

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

GUAM TELECOMMUNICATIONS  
ACT OF 2004

DOCKET 05-01



**RULES GOVERNING CERTIFICATES  
OF AUTHORITY UNDER 12 GCA 12103.**

**1. Statutory Authority.**

12 GCA 12103(a) provides that no person shall provide or resell telecommunications services in Guam without a certificate of authority issued by the Guam Public Utilities Commission [PUC], provided that no certificate shall be required to provide commercial mobile service. 12 GCA 12103(b) provides that the application for certificate of authority shall be in such form and contain such information, including that regarding the financial and technical capability of the applicant, as PUC may reasonably require. PUC may, in appropriate circumstances, require Applicant to procure a performance bond to cover customer advances or deposits. Applicants are required to publish notice of the application, in a form prescribed by PUC, in a newspaper having general circulation in Guam. 12 GCA 12103(c) provides that PUC shall approve an application for a certificate of authority if it finds that the applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the telecommunications services in Guam for which it seeks a certificate of authority and the granting of the certificate would not be contrary to the public interest. A copy of section 12103 is made *Attachment A*.

**2. Application.**

Applicants for a certificate of authority shall complete and file an application, in form made *Attachment B*. Applications shall undergo review by PUC staff or regulatory consultants.

**3. Public Notice.**

Applicants shall cause public notice to be published in a newspaper of general circulation in Guam. The notice shall be in form made *Attachment C*. Applicants shall file a certificate of publication, which has attached a copy of the published notice. Applicants should not publish notice until directed to do so by PUC.

#### **4. Public Hearing.**

An Applicant may, within 10 days of the publication of notice, request a public hearing before PUC with regard to its application. PUC will publish public notice of the hearing, which will be conducted under the oversight of its administrative law judge, in accordance with Part Seven of PUC's *Rules for Practice and Procedures*.

#### **5. Public Information.**

The information submitted with an application for certificate of authority will be made part of the public record, unless the information is either subject to a rebuttable presumption of confidentiality or the applicant requests confidential treatment pursuant to the PUC's confidentiality rules. Information submitted to the PUC on a confidential basis as part of an application for a certificate of authority shall not be publicly disclosed except as set forth in the PUC's confidentiality rules.

#### **6. Revocation or Suspension.**

Any PUC proceeding under 12 GCA 12103(f) to consider the revocation or suspension of a certificate of authority shall be conducted pursuant to Part 7 of PUC's *Rules for Practice and Procedure*.

## *Attachment A*

### 12 GCA - Autonomous Agencies

other United States jurisdictions.


(e) 'New GTA' or 'NGTA' means the entity purchasing the assets and business of Guam Telephone Authority pursuant to duly enacted legislation and such entity's successors in interest.

(f) 'Person' means any person, firm, partnership, corporation, association, public corporation, governmental entity, or other legal entity.

(g) 'Telecommunications' shall have the meaning set forth in 47 U.S.C. §153 (43).

(h) 'Telecommunications company' means any person providing or reselling telecommunications services, but only with respect to the person's provision of telecommunications services.

(i) 'Telecommunications service' means the offering of telecommunications, between originating and terminating points in Guam, for a fee directly to the general public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.



§12103. Certificates of Authority for Telecommunications Companies. (a) No person shall provide or resell telecommunications services in Guam without a certificate of authority issued by the Commission, except that a certificate of authority shall not be required for any person to provide commercial mobile service. The provisions of Section 12108 of this Title shall apply in circumstances where a telecommunications company is providing or reselling telecommunications services without a certificate of authority issued by the Commission. On the effective date hereof, New GTA and any other telecommunication company then providing telecommunications service in Guam shall be deemed to have a certificate of authority under this Article with respect to the

telecommunications services then provided by such telecommunications company or, with respect to New GTA, such telecommunications services provided immediately prior thereto by GTA (each a 'Grandfathered Certificate'). The Commission shall promptly issue Grandfathered Certificates to New GTA and any other such telecommunications company within sixty (60) days of the effective date hereof. To obtain a Grandfathered Certificate, each telecommunications company other than New GTA shall represent to the Commission that such company and the intra-Guam telecommunications services it provides are subject to jurisdiction of the Commission in accordance with this Act and that the provision of such telecommunications services and the possession of a Grandfathered Certificate do not entitle such telecommunications company to any of the rights afforded to local exchange carriers under the Communications Act of 1934, as amended. Any other person that seeks to offer telecommunications services or any certificated telecommunications company that seeks to provide new or additional telecommunications services shall first obtain a certificate or other authority as required by this Section 12103 and the rules and regulations adopted by the Commission pursuant hereto.

(b) Applications for a certificate of authority shall be in such form and contain such information, including information regarding the financial and technical capability of the applicant, as the Commission may reasonably require. Each applicant shall publish notice of the application, in a form prescribed by the Commission, in a newspaper having general circulation in Guam.

(c) After notice and opportunity for a hearing, the Commission shall approve an application for a certificate of authority if the Commission finds both of the following:

(1) The applicant possesses sufficient technical,

financial, and managerial resources and abilities to provide the telecommunications services in Guam for which it seeks a certificate of authority; and

(2) The granting of a certificate of authority to the applicant would not be contrary to the public interest.

(d) In appropriate circumstances, the Commission may require, as a precondition to certification, the procurement of a performance bond sufficient to cover any advances or deposits the telecommunications company may collect from its customers, or order that such advances or deposits be held in escrow or trust.

(e) The Commission shall approve or deny an application for a certificate of authority within ninety (90) days of its having been filed. Failure to approve or deny an application within such ninety (90) days shall be considered an automatic grant of a certificate of authority.

(f) The Commission may upon complaint or its own motion, after notice to the affected telecommunications company and opportunity for hearing, revoke or suspend a telecommunications company's certificate of authority for violation of any law, any rule, regulation or order of the Commission, or any term or condition under which the certificate of authority was originally granted.

(g) A telecommunications company shall not sell, assign, or transfer a certificate of authority, or any portion thereof, issued under this Article, or transfer control of a telecommunications company holding a certificate of authority issued under this Article, without the prior approval of the Commission and a determination by the Commission that the proposed sale, assignment or transfer satisfies the requirements for granting a certificate of authority under Subsection (c). Prior approval shall not be required for transfers of control that do not result in a substantial change in ultimate ownership of a

telecommunications company holding a certificate of authority. The Commission shall issue a decision on a request to sell, assign, or transfer a certificate of authority or to transfer control within ninety (90) days of the request, which period may be extended by an additional thirty (30) days for good cause shown and upon prior notice by the Commission to the applicant(s).

(h) A telecommunications company may not cancel a certificate of authority or discontinue or abandon a telecommunications service thereunder unless and until it shall:

(1) Provide at least thirty (30) days advance written notice to its customers of such cancellation, discontinuance or abandonment; and

(2) Provide at least thirty (30) days advance written notice to the Commission verifying compliance with subsection (1) hereof, which thirty (30)-day period may run concurrently with the period set forth in subsection (1) hereof.

The Commission may by rule or orders in specific cases provide for further notice to affected customers and disposition of deposits and final bills. Notwithstanding the foregoing, any carrier of last resort, may not cancel a certificate of authority or discontinue or abandon telecommunications service thereunder unless and until it shall demonstrate, and the Commission finds, that such cancellation, discontinuance or abandonment will not deprive customers of any necessary or essential telecommunications service or access thereto.

*Attachment B*

**APPLICATION FOR CERTIFICATE OF AUTHORITY  
TO PROVIDE INTRASTATE TELECOMMUNICATIONS SERVICES**

**Section 1. Company and Telecommunication [*telecom*] Service Information.**

- a. Indicate the type of intrastate telecom services that Applicant wants to provide in Guam:

\_\_\_\_\_ Resold local exchange telecom services

\_\_\_\_\_ Facilities based local exchange telecom services

\_\_\_\_\_ Alternative operator services telecom services

\_\_\_\_\_ Non-customer owned pay telephone telecom services

\_\_\_\_\_ Other [*Attach a complete description*]

- b. The name, address, telephone number, facsimile number and e-mail address of Applicant.
- c. The d/b/a/ [*doing business as*] name if Applicant is doing business under a name different from that listed in 1(b) above.
- d. The name, address, telephone number, facsimile number and email address of Applicant's management contact.
- e. The name, address, telephone number, facsimile number and email address of Applicant's attorney and/or consultant.
- f. The name, address, telephone number, facsimile number and email address of Applicant's complaint contact person.
- g. What type of legal entity is Applicant:

\_\_\_\_\_ Sole proprietorship

\_\_\_\_\_ Partnership: \_\_\_\_ limited \_\_\_\_ general \_\_\_\_ Guam \_\_\_\_ Foreign

\_\_\_\_\_ Limited Liability Company: \_\_\_\_ Guam \_\_\_\_ Foreign

\_\_\_\_\_ Corporation: \_\_\_\_\_ "S" \_\_\_\_\_ "C"

\_\_\_\_\_ Other, specify:

h. Include as *Attachment 1*:

- . A copy of Applicant's Certificate of Good Standing as a domestic or foreign corporation, LLC or other entity in Guam and in its state of organization, if other than Guam.
- . A certified copy of Applicant's articles of organization.
- . A list of the names of all owners, partners, limited liability company managers or corporation officers and directors [*specify*], including percentages of ownership of each listed person.

i. Include Applicant's Tariff as *Attachment 2*, which must contain the following information:

- . Proposed rates and charges for each service offered.
- . Terms and conditions applicable to provision of service.
- . Deposits, advances and/or prepayments applicable to provision of services.
- . The proposed fee that will be charged for returned checks.

j. Indicate if Applicant or any of its officers, directors, partners or managers has been or are currently involved in any formal or informal complaint proceedings pending before any state, territorial or federal regulatory commission, administrative agency or law enforcement agency. Describe in detail any such involvement, including the following:

- . Jurisdiction in which Applicant has been or is involved in proceedings.
- . Detailed explanation of the substance of the complaints.
- . Orders or rulings that resolved any and all complaints.

- k. Indicate if Applicant or any of its officers, directors, partners or managers have been or are currently involved in any civil matter, judgments levied by any administrative or regulatory agency, or been convicted of any criminal acts within the last ten years. Describe in detail any such judgments or convictions, including the jurisdiction involved, the reason for the investigation and/or judgment and a copy of the Court order, if applicable.
- l. Indicate if Applicant or any of its affiliates, principals or major shareholders have declared bankruptcy or have had any bankruptcy, insolvency or similar proceedings initiated against them.
- m. Is Applicant willing to post a performance bond in an amount to be determined by PUC? \_\_\_ Yes \_\_\_ No. If the answer is no, clarify and explain Applicant's deposit policy in its tariff. Provide a detailed explanation of why Applicant's superior financial position limits risk to Guam customers.
- n. Submit a certification that legal notice of the Application has been published in form required by PUC rule in a newspaper of general circulation on Guam. The certificate must have a copy of the published notice attached. *Do not publish legal notice until advised to do so by PUC.*
- o. List the jurisdictions in which Applicant currently offers telecom services similar to those that it will or intends to offer in Guam, including a certified copy of any orders granting certificates of authority in those jurisdictions.

## **Section 2. Financial Information.**

- a. Indicate if Applicant has financial statements for the two most recent years. \_\_\_ Yes \_\_\_ No. If no, explain why and give the date on which Applicant began operations.

Include as *Attachment 3*, Applicant's financial information for the two most recent years *[including the current calendar or current year reporting period]*, including a copy of its balance sheet, income statement, audit report *[if available]*, retained earnings balance and all related notes to the financial statements and information.

- b. Indicate if Applicant will rely on the financial resources of its parent company, if applicable.

- c. Applicant must provide the following information:
- . Projected total revenue expected to be generated by the provision of telecom services to Guam customers for the first twelve months following certification.
  - . Operating expenses expected to be incurred during the first twelve months of providing telecom services to Guam customers following certification.
  - . Net book value [*original cost less accumulated depreciation*] of all Guam jurisdictional assets expected to be used in the provision of telecom service to Guam customers at the end of the first twelve months of operation.
  - . If the projected fair value of the assets is different than the projected net book value, also provide the corresponding projected fair value amounts.
- d. Indicate if Applicant is aware of any pending or threatened litigation, which could have a material adverse impact on its financial ability to provide service in accordance with PUC rules and orders.

**Section 3. Resold and/or Facilities Based Local Exchange Telecom Services.**

- a. Indicate if Applicant has a resale agreement in operation.
- b. Include as *Attachment 4* a copy of Applicant's proposed quality of service standards.
- c. Indicate whether Applicant will provide all customers with E911 service and will coordinate with the incumbent local exchange carrier and emergency service providers to provide this service: \_\_\_\_ Yes \_\_\_\_ No.
- d. Indicate that Applicant's switch is able to provide equal access to facilities-based long distance companies.
- e. Describe the managerial and technical resources, which support Applicant's assertion in Section 4(a) below. Such description should include a list of Applicant's management team, including technical qualifications, work experience and training; any affiliation between the management team and other telecom companies; a description of

the transmission and switching facilities to be deployed for rendering service; and the interconnection and service arrangements, which Applicant is seeking or has obtained from the incumbent local exchange carrier.

- f. Indicate how Applicant proposes to handle customer service orders, inquiries and complaints.

#### **Section 4. Signature and Attestation.**

By signing this application form, Applicant:

- a. Certifies that it possess the requisite managerial qualifications, technical competence, and financial resources to provide the local exchange telecom services for which it is applying *[if applicable]*;
- b. Agrees to answer all questions posed by PUC or any authorized member of its staff, including regulatory consultants concerning the application and to permit PUC or any member of its staff, including regulatory consultants to inspect Applicant's books and records as part of the investigation into the application;
- c. Understands that the filing of the application does not by itself constitute authority to operate.
- d. Agrees to respond in writing within ten business days to all consumer complaints filed with PUC.
- e. Understands that if any portion of the application is found to be false or to contain material misrepresentations, any Certificate may be deemed null and void upon PUC Order.
- f. Certifies that Applicant, pursuant to its tariff, will not unjustly discriminate among and between consumers in the provision of intrastate telecom services on Guam.

Signature \_\_\_\_\_  
Name of Signatory \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

Affidavit: *[Attach an affidavit signed by the above person, stating that the contents of the application are true, accurate and correct].*

*Attachment C*

**NOTICE OF APPLICATION FOR CERTIFICATE  
OF AUTHORITY TO PROVIDE LOCAL EXCHANGE  
TELECOMMUNICATIONS SERVICES**

*[Enter Applicant's name]* ("Applicant") has filed with the Guam Public Utilities Commission [PUC] an application for a Certificate of Authority to provide the following intrastate telecommunications services in Guam:

*[Insert services for which certification is sought]*

Applicant will be required by PUC to provide this service under the rates and charges and terms and conditions established by PUC.

The application, the report of PUC's staff and any exceptions to the staff report filed by Applicant are available for inspection during regular business hours at PUC's office located at Suite 207 GCIC Building, 414 W. Soledad Ave. Hagatna. PUC's phone number is 472-1907.

Interested persons may file comments for the record regarding the Application. Comments, which must be received by PUC within fourteen days of this notice should be mailed or delivered to:

Guam Public Utilities Commission  
Suite 207 GCIC Building  
414 W. Soledad Avenue  
Hagatna, Guam 96910

Applicant has the right to request a public hearing before PUC on its application. PUC will provide public notice of any such hearing.