

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

IN RE: )  
PDS' FORMAL COMPLAINT ) PDS DOCKET 12-01  
REGARDING GTA'S REJECTION OF ) **ORDER**  
DARK FIBER IOF ORDER )  
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**INTRODUCTION**

1. This matter comes before the Guam Public Utilities Commission ("PUC") upon the STIPULATION TO DISMISS DOCKET filed herein on July 27, 2012 by Pacific Data Systems ("PDS") and TeleGuam Holdings LLC ("GTA").<sup>1</sup>

**BACKGROUND**

2. In the STIPULATION, PDS and GTA agreed to dismiss the Complaint; however, the parties indicated therein that they had been unable to agree upon payment of the Commission's costs in this docket. GTA took the position that PDS should pay the costs in full; PDS' position was that the cost should be evenly split. The parties requested that this sole issue be considered by the Commission.<sup>2</sup>
3. The PUC, in its July 30, 2012 Order in this Docket, referred the issue of the proper allocation of Docket costs in this matter to the Administrative Law Judge.<sup>3</sup>

**DETERMINATIONS**

4. The Administrative Law Judge [ALJ] herein issued his Report dated August 18, 2012.<sup>4</sup>
5. The PUC adopts and approves said Report, including the findings, conclusions, and recommendations therein.
6. In his ALJ Report issued concerning the Motion to Disqualify, ALJ Mair recommended that "the PUC order PDS to pay the PUC's regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the

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<sup>1</sup> STIPULATION TO DISMISS DOCKET, PDS Docket 12-01, filed July 27, 2012; PUC Order, PDS Docket 12-01, dated July 30, 2012.

<sup>2</sup> Id.

<sup>3</sup> PUC Order, PDS Docket 12-01, dated July 30, 2012.

<sup>4</sup> ALJ Report, PDS Docket 12-01, dated August 18, 2012.

fees and expenses associated with PUC's consideration of the Motion to Disqualify."<sup>5</sup>

9. The PUC adopts the recommendation of ALJ Mair, which was further supported by ALJ Horecky that PDS should bear all PUC costs associated with the Motion to Disqualify.
10. In this case, PDS chose to bring a motion to disqualify. GTA in no manner initiated the motion or bore any responsibility for its filing. GTA only responded to the motion after ALJ Mair required PDS to serve GTA with the motion to disqualify.
11. In the PUC Rules Governing Regulatory Fees for Telecommunications Companies regulatory expenses in such proceedings, Rule 1.b.iii authorizes the PUC to allocate such costs and expenses "against such party or parties as the Commission deems appropriate."
12. In addition to the PUC costs related to PDS' Motion to Disqualify, PUC costs were incurred relative to ALJ Horecky's review of documents herein, conduct of a pre-hearing conference, and the preparation of Scheduling Orders etc.
13. For the PUC costs related to ALJ Horecky's substantive work on the issues in this Docket, ALJ Horecky recommends that such costs be shared equally by the parties.
14. PDS' complaint was a proper subject for resolution under the Commission's Interconnection Implementation Rules. The IIRs grant the PUC broad authority to resolve disputed issues arising under Interconnection Agreements of the parties.<sup>6</sup>
15. The expenses incurred by the PUC relating to ALJ Horecky' substantive work in this Docket herein should be equally shared by both GTA and PDS.

### **ORDERING PROVISIONS**

After careful review of the record herein, and the ALJ Report Regarding Allocation of Costs, for good cause shown, on motion duly made, seconded unanimously carried by the undersigned Commissioners, the Guam Public Utilities Commission hereby ORDERS that:

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<sup>5</sup>ALJ Report, PDS Docket 12-01, issued June 11, 2012, at p. 12.

<sup>6</sup> Interconnection Implementation Rules, Docket 05-01, adopted August 13, 2007, Rule 4.

ORDER  
PDS' Formal Complaint  
Re: GTA's Rejection of  
Dark Fiber IOF Order  
PDS Docket 12-01  
August 27, 2012

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1. The PUC adopts and approves the ALJ Report filed herein.
2. PDS shall pay the amount of \$6,744.81 for costs incurred relative to ALJ Mair's services on the Motion to Disqualify.
3. PDS and GTA shall pay, in equal shares, the costs relating to ALJ Horecky's services. PDS shall pay the amount of \$936.25 and GTA shall pay the amount of \$936.25.
4. PDS is required to pay costs incurred in the total amount of \$7,681.06.
5. GTA is required to pay costs incurred in the total amount of \$936.25.
6. PDS and GTA, in the amounts previously ordered, shall pay for the PUC's regulatory fees and expenses incurred in this Docket, including, without limitation, consulting and counsel fees and expenses. Assessments of the PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §12002(b) and 12024(b), 12104, 12103, the Rules Governing Regulatory fees for Telecommunications Companies, and Rule 40 of the Rules of Practice and Procedure before the PUC.

Dated this 27th day of August, 2012.

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Jeffrey C. Johnson  
Chairman

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Joseph M. McDonald  
Commissioner

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Filomena M. Cantoria  
Commissioner

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Rowena E. Perez  
Commissioner

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Michael A. Pangelinan  
Commissioner

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Peter Montinola  
Commissioner