

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF:	)	GT DOCKET 11-02
	)	
GUAM TELECOM, LLC	)	PUC COUNSEL REPORT
USAC CERTIFICATION	)	
	)	
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**BACKGROUND**

On March 10, 2011, Guam Telecom, LLC (“GT”) petitioned the Guam Public Utilities Commission (“PUC”) to issue a certification that GT will use federal universal service support funds for purposes in compliance with Section 254(e) of the Telecommunications Act.<sup>1</sup> GT seeks a finding by the PUC that GT will comply with §254(e), which states that universal service funds (“USF”) may be used only for the purposes designated in the Federal Act.

On November 29, 2010, the PUC granted GT’s Petition for Designation as an Eligible Telecommunications Carrier (“ETC”) throughout the Territory of Guam.<sup>2</sup> In accord with such Order, GT’s annual designation as an ETC is subject to the provision of annual certifications and data submissions to the PUC. GT’s annual certifications and data submission, as an ETC, are not due until August 31, 2011. However, based upon certifications and documentation provided by GT in GT Docket 10-02, as well as its Petition for Certification in the instant docket, it is Counsel’s opinion that there’s a sufficient factual and evidentiary basis upon which the Commission can reasonably certify that the USF distributed to GT in calendar year 2011 will be used in accord with the purposes and requirements stated in the Federal Act and Code of Federal Regulations. Counsel recommends that GT’s request for USAC certification be GRANTED.

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<sup>1</sup> GT Petition for Certification from the Guam Public Utilities Commission Re: Universal Service Funds (47 C.F.R. §54.314), GT Docket 11-02, filed March 10, 2011.

<sup>2</sup> PUC Order Approving Designation, GT Docket 10-01, issued November 29, 2010.

## 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>3</sup>
  - (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>4</sup> Attached as Exhibit A to GT's Petition for Certification is the certification and declaration by Craig R. Thompson, the Chief Executive Officer of GT, that GT 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 Section 254(e) of the Communications Act. This certification is for study area 669005.
  - (b) Pursuant to 47 C.F.R. §54.101(e), an eligible telecommunications carrier must offer each of the list of designated services in order to receive federal universal service support.<sup>5</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; (2) Dual tone multi-frequency or its functional equivalent; (4) Single-party service or its functional equipment; (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 (9) Toll limitation for qualifying low-income consumers.
2. GT has certified that it complies with its ETC Designation Order Requirements set forth in 47 C.F.R. §54.101(a).<sup>6</sup>
  - (a) Local Usage. GT 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>7</sup>
  - (b) E911 Service. GT has certified that it currently provides its subscribers with 911 and enhanced 911 through arrangements with the incumbent local exchange

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<sup>3</sup> 47 C.F.R. Part 54, Universal Service

<sup>4</sup> 47 C.F.R. §54.7.

<sup>5</sup> 47 C.F.R. §54.101(b).

<sup>6</sup> GT Petition for Certification, GT Docket 11-02, p. 2, filed March 10, 2011.

<sup>7</sup> Id.

carrier, GTA, which has the sole connection to the government of Guam's PSAP in the service area.<sup>8</sup>

- (c) Certification of Service. GT has provided a certification that it offers all of the services designated by the FCC for support pursuant to Section 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.<sup>9</sup>
- (d) Notification of Inability to Provide Service to a Requesting Customer. An ETC such as GT 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>10</sup> GT certifies that, for the period of November 29, 2010 to February 28, 2011, it had no unfulfilled requests for voice service interconnected with the public phone network.<sup>11</sup>
- (e) Filing of a Detailed Build-Out Plan Satisfying the FCC's Requirements. GT is required to submit a five year plan that describes with specificity proposed improvements or upgrades in its network.<sup>12</sup> On October 26, 2010, GT filed its Five Year Network Improvement Plan with the PUC.<sup>13</sup>

In its Order Approving Designation, GT Docket 10-02, issued November 29, 2010, the PUC recognized that GT has submitted a five year plan that describes proposed improvements or upgrades to its network and the estimated amount of investment for each project that is funded by high-cost support.<sup>14</sup> GT's Petition states its intent to make significant investments, to deploy the most current technology, and to develop new and exciting products for Guam's consumers once it starts receiving federal high cost support funds.<sup>15</sup>

- (f) Filing of Annual Certification under 47 C.F.R. §54.314(b). As required, GT has certified that all federal high-cost support provided to it in the Territory of Guam

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<sup>8</sup> GT Petition Certification, GT Docket 11-02, p. 2, filed March 10, 2011.

<sup>9</sup> Id. at p. 2.

<sup>10</sup> 47 C.F.R. §54.209(a)(3).

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

<sup>12</sup> 47 C.F.R. §54.202(a)(6)(ii).

<sup>13</sup> Confidential Submission of Exhibit 3 to Petition for Designation as an Eligible Telecommunications Carrier, GT Docket 10-02, filed October 26, 2010.

<sup>14</sup> PUC Order Approving Designation, GT Docket 10-02, at p. 5, issued November 29, 2010.

<sup>15</sup> GT Petition for Certification, GT Docket 11-02, p. 3, filed March 10, 2011.

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>16</sup>

(g) Required Documentation. In accordance with the FCC ETC Designation Order<sup>17</sup> and Order Approving ETC Designation for GT<sup>18</sup>, GT is required to file certain documentation to maintain its ETC Designation Status and to obtain an order from the PUC approving its USAC Certification.

(1) Five Year Network Plan. GT indicates that it will move forward with carrying out its 5-year network improvement plan and will provide a more detailed update in its annual filing due later this year.<sup>19</sup>

(2) Information on any outages. GT reports that, for the period of November 29, 2010 to February 28, 2011, it has not had any outages lasting at least 30 minutes potentially affecting either at least ten percent of the end users served or 911 facilities.

(3) Unfulfilled Requests for Service. For the period of November 29, 2010 to February 28, 2011, GT has not had any unfulfilled requests for service from potential customers within GT's service area.<sup>20</sup>

(4) Complaints per 1,000 lines. GT is currently compiling this information and will provide the number of complaints per 1,000 lines in its 2011 annual filing.<sup>21</sup>

(5) Service Quality Standards and Consumer Protection Rules. GT certifies that it is complying with applicable service quality standards and consumer protection rules.<sup>22</sup>

(6) Ability to Function in Emergency Situations. GT certifies that it is able to function in emergency situations.<sup>23</sup>

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<sup>16</sup> Id. at p. 3.

<sup>17</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>18</sup> PUC Order Approving Designation, GT Docket 10-02, filed November 29, 2010.

<sup>19</sup> GT Petition for Certification, GT Docket 11-02, p. 3, filed March 10, 2011.

<sup>20</sup> Id. at p. 3.

<sup>21</sup> Id.

<sup>22</sup> Id. at p. 4.

(7) Certification of Local Usage Plan. GT 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 Telecom.<sup>24</sup>

(8) Equal Access Certification. GT 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.

### **RECOMMENDATION**

GT has not yet received Universal Support Funds; if the PUC files a USAC certification on behalf of GT on or before April 1, 2011, GT will be eligible to receive support in the third and fourth quarters of this year.<sup>25</sup> Legal Counsel has not become aware of any contrary evidence which would contradict any of the above certifications by GT. It is Legal Counsel's belief that GT has satisfied all of the requirements set forth in the Code of Federal Regulations, the GT ETC Designation Order, and the FCC's requirements, except for those informational matters for which GT will respond by its annual certification deadline of August 31, 2011. There is no basis upon which it would be expected that USF support will not be used by GT for the purposes intended. Therefore, Legal counsel recommends approval of GT's request for USAC certification.

Dated this 18<sup>th</sup> day of March, 2011.

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Frederick J. Horecky  
PUC Legal Counsel

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<sup>23</sup> Id.

<sup>24</sup> Id.

<sup>25</sup> 47 C.F.R. §54.314(d)(3).