



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:)
)
)
E-911 FISCAL 2015 SURCHARGE)
[Uncollectible Surcharges, and)
whether Collection Agents have a duty to)
pay such Surcharges])
_____)
GTA Docket 16-01
ORDER

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon the E-911 Fiscal 2015 Surcharge Summary prepared by PUC Consultant Slater, Nakamura & Co., LLC ["Slater"], filed on or about March 14, 2016.¹

BACKGROUND

2. In its E-911 Fiscal 2015 Surcharge Summary, Slater recommended that the PUC review its procedures relative to "uncollected E-911 Surcharges."
"Uncollected" surcharges involve those customers who have refused to pay or which Collection Agents were otherwise unable to collect.²

3. Section 6 of Public Law No. 25-55, enacted June 30, 1999, provides in part as follows:

"Uncollectible Surcharges. Each LEC or CMRS provider collecting the surcharges shall not be responsible for uncollectible surcharges, and shall have no obligation to take any legal action to enforce collection of the surcharge. The LEC or CMRS provider shall provide quarterly to the Commission a list of the names, addresses and telephone numbers of any and all subscribers who have identified to the LEC or CMRS provider their refusal to pay the "911" fee." (emphasis added).

4. Slater states that "We found no instance during the 2011, 2012, 2013, 2014 or 2015 Fiscal Years where the required reports were filed with the PUC. Despite the failure to file required reports, some Collection Agents withheld uncollected E-911 Surcharges from their remittances to the Department of Administration... as of

¹ Slater, Nakamura & Co., LLC, GTA Docket 16-01, E-911 Fiscal 2015 Surcharge Summary, filed on March 14, 2016.

² Id. at pgs. 7-8.

September 30, 2015 the total accumulated uncollected surcharges for all Collection Agents amounted to \$86,244, the same balance as of the end of FY2014.”³

5. Slater recommends that “the PUC review its previous orders relative to the reporting of uncollected E-911 Surcharges and make a determination as to whether or not the failure of a Collection Agent to file the required reports relieves the Collection Agent of all responsibility for payment thereof. If the PUC determines that this requirement is not necessary, we recommend that the Commission issue a new order that relieves the Collection Agents of this reporting and collection requirement and the circumstances under which such relief can be claimed.”⁴

DETERMINATIONS

6. Public Law No. 25-55 is clear that the Local Exchange Carrier or CMRS provider is not responsible under any circumstances for uncollectable surcharges: “Each LEC or CMRS provider collecting the surcharges shall *not* be responsible for uncollectable surcharges, and shall have no obligation to take any legal action to enforce collection of the surcharge.” (emphasis added).⁵

7. However, Section 6 of Public Law No. 25-55 further provides:

“The LEC or CMRS provider shall provide quarterly to the Commission a list of the names, addresses and telephone numbers of any and all subscribers who have identified to the LEC or CMRS provider their refusal to pay the “911” fee.”

8. Section 6 unequivocally excuses Collection Agents from any responsibility for uncollectible surcharges or any obligation to collect such surcharges. There is no basis in the statute for requiring Collection Agents [or LECs or CMRS Providers] to pay for such surcharges, even if such LEC or CMRS failed to file quarterly reports.
9. Statutory interpretation looks first to the language of the statute. Aguon v. Gutierrez, 2002 Guam 14¶6; see also Pangelinan v. Gutierrez, 2000 Guam 11¶23, *aff’d*, 276 F.3d 539 (9th Cir. 2002) (citing *Am. Tobacco Co. v. Patterson*, 456 U.S. 63, 68 (1982)). The plain meaning prevails where there is no clearly stated legislature intent to the contrary. Sumitomo Constr., Co. v. Gov’t of Guam, 2001 Guam 23¶17 (citing *Aaron v. SEC*, 446 U.S. 680, 697 (1980)).

³ Id. at p. 6.

⁴ Id. at p. 8.

⁵ Public Law 25-55, Section 6, enacted June 30, 1999.

10. The plain meaning of the statute is that LECs or CMRS providers are not responsible for uncollectable surcharges. There is, further, nothing in the statute which suggests that a LEC or CMRS provider who fails to provide its quarterly reports to the PUC with the required information on those customers who have refused to pay the "911" fee is thereby rendered responsible for the uncollectable surcharges.
11. However, the statute clearly also requires the LEC or CMRS to provide, in its quarterly reports to the Commission, the names, addresses and telephone numbers of any and all subscribers who have refused to pay the "911" fee. The PUC does not have the authority to waive or ignore the statutory duty of such providers to file the required reports.
12. Henceforth, each Collection Agent will all be required to include in the provider's quarterly reports a list of the names, addresses and telephone numbers of any and all subscribers who have refused to pay the "911" fee.
13. LECs or CMRS providers who fail to include such information on subscribers who refuse to pay the "911" fees will be subject to penalties and/or fines from the PUC.

ORDERING PROVISIONS

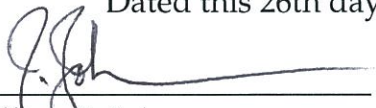
After review of the record herein, including the Slater, Nakamura FY 2015 E-911 Surcharge Summary and the PUC Counsel Report, for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY ORDERS** that:

1. The PUC Counsel Report dated May 18, 2016, is adopted and approved.
2. Neither Collection Agents, LECs, or CMRS Providers are responsible for uncollectable surcharges, even though they may have failed to provide the required quarterly reports on any and all subscribers who refuse to pay the "911" fee.
3. Section 6 of Public Law No. 25-55 excuses Collection Agents, LECs or CMRS Providers from any responsibility for uncollectable surcharges.
4. However, Collection Agents still have the responsibility to provide quarterly reports to list the names, addresses and telephone numbers of any and all

subscribers who have identified to the LEC or CMRS Provider their refusal to pay the "911" fee.

5. GTA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings, from the Enhanced 911 Emergency Reporting System Fund. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

Dated this 26th day of May, 2016.



Jeffrey C. Johnson
Chairman



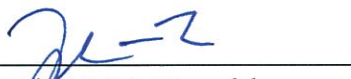
Rowena E. Perez
Commissioner




Michael A. Pangelinan
Commissioner



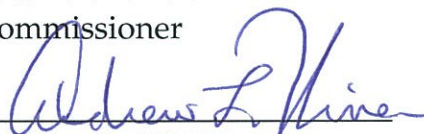
Filomena M. Cantoria
Commissioner



Joseph M. McDonald
Commissioner



Peter Montinola
Commissioner



Andrew L. Niven
Commissioner