

GTA Docket 15-02

# INTRODUCTION

- ## BACKGROUND

- <sup>4</sup> TeleGuam Holdings, LLC, Certificate of Authority, Docket 05-02, issued by the PUC on February 28,

5. After privatization of GTA in 2005, Shamrock Capital Advisors purchased the company as its first private owner.<sup>5</sup>
6. On February 21, 2011, the PUC approved the sale and transfer of control of GTA from Shamrock to AP TeleGuam Holdings LLC ["APTG"]. The new owners of APTG were certain funds in Japan known as the "AP Funds."<sup>6</sup>
7. After receipt of the present Application for sale and transfer of control of GTA, the PUC caused a notice to be published in the Pacific Daily News on July 13, 2015, and August 11, 2015, attesting to: (1) the filing of the Application; (2) the opportunity for interested persons to file comments of record regarding the Application; and (3) the holding of a public hearing to receive public comment and testimony on the Application.<sup>7</sup>
8. On August 13, 2015, the PUC conducted a Public Hearing at which testimony on the Application was taken. Testimony was provided in favor of the application by representatives of TIIUSA, PTTI, PTTII, and GTA. There was no testimony in opposition to the Application. The ALJ and Commissioner Andrew L. Niven questioned the respective parties concerning their testimonies.
9. On August 24, 2015, the Administrative Law Judge issued his Report herein.<sup>8</sup>
10. If the transaction is approved, the direct owner of APTG will be Telekomunikasi Indonesia International (USA) Inc. [TIIUSA].<sup>9</sup>
11. TIIUSA is one of ten operational offices under PT Telekomunikasi Indonesia International [PTTII, whose parent company is PTTI].<sup>10</sup>

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2005.

<sup>5</sup> GTA TeleGuam News Release issued on November 15, 2010.

<sup>6</sup> PUC Order Approving Sale/Transfer of Ownership and Control of TeleGuam Holdings, LLC, and GTA Telecom LLC (Subject to Conditions), GTA Docket 10-09, dated February 21, 2011.

<sup>7</sup> PUC Public Notice of Application of TeleGuam Holdings, LLC for PUC Approval of the Transfer of Control of TeleGuam Holdings, LLC to Telekomunikasi Indonesia International (USA) Inc., GTA Docket 15-02, published in the Pacific Daily News on July 13, 2015, and August 11, 2015.

<sup>8</sup> ALJ Report, GTA Docket 15-02, dated August 24, 2015.

<sup>9</sup> Application of TeleGuam Holdings, LLC, GTA Docket 15-02, filed June 16, 2015, at Exhibit 3[Diagram of Post-Merger Ownership and Structure Chart].

<sup>10</sup> Presentation of the Telekom Group to the PUC on August 13, 2015, at Slide 8.



12. The ultimate parent and indirect owner of AP TeleGuam Holdings, Inc [APTG] will be PT Telekomunikasi Indonesia Tbk. [PTTI], also known as “TELKOM.”.<sup>11</sup>
13. TELKOM is the leading telecom operator in Indonesia It has been an operator since 1856.<sup>12</sup>
14. The TELKOM Group, which includes all of TELKOM’s subsidiaries, has over 25,000 employees. It supports almost 200 million subscribers in Wireless and Fixed Line Broadband Services.<sup>13</sup> It has strong infrastructure capabilities, including data centers, fiber optic networks, and Wi-Fi access points.<sup>14</sup>
15. PTTI, also known as “Telkom Indonesia” delivers a full range of communication services, including wireline, wireless, interconnection, Internet and Data Services.<sup>15</sup>
16. GTA filed, under seal, a copy of the Agreement and Plan of Merger, on August 13, 2015.<sup>16</sup> The agreement contains a detailed description of the terms and conditions of the sale.<sup>17</sup>
17. With regard to the present transaction, Purchaser TIIUSA will purchase all of the ownership interest of the AP Funds in APTG, including indirect ownership of TeleGuam Holdings LLC [GTA]. A “Merger Sub” will merge into APTG. APTG will become a direct wholly-owned subsidiary of Purchaser TIIUSA; and TeleGuam [GTA] will become an indirect wholly-owned subsidiary of Purchaser.<sup>18</sup>
18. It is a condition of the transaction that it be consummated by March 31, 2016, or as extended by the Parties.<sup>19</sup>
19. The transaction must also be approved by the Federal Communications Commission and other federal authorities, including the Committee on Foreign

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<sup>11</sup> Id at Exhibit 3.

<sup>12</sup> Id at Slide 3.

<sup>13</sup> Id at Slide 7.

<sup>14</sup> Id.

<sup>15</sup> The Application of TeleGuam Holdings, LLC, GTA Docket 15-02, filed June 16, 2015, at p.3.

<sup>16</sup> Agreement and Plan of Merger dated May 29, 2015, GTA Docket 10-09, filed [pursuant to GPUC Rules relating to the Protection of Confidential Information] August 13, 2015.

<sup>17</sup> Id.

<sup>18</sup> Application of TeleGuam Holdings, LLC, GTA Docket 15-02, filed June 16, 2015, at p. 5.

<sup>19</sup> Agreement and Plan of Merger, GTA Docket 15-02, filed August 11, 2015, at p. 2.

Investment and Team Telecom. It is hoped by the Parties that there will be final federal approvals in the first Quarter of 2016.<sup>20</sup>

### **DETERMINATIONS**

20. Before the sale or transfer of control can be effective, the Commission must make a determination that the proposed sale or transfer satisfies the requirements for granting a certificate of authority as set forth in 12 GCA §12203(c).
21. The two findings required by the Commission in subsection (c), before a sale or transfer of control can be approved, are as follows:
  - (1) The applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the telecommunications services in Guam; and (2) the sale is not be contrary to the public interest.<sup>21</sup>
22. A review of the record herein regarding the “financial resources” of TeleGuam Holdings LLC [GTA] establishes that Applicants will continue to have sufficient financial resources to provide telecommunications services after the transfer of control of GTA:
  - a. The “Consolidated Balance Sheets” and Income Statements for APTG as of December 31, 2012, 2013, and 2014,<sup>22</sup> indicate that Applicants have substantial and significant financial resources, which should enable them to continue to provide telecommunications services in Guam after a transfer of control of GTA/APTG to Purchaser TIIUSA.
  - b. GTA owns assets, including property, plant and equipment which constitute its telecommunications system and enable it to provide telecommunications services.<sup>23</sup>

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<sup>20</sup> Email from GTA Counsel Vince Camacho to ALJ Horecky, GTA Docket 15-02, dated August 18, 2015 [responses to ALJ questions prepared by Daniel Tydingco, GTA Executive Vice President of Legal, Regulatory, and External Affairs.

<sup>21</sup> See 12 GCA §12203(c) (1) and (2).

<sup>22</sup> Exhibit D to Application, GTA Docket 15-02, filed under seal on June 16, 2015.

<sup>23</sup> Id.



- c. The Balance sheets and Income Statements indicate that there was a consistent and healthy increase in GTA's revenues for each year from 2012 to 2014 in amounts totaling millions of dollars.
  - d. Long term debt was substantially reduced between 2013 and 2014. Payoff of long term debt by GTA is an indication that it is capable of meeting its current debt obligations.
  - e. Because the proposed transaction will occur at the holding company level, there is no proposed change in any of the assets or liabilities of the Applicants; the Applicants will continue to possess the same strong financial qualifications that they do at present after the sale.<sup>24</sup>
23. Purchaser and its parent companies have sufficient financial resources to fund the sale transaction and to assist GTA in continuing to provide telecommunication services in Guam under the existing Certificates of Authority.
- a. The Purchaser has committed to continue to build the infrastructure improvements set forth in the Five Year Build Out Plan previously filed by GTA, under which an additional approximate amount of \$16M per year will be spent on telecom capital investment on Guam.<sup>25</sup>
  - b. The Purchaser has committed to continue to build the infrastructure improvements set forth in the Five Year Build Out Plan.
  - c. The Purchaser has also agreed to continue with GTA's 2016 "Capex Plan", which will expand 3G wireless capabilities, extend digital television capabilities to more island neighborhoods, and extend fiber deeper into the network.<sup>26</sup>
  - d. The Financial Statements of Purchaser and its parent companies indicate that they have substantial financial assets.<sup>27</sup>
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- e. The consolidated revenue of the TELKOM Group for 2014, which

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<sup>24</sup> Application of TeleGuam Holdings, LLC for Approval of the Transfer, GTA Docket 15-02, at p.6.

<sup>25</sup> Id. at p. 7.

<sup>26</sup> Id.

<sup>27</sup> See Exhibit E1 to Application, GTA Docket 15-02, filed under seal on June 16, 2015; 2014 Annual Reports of Telkom Indonesia and Telin, provided to the ALJ on August 13, 2015, at the Public Hearing.

includes the Purchaser, was \$7.2 Billion; Net Income for 2014 was \$1.7 Billion.<sup>28</sup>

- f. Revenue growth for the last ten years for the TELKOM Group was 8% compound annual growth rate [CAGR]; cash & equivalents as of the end of 2014 were approximately \$1.42 Billion, with debt to equity ratio (DER) of 48%.<sup>29</sup>
- g. The TELKOM Group reflects steadily increasing annual revenues from 2010 to the present. The value of its total assets exceeds \$11.4 billion.<sup>30</sup>

24. The Applicants now have sufficient technical and managerial resources to provide telecommunications services in Guam and will continue to have such resources after the sale.

- a. Purchaser intends to maintain the Applicants' existing management team and Guam-based employees following completion of the transaction, so that the Applicants will continue to possess the same technical and managerial qualifications as they do at present; and these will be supplemented by the management team of Purchaser.<sup>31</sup>
- b. The same management team which has previously guided GTA forward will continue to manage GTA after the transfer of control of TeleGuam Holdings, LLC to TIIUSA.
- c. The TELKOM Group is an operating telecommunications company. As the largest such company in Indonesia, it will be able to provide GTA with considerable technical and managerial resources.<sup>32</sup>
- d. GTA will enjoy access to the resources of the TELKOM Group. GTA and the TELKOM Group will be positioned to collaborate more effectively in efforts to develop and introduce new services to customers and expand global network facilities and capabilities.<sup>33</sup>

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<sup>28</sup> Presentation of the Telekom Group to the PUC on August 13, 2015, at Slide 3.

<sup>29</sup> Id.

<sup>30</sup> Telkom Indonesia, 2014 Annual Report on form 20-F, p.11.

<sup>31</sup> Application of TeleGuam Holdings, LLC for Approval of the Transfer, GTA Docket 15-02, at p. 5.

<sup>32</sup> Presentation of the TELKOM Group to the PUC on August 13, 2015 at Slide 9.

<sup>33</sup> Application of TeleGuam Holdings, LLC for Approval of the Transfer, GTA Docket 15-02, at p. 7.



25. Approval by the PUC of the sale/transfer of control of TeleGuam Holdings to the ownership of TIIUSA and the TELKOM Group would not be “contrary to the Public Interest.”

- a. There is no evidence in the record in this proceeding that the transfer of control of GTA to the TELKOM Group would be “contrary to the Public Interest”.
- b. No written or public testimony has been submitted to the PUC claiming that such transfer would be contrary to the Public Interest.
- c. Applicants’ Petition presents a number of reasons why the granting of the Petition is in the Public Interest: (1) following the consummation of the proposed transaction, GTA will continue to offer services with no change in the rates or terms and conditions of service; (2) the customers of Guam will benefit from new services and expanded global network facilities and capabilities offered by the collaboration between GTA and the TELKOM Group; (3) telecommunications customers in Guam have benefited from the continuing capital investments by GTA, and such investments will continue after the sale; (4) customers on Guam have benefited from improved service offerings and better pricing from GTA and will continue to do so after the sale; (5) GTA has had a strong focus on hiring and developing employees on Guam and paying at or above market wage rates, and will continue to do so after the sale; (6) important working relationships with the Government of Guam and Emergency Entities will continue with Purchaser’s Ownership; (7) GTA is a generous community service and charitable contributor on Guam and will continue to be so.<sup>34</sup>
- d. One of the public benefits which will result from the sale is the continuing working relationship between Telkom and GTA on the SEA-US submarine cable partnership to provide Guam, the United States, and the South-East Asia region with massive bandwidth capacity.<sup>35</sup> This partnership between GTA and Telkom was

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<sup>34</sup> Application of TeleGuam Holdings, LLC for Approval of the Transfer Control, GTA Docket 15-02, at pgs. 6-11.

<sup>35</sup> Presentation of the TELKOM Group to the PUC on August 13, 2015 at Slide 3.

undertaken in 2014. The international submarine infrastructure will be 29,000KM in length and will connect Europe, Asia, Guam and the US.<sup>36</sup>

- e. The Guam Telecommunications Act of 2004 provides that it is in the public interest to provide the people of Guam with modern, innovative, accessible and affordable telecommunications services and products.<sup>37</sup>
- f. It is also in the interest of consumers of telecommunications services on Guam that the expansion of facilities and technology continue. TIIUSA and the TELKOM Group are committed to investing in Guam to offer state of the art service to all customer segments. With Purchaser's financial backing, GTA should be able to accelerate competitive service offerings and provide customers with better service, more service choices and improved pricing.<sup>38</sup>

### **ORDERING PROVISIONS**

After review of the Application, and the supporting materials and comments submitted by the Applicants, the Administrative Law Judge Report, and the record in this Docket, and for good cause shown, the Guam Public Utilities Commission **HEREBY ORDERS** that:

1. All rulings and orders of the ALJ in this proceeding are confirmed and ratified. All motions not heretofore granted or denied are denied. No other matters currently require discussion.
2. The Report issued by the ALJ on August 24, 2015, is hereby adopted and approved. The PUC concurs with the findings and recommendations therein.
3. Applicants TeleGuam Holdings, LLC, ["GTA"], PT Telekomunikasi Indonesia Tbk. ["PTTI"], PT Telekomunikasi Indonesia International ["PTTII"], and Telekomunikasi Indonesia International (USA) Inc. ["TIIUSA"], are authorized to

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<sup>36</sup> Id at Slide 7.

<sup>37</sup> 12 GCA §12101(a)(2).

<sup>38</sup> Response of APTG and AP Funds to PUC Request for Information, GTA Docket 10-09, filed January 26, 2011 at p. 3.

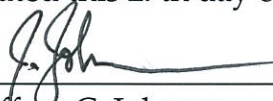


proceed with, and complete, a transaction whereby Purchaser TIIUSA will acquire direct control of the holding company of GTA, AP TeleGuam Holdings LLC.

4. Applicants satisfy the requirements of 12 GCA §§12203(c) and (g): Applicants and Purchaser will continue to have sufficient financial resources to provide telecommunication services in Guam under the existing Certificates of Authority after the transfer of control of GTA.
5. Applicants also will possess sufficient technical and managerial resources and abilities to provide the telecommunications services authorized by the present Certificates of Authority after the sale of GTA.
6. Applicants have sufficient financial resources to fund the sale transaction and to assist GTA in continuing to provide telecommunication services in Guam under the existing Certificates of Authority.
7. The sale or transfer of control of TeleGuam Holdings LLC to Purchaser TIIUSA is not contrary to the public interest.
8. The sale and/or transfer of control of TeleGuam Holdings, LLC from the AP Funds to TIIUSA will not adversely affect the ability of TeleGuam to continue to provide telecommunications services under its Certificates of Authority.
9. Authorization for Applicants to complete the sale or transfer of ownership and control, as granted herein, is subject to satisfaction by Applicants of certain conditions: (1) Applicants must satisfy all requirements of the Federal Communications Commission with regard to this transaction, complete all necessary proceedings required by the FCC, and obtain all necessary FCC approvals; (2) there must be material compliance with the terms and conditions of the Purchase and Merger Agreement, and the transaction completed in all material respects; (3) Purchaser must receive Section 214 Authorization from the FCC consenting to this transaction (FCC File No. ITC-T/C-20150612-00146 and WC Docket No. 15-148); (4) Once the proposed transaction is completed in all respects, Applicants shall continue to be subject to the terms, conditions and requirements of 12 GCA §12203, and all PUC rules, regulations and orders; (5) Applicants PTTL, PTTIL, and Purchaser TIIUSA must comply with their representations, made of record, in the CERTIFICATION STATEMENT filed on July 22, 2015, that they will comply with all terms and conditions of the Certificates of Authority presently held by TeleGuam Holdings LLC [GTA].

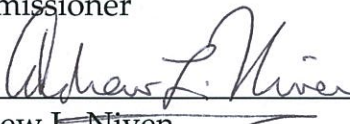
10. PUC approval of the sale and transfer of ownership and control, as granted herein, shall be final upon satisfaction by Applicants of all conditions in paragraph 9 above, and submission to the PUC of proof satisfactory to it that all such conditions have been satisfied.
11. TeleGuam Holdings, LLC, is ordered and directed to pay the PUC's regulatory expenses and fees in this docket.


Dated this 27th day of August, 2015.

  
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Jeffrey C. Johnson  
Chairman


  
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Joseph M. McDonald  
Commissioner

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Peter Montinola  
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Andrew L. Niven  
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Rowena E. Perez  
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Michael A. Pangelinan  
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Filomena M. Cantoria  
Commissioner