

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF:	)	
	)	DOCOMO DOCKET 18-01
DOCOMO PACIFIC, INC.	)	
USAC CERTIFICATION	)	PUC COUNSEL REPORT
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**BACKGROUND**

On November 29, 2010, the PUC granted Guam Telecom LLC.'s ["GT"] Petition for Designation as an Eligible Telecommunications Carrier ("ETC") throughout the Territory of Guam.<sup>1</sup> In accord with such Order, GT's annual designation as an ETC was subject to the provision of annual certifications and data submissions to the PUC.

On March 31, 2016, the PUC transferred Guam Telecom's ETC Designation and its Certificates of Authority to Docomo Pacific Inc.<sup>2</sup>

It is now Docomo Pacific's obligation to file its annual USAC Certification for study area code 669005. On August 24, 2018, Docomo Pacific, Inc. ["Docomo"] petitioned the Guam Public Utilities Commission ("PUC") to issue a certification that Docomo will use federal universal service support funds for purposes in compliance with Section 254(e) of the Telecommunications Act.<sup>3</sup> Docomo seeks a finding by the PUC that Docomo will comply with §254(e), which states that universal service funds ("USF"), may be used only for the purposes designated in the Federal Act. Based upon such a finding by the PUC, Docomo will be eligible to receive support pursuant to 47 C.F.R. §§54.301, 54.305, and/or 54.307, in the first, second, third and fourth quarters of the upcoming year.<sup>4</sup>

**REQUIREMENTS AND COMPLIANCE THEREWITH**

1. The requirements for an eligible telecommunications carrier to qualify for the receipt of universal service support funds are set forth in 47 C.F.R. Part 54.<sup>5</sup>

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<sup>1</sup> PUC Order Approving Designation, GT Docket 10-01, issued November 29, 2010.

<sup>2</sup> PUC Order, Joint Application of Guam Telecom, LLC and Docomo Pacific, Inc. for Approval of the Transfer of Guam Telecom, LLC's Certificates of Authority to Docomo Pacific, Docomo Docket 16-01, at p. 11[ "...the assignment and transfer of GT's ETC designation to Docomo Pacific is approved."]

<sup>3</sup> Docomo Pacific Inc. Petition for Annual Certification from the Guam Public Utilities Commission Re: Universal Service Funds (47 C.F.R. §54.314), Docomo Docket 18-01, filed August 24, 2018.

<sup>4</sup> Id. at p. 1.

<sup>5</sup> 47 C.F.R. Part 54, Universal Service.

- (a) A carrier that receives federal universal service support must use that support only for the provision, maintenance and upgrading of facilities and services for which the support is intended.<sup>6</sup> Attached as Exhibit A to Docomo's Petition is the certification and declaration by James W. Hofman II, the Chief Legal Officer of Docomo, that Docomo will use federal high cost support funds only for the provisioning, maintenance and upgrading of facilities and services for which the support is intended, consistent with §254(e) of the Communications Act. This certification is for study area 669005.<sup>7</sup>
- (b) Pursuant to 47 C.F.R. §54.101(a), an eligible telecommunications carrier must offer each of the designated services in order to receive federal universal service support.<sup>8</sup> In particular, an ETC is required to provide the following services in order to be supported by Federal Universal Service Support mechanisms:
- (1) Voice grade access to the public switched network;
  - (2) Local Usage;
  - (3) Dual tone multi-frequency or its functional equivalent;
  - (4) Single-party service or its functional equivalent;
  - (5) Access to emergency services (such as 911 and enhanced 911);
  - (6) Access to operator services;
  - (7) Access to interexchange service;
  - (8) Access to directory assistance; and

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<sup>6</sup> 47 C.F.R. §54.7.

<sup>7</sup> Docomo Pacific Inc. Petition for Annual Certification from the Guam Public Utilities Commission Re: Universal Service Funds (47 C.F.R. §54.314), Docomo Docket 18-01, filed August 24, 2018, Exhibit A [Declaration of James W. Hofman II].

<sup>8</sup> 47 C.F.R. §54.101(a).

(9) Toll limitation for qualifying low-income consumers.<sup>9</sup>

2. Docomo has certified that it complies with its ETC Designation Order Requirements as set forth in 47 C.F.R. §54.101(a).<sup>10</sup>
- (a) Local Usage. Docomo certifies that it currently provides throughout Guam all of the services and functionality supported by the federal universal service program enumerated in 47 C.F.R. §54.101(a).<sup>11</sup>
- (b) E911 Service. Docomo has certified that it currently provides its subscribers with 911 and enhanced 911 through arrangements with the incumbent local exchange carrier, GTA, which has the sole connection to the government of Guam's PSAP in the service area.<sup>12</sup>
- (c) Certification of Service. Docomo has provided a certification that it offers all of the services designated by the FCC for support pursuant to §254(c) of the Federal Act either using its own facilities or a combination of its own facilities and resale. It further certifies that it advertises the availability of supported services through general television advertisements and on radio stations, and will continue to expand such advertising. Lifeline Assistance Service and Operator Assisted Services are included in its General Exchange Tariff No. 1.<sup>13</sup>
- (d) Notification of Inability to Provide Service to a Requesting Customer. An ETC such as Docomo is required to report "the number of requests for service from potential customers within the eligible telecommunication carrier's service areas that were unfulfilled during the past year."<sup>14</sup> Docomo certifies that, for the period of January 1, 2017 to December 31, 2017, it had no unfulfilled requests for voice service interconnected with the public phone network.<sup>15</sup>

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<sup>9</sup> Id.

<sup>10</sup> Docomo Pacific Inc. Petition for Annual Certification from the Guam Public Utilities Commission Re: Universal Service Funds (47 C.F.R. §54.314), Docomo Docket 18-01, filed August 24, 2018, at pgs. 2-4.

<sup>11</sup> Id. at p. 2.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> 47 C.F.R. §54.209(a)(3).

<sup>15</sup> Docomo Pacific Inc. Petition for Annual Certification from the Guam Public Utilities Commission Re: Universal Service Funds (47 C.F.R. §54.314), Docomo Docket 18-01, filed August 24, 2018, at pg. 2.

- (e) Filing of a Detailed Build-Out Plan Satisfying the FCC's Requirements. Docomo is required to submit a five-year plan that describes with specificity proposed improvements or upgrades in its network.<sup>16</sup> Docomo's Five Year Network Improvement Plan is set forth as Exhibit B to its Petition, filed under a claim of confidentiality with the PUC, on August 24, 2018.<sup>17</sup> The Plan provides a description of the detailed improvements to its network structure over a five year period from 2016 through 2020, which improvements are ongoing for periods of up to eight years and which Docomo has made or intends to make to its network.<sup>18</sup> It completed its fiber placement project along Route 1/ Aga Blvd. to Route 15 in Northern Guam.<sup>19</sup> In 2018 and thereafter, it will continue with various projects designed to improve its underground fiber infrastructure in major highways throughout Guam.<sup>20</sup> In 2019, Docomo will continue to place underground fiber infrastructure in both northern and southern villages of Guam.<sup>21</sup> In 2020, Docomo plans to begin connecting local residents' homes with direct fiber connections.<sup>22</sup> Since 2016, Docomo has made improvements in expanding its Network and placing its aerial network in protected, underground conduits in stages throughout the Island.<sup>23</sup>
- (f) Filing of Annual Certification under 47 C.F.R. §54.314(b). As required, Docomo has certified that all federal high-cost support provided to it in the Territory of Guam will be used only for the provision, maintenance and upgrading of facilities and services for which the support is intended. It will file with the PUC, by August 31 of each year, an annual certification verifying that high cost support will only be used for those facilities and services for which the support is intended.<sup>24</sup>

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<sup>16</sup> 47 C.F.R. §54.202(a)(1)(ii).

<sup>17</sup> Confidential Submission of Exhibit B to Petition for Annual Certification from the Guam Public Utilities Commission [Docomo's Five Year Network Improvement Plan Progress Report], Docomo Docket 18-01, filed August 24, 2018.

<sup>18</sup> Id. at pgs. 4-7.

<sup>19</sup> Id. at p. 5.

<sup>20</sup> Id. at p. 6.

<sup>21</sup> Id. at p. 7.

<sup>22</sup> Id. at p. 7.

<sup>23</sup> Id. at p. 4.

<sup>24</sup> Docomo Pacific Inc. Petition for Annual Certification from the Guam Public Utilities Commission Re: Universal Service Funds (47 C.F.R. §54.314), Docomo Docket 18-01, filed August 24, 2018, at p. 3.

- (g) Required Documentation. In accordance with the FCC ETC Designation Order<sup>25</sup> and Order Approving ETC Designation for GT<sup>26</sup>, Docomo is required to file certain documentation to maintain its ETC Designation Status and to obtain an Order from the PUC approving its annual USAC Certification.
- (1) Five Year Network Plan. As outlined above, Docomo has demonstrated substantial progress in meeting its 5-year network improvement plan.<sup>27</sup> Once it receives the universal support funds anticipated, it will more likely be able to achieve its goals in the plan.
- (2) Information on any outages. For the period of January 1, 2017, to December 31, 2017, Docomo does not have any outages to report.<sup>28</sup>
- (3) Unfulfilled Requests for Service. For the period of January 1, 2017 to December 31, 2017, Docomo did not have any unfulfilled requests for service from potential customers within Docomo's service area.<sup>29</sup>
- (4) Complaints per 1,000 lines. For the period of January 1, 2017, to December 31, 2017, Docomo is not aware of any complaints filed with the PUC or any other regulatory body.<sup>30</sup>
- (5) Service Quality Standards and Consumer Protection Rules. Docomo certifies that it is complying with applicable service quality standards and consumer protection rules.<sup>31</sup>
- (6) Ability to Function in Emergency Situations. Docomo certifies that it is able to function in emergency situations.<sup>32</sup> It currently deploys battery backup units to its network nodes in addition to co-locating

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<sup>25</sup> *In the Matter of Federal – State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC 05-46(Released March 17, 2005).*

<sup>26</sup> PUC Order Approving Designation, GT Docket 10-02, filed November 29, 2010.

<sup>27</sup> Docomo Pacific Inc. Petition for Annual Certification from the Guam Public Utilities Commission Re: Universal Service Funds (47 C.F.R. §54.314), Docomo Docket 18-01, filed August 24, 2018, at pg. 3; see also Exhibit B.

<sup>28</sup> *Id.* at p. 3.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at p. 4.

network hub equipment in commercial buildings that have back up power generators in case of power outages.<sup>33</sup>

- (7) Certification of Local Usage Plan. Docomo includes unlimited local usage in its service rate plans and certifies that it is offering a local usage plan comparable to that offered by the incumbent local exchange carrier, GTA TeleGuam.<sup>34</sup>
- (8) Equal Access Certification. Docomo acknowledges and certifies that the PUC may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access in the service area.<sup>35</sup>

### RECOMMENDATION

Docomo indicates that, during the calendar year 2017, it received \$347,676.00 from USAC's High Cost support program. Based upon the Petition and supporting exhibits submitted by Docomo, it appears that the USF received in calendar year 2017 has been used as intended. It is Counsel's opinion that there is a sufficient factual and evidentiary basis upon which the Commission can reasonably certify that the USF distributed to Docomo in calendar year 2019 will be used in accord with the purposes and requirements stated in the Federal Act and Code of Federal Regulations. Counsel recommends that Docomo's request for USAC certification be GRANTED.

Legal Counsel has not become aware of any contrary evidence which would contradict any of the above certifications by Docomo. It is Legal Counsel's belief that Docomo has satisfied all of the requirements set forth in the Code of Federal Regulations, the Docomo ETC Designation Order, and the FCC's requirements. There is no basis upon which it would be expected that USF support will not be used by Docomo for the purposes intended.

Therefore, Legal counsel recommends approval of Docomo's request for USAC certification.

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<sup>33</sup> Id.

<sup>34</sup> Id.

<sup>35</sup> Id.

PUC Counsel Report  
In the Matter of Docomo Pacific, Inc.  
USAC Certification  
Docomo Docket 18-01  
September 24 2018

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Dated this 24th day of September, 2018.

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Frederick J. Horecky  
PUC Legal Counsel