

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:)
) GTA Docket 15-06
)
 Formal Complaint of Teleguam)
 Holdings, LLC, Regarding PDS Dark) FINAL ARBITRATION ORDER UPON
 Fiber Informal Complaint of October 23,) LIMITED REHEARING
 2015)

INTRODUCTION

This is an Arbitration proceeding conducted pursuant to Rule 4(h) of the Commission's Implementation Rules in Connection with Interconnection Agreements between GTA and Competing Local Exchange Carriers and CMRS Operators (PUC Order, Docket 05-01, adopted August 13, 2007) (hereinafter the "Interconnection Implementation Rules"). It concerns a dispute between Teleguam Holdings LLC ["GTA"] and Pacific Data Systems Inc. ["PDS"] regarding the provision of Dark Fiber Inter Office Facility [also referred to herein as "DF-IOF"] at various colocation sites.

This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Order issued by the Administrative Law Judge ["ALJ"] herein on July 26, 2016, a copy of which is made Attachment A hereto. The Order addressed the "Limited Rehearing" conducted by the ALJ concerning GTA's Petition for Rehearing, and the resolution of the issues raised therein.

The PUC issued its initial Order in this matter on February 25, 2016. The Order incorporated the Recommendations of the ALJ dated February 18, 2016, and adopted the Findings of Fact and Conclusions of Law. The ALJ Recommendations were based upon an evidentiary hearing conducted on February 2 and 3, 2016. The PUC found in Ordering provision 7 that GTA had a continuing contractual obligation under its most recent Interconnection Agreement with PDS [the "ICA"], Exhibit A and the Pricing Attachment to provide Dark Fiber IOF to PDS.

In Ordering Provisions 8, 9, 10, and 11, respectively, the PUC found as follows:

"GTA, both before and after the network changes, provided Dark Fiber IOF to seventeen routes involving Remote Switching Centers, even though such routes were not between a pair of wire centers.

The "analogous" commercial rates" which GTA sought to impose upon PDS for Dark Fiber Transport were not valid and effective, as they had not been reviewed or approved by the PUC pursuant to the Guam Telecommunications Act of 2004.

GTA was required to bill PDS for Dark Fiber Transport at the rates established in the ICA dated August 11, 2014.

Berman O'Connor & Mann
Received

AUG 19 2016

Time: 3:27 By: *[Signature]*

RECEIVED

IRIARTE, CAMACHO, CALVO LAW GROUP LLC

DATE: Aug 19, 2016 TIME: 3:12 PM

[Signature]

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The rates established in the ICA dated August 11, 2014, will remain in effect until the expiration of the current ICA in August 2017 or unless otherwise changed or altered by the PUC."

On March 8, 2016, GTA filed a Petition for a Rehearing on issues contained in the PUC's February 25, 2016 Order. Specifically, GTA challenged Ordering Provisions No. 7, 8, 9, 10, and 11 of the February 25 PUC Order. In its Petition, GTA contends that neither Exhibit A nor the Pricing Attachment to the ICA, obligated GTA to provide Dark Fiber IOF to PDS. The Pricing Attachment only concerns pricing and not "any promise to provide Dark Fiber IOF." According to GTA, §8.1 of the Network Element Attachment "unambiguously" states that GTA had no obligation to provide any Dark Fiber IOF to PDS, as "GTA shall not be required to provide, and PDS shall not request or obtain, Dark Fiber Transport that does not connect a pair of GTA UNE Wire Centers."

On April 26, 2016, the ALJ recommended that a limited rehearing be conducted on certain issues, including whether §8.1 of the Network Elements Attachment precluded an obligation by GTA to provide Dark Fiber to PDS because such Dark Fiber did not connect a pair of wire centers. On April 28, 2016, the PUC ordered that the ALJ conduct a Limited Rehearing on the issues set forth in the ALJ Report. On May 19, 2016, the ALJ heard testimony and received evidence regarding a limited rehearing of issues in this proceeding, as outlined in the ALJ's Report dated April 26, 2016. On July 26, 2016, the ALJ filed the ALJ Order re: Limited Rehearing, which is Attachment A hereto.

FINDINGS AND RECOMMENDATIONS

The findings and recommendations contained in the ALJ Order dated July 26, 2016, are adopted by the PUC. GTA has a continuing obligation under §8.1 the Third ICA, Exhibit A, and the Pricing Attachment to provide Dark Fiber IOF to PDS at the 19 collocation facilities for the remainder of the term of the Third ICA.

ORDERING PROVISIONS


Having considered the record of the proceedings herein, the pleadings of the parties, and the ALJ Order dated July 26, 2016, and good cause appearing, the Guam Public Utilities Commission hereby **ORDERS** as follows:

1. The ALJ Order dated July 26, 2016, including the findings and recommendations therein, is adopted by the PUC in its entirety.
2. The requests by GTA in its Petition for Rehearing, including GTA's request that the PUC change or revise Ordering Provisions 7, 8, 9, 10 and 11, of its February 25, 2016, Order, and the numerous findings of fact and conclusions of law of the ALJ Recommendation dated February 18, 2016, are denied. All other relief requested in the GTA Petition for Rehearing, other than for a limited rehearing, is denied.
3. The PUC Order in this matter dated February 25, 2016, is hereby affirmed. Said Order constitutes a "final order" under Rule 4 (h) (10) of the Interconnection Implementation Rules, which accepts in whole the recommendations of the ALJ [the Arbitrator].

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4. This Order shall not be binding upon the parties in their negotiations concerning the Fourth ICA. Each party shall be free to take the position of its choice without regard to the determinations in this Order.
5. GTA and PDS shall equally share the regulatory fees and expenses incurred in the Docket, including without limitation, consulting and counsel fees and expenses, and the fees and expenses for conducting the hearing/arbitration process. GTA should be responsible for the fees incurred on its Motion for Reconsideration. Each party prevailed on some issues in this proceeding, and neither acted in "bad faith".
6. Each party shall bear its own attorney's fees.

SO ORDERED this 28th day of July, 2016.



Jeffrey C. Johnson
Chairman




Rowena E. Perez
Commissioner




Michael A. Pangelinan
Commissioner



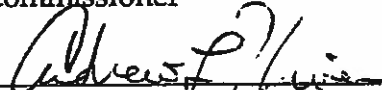
Filomena M. Cantoria
Commissioner



Joseph M. McDonald
Commissioner



Peter Montinola
Commissioner



Andrew L. Niven
Commissioner