

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF:</b>	)	<b>GTA DOCKET 12-01</b>
	)	
<b>GTA TELECOM LLC INDIVIDUAL CASE BASIS FILING</b>	)	<b>SUPPLEMENTAL PUC COUNSEL REPORT</b>
	)	

Legal Counsel issued a Report herein on February 20, 2012.<sup>1</sup> In that Report, Counsel recommended that the PUC approve an Individual Case Basis arrangement between GTA and the Joint Region Marianas, Guam (Naval Base Guam, Andersen Air Force Base, and Associated Annexes) [“JRM”] pursuant to GTA’s ICB Tariff. This Supplemental Counsel Report addresses additional filings in this Docket since that time, and PUC action taken on this matter on February 22, 2012.

**ADDITIONAL BACKGROUND FACTS**

1. On February 22, 2012, GTA requested a continuation of the hearing scheduled for that evening on GTA’s ICB application.<sup>2</sup>
2. GTA stipulated to a suspension order of GTA’s ICB application until it was acted upon by the PUC.<sup>3</sup>
3. On February 22, 2012, Pacific Data Systems Inc. filed public comment opposing the ICB application of GTA and requesting that the Commission issue a suspension order.<sup>4</sup>
4. At its meeting on February 22, 2012, the PUC approved the stipulation of GTA suspending GTA’s ICB application until further action by the PUC.
5. On February 23, 2012, GCG filed a “CONFIDENTIAL” Report herein.<sup>5</sup> GCG found that, based upon the Commission’s rules, “an ICB at \$0.10 per number to the

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<sup>1</sup> PUC Counsel Report, GTA Docket 12-01, issued February 20, 2012.

<sup>2</sup> Email from Serge Quenga, GTA Legal Counsel, to PUC Legal Counsel, GTA Docket 12-01, dated February 22, 2012.

<sup>3</sup> Email from Serge Quenga, GTA Legal Counsel, to PUC Legal Counsel, GTA Docket 12-01, dated February 22, 2012.

<sup>4</sup> Email from John Day, President, Pacific Data Systems, GTA Docket 12-01, filed February 22, 2012.

<sup>5</sup> GCG Report re GTA Telecom ICB Tariff for DID Services, GTA Docket 12-01, issued February 19, 2012.

Department of Defense is justified because DoD meets the size requirement and the price is not considered predatory.”<sup>6</sup>

### ANALYSIS

6. In its Public Comment, PDS has again raised a number of issues previously raised concerning the tariffs of GTA Telecom LLC. These issues will be resolved by the Commission, not in this Docket, but in Docket 11-14 whether GTA’s application for transfer of the Certificate of Authority from Telecom to TeleGuam is currently pending. The PUC has already authorized Telecom to proceed with its application in Docket 11-14, rather than presently complying with a previous PUC order required the filing of a new tariff by Telecom.
7. PDS claims that the “current tariff arrangements being used by Telecom to operate are defective and contrary to 28 G.A.R. Section 1126.” Again, such concerns will be addressed in GTA Docket 11-14, not in this Docket. At present, Counsel does not concede that such section is applicable at all to this application for an ICB. The section refers to a utility that acquires ownership or control of another utility. GTA Docket 11-14, there is no utility acquiring ownership or control of another utility. GTA TeleGuam Holdings LLC already owns GTA Telecom LLC.
8. PDS further raises issues of whether GTA Telecom LLC has complied with a prior order in Docket 05-03. Docket 05-03 is different than this Docket and does not involve the same issues. Here GTA applies to establish ICB rates for Joint Region Marianas; Docket 05-03 was a tariff application. The issues in the two dockets are not the same. Whether Telecom complied with a Commission Order in a prior docket concerning a tariff issue is not dispositive of its application for an ICB in this docket. However, the record indicates that GTA did seek to comply with the prior PUC Order.
9. PDS claims that GTA is providing 2 and 4 “Dry Copper” transport service to JRM, but that such services have been discontinued by Telecom since 2006. It alleges “discrimination” by Telecom. However, a Stipulation entered into between Telecom and the Commission in 2006 authorized GTA to discontinue such services, but also allowed it to continue providing such services under certain circumstances.<sup>7</sup> GTA submits that it has been providing such services to the

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<sup>6</sup> Id. at p.1.

<sup>7</sup>Stipulation, Petition of GT Telecom LLC to Discontinue a Telecommunications Service, Docket 06-04, filed April 6, 2006.

military in Guam “unabated” for decades, and that the Stipulation authorizes it to continue offering such services.<sup>8</sup>

10. PDS questions whether GTA has provided an LRIC like study for the “Dry Copper” transport service which it is providing to the military. Telecom submits that it has engaged its consultant to provide such an LRIC model and rate for these services.<sup>9</sup> Approval by PUC herein for provision by Telecom of such dry copper transport service should be conditioned upon receipt by it of an appropriate LRIC study which establishes that the charges and rates by Telecom to JRM for such services are not below incremental cost.
11. Both GCG and Legal Counsel have found that GTA’s ICB Application for JRM satisfies the Commission’s requirements for an ICB filing. Under the applicable requirements for an ICB filing, there is no basis upon which to deny GTA’s application.
12. However, notwithstanding these recommendations for approval, there remains an issue as to whether the ICB pricing for JRM is discriminatory in comparison with the rates for non-DoD/JRM customers. CGC does not believe that there is a significant difference in the cost of providing DID numbering services to the DoD and Non-DoD customers or between large and small businesses.<sup>10</sup>
13. The PUC should authorize the Administrative Law Judge to institute a separate docket for the purpose of determining whether the DID rates for non-DoD customers are discriminatory, and what rates are appropriate for DID services for non-DoD customers.

### RECOMMENDATION

14. In accordance with the GCG and Legal Counsel recommendations, the PUC should approve GTA’s Individual Case Basis filing dated February 1, 2012. The proposed services to JRM are provided at prices above the average costs determined by the LRIC-like studies. For the services provided, GTA has satisfied the three conditions for approval of an ICB arrangement as set forth in the PUC Order issued on February 15, 2008. For the dry copper transport services, approval should be conditioned upon submission of an appropriate LRIC study which establishes that the charges and rates for such services are not below incremental cost.

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<sup>8</sup> Email from Serge Quenga to Frederick J. Horecky, GTA Docket 12-01, issued March 16, 2012.

<sup>9</sup> Id.

<sup>10</sup> GCG Report Re: GTA Telecom ICB Tariff for DID Services, GTA Docket 12-01, issued February 19, 2012, at p. 2.

15. The Administrative Law Judge should be authorized to commence a separate docket for a determination as to whether the ICB prices for DID Services are discriminatory with regard to non-DoD customers.
16. The ICB pricing offered by GTA to JRM should be in accordance with the price represented in Exhibits B and C to its Petition.
17. A draft Order is submitted to the Commission for its consideration.

Dated this 17<sup>th</sup> day of March, 2012.

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Frederick J. Horecky  
PUC Legal Counsel