to see if this was the case.

⁶ PUC has requested and received opinion from counsel indicating that there is no prohibition of use from the E911

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of E911 funds, this lack of specific authority has been a concern for a period of time. The PUC authority to review E911 operating costs was removed by PL 26-44 but the Commission retains the authority to set the amount of the monthly surcharge at a level to cover operating costs. The data in the draft audit report states that the revenues from collections for E911 in 2008 and 2009 are \$1.5 million and \$1.7 million respectively. Expenditures for 2008 and 2009 are shown in the draft report to be \$1.0 million and \$1.1 million respectively. There is no comment in the draft audit report on this \$5-600 thousand "gap". The Public Auditor also said the existing E911 system is technically antiquated. We have not reviewed and take no position on that assertion. Nevertheless, the data would suggest that a third of the revenue collected through the surcharge is either not needed for the maintenance of the system or that upgrading the system is not required. If that is the case, the surcharge could be reduced substantially. We suggest that the PUC conduct an inquiry to review whether the surcharge is set at an appropriate level.

If we can be of further assistance, please do not hesitate to call Walt Schweikert (203-426-8732) or myself.

Cordially,

A handwritten signature in cursive script that reads "Jamshed K. Madan". The signature is written in dark ink on a white background.

Jamshed K. Madan

Cc: Ed Margerison
Walter Schweikert