

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

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

This matter comes before the Guam Public Utilities Commission ["PUC"] on June 26, 2012. Pacific Data Systems ["PDS"] appeared through its officers John Day and Bob Maloney; TeleGuam Holdings LLC ["GTA"] was represented by Eric Votaw and its Legal Counsel Serge Quenga. Having considered the representations of the parties, and their agreements as to the scheduling of matters herein, the Administrative Law Judge hereby orders the following scheduling of discovery and hearing dates in this matter:

1. By 12:00 p.m. on July 2, 2012, the parties will advise the ALJ if there has been any settlement of this matter.
2. If there has been no settlement, the following dates are hereby scheduled:
  - a. Any Depositions which the parties intend to take will be completed by July 16, 2012.
  - b. PDS will issue any written discovery it seeks to GTA on or before July 2, 2012.
  - c. GTA will respond to written discover provided by PDS on or before July 13, 2012.
  - d. On or before 12:00 p.m. on July 18, 2012, the parties will file with the Commission, and serve upon each other, a list of witnesses to be called at the hearing on the merits and Exhibits to be presented in evidence.
  - e. The hearing on the merits shall be held at the PUC Conference Room, 2<sup>nd</sup> Floor GCIC Bldg., on July 23, 2012, at 9:00 a.m.
  - f. The parties shall submit their post hearing briefs no later than 12:00 p.m. on July 24, 2012.

3. In its Complaint, and at the scheduling hearing, PDS suggested that the ALJ should do an "interim ruling" ordering GTA to process and install the PDS Order for Dark Fiber IOF between the GTA Gibson and GIAASWC including the required interconnection at GIAA to the PDS facilities at room TC-251 and any other 2/4 wire arrangements that PDS may require to access GTA copper UMEs. GTA took the position that provisions of the ICC, as well as applicable law, duly indicate that GTA has no duty to provide the requested dark fiber unless PDS co-locates the GTAGIAASWC.
4. The ALJ notes that, under Rule 4(j)(2) an interim ruling "shall have no precedential impact." However, for the ALJ to order the relief sought by PDS at present, such "interim" order would essentially require GTA to interconnect with PDS' facilities and other system connections between the GIAA and GTA Gibson facilities. Such "interim" ruling would in effect become a ruling on the merits. Once GTA constructs such facilities and provides the dark fiber to PDS, GTA would have no further opportunity to contest this matter.
5. The ALJ has attempted to set an expedited schedule in this matter whereby all issues will be resolved within approximately three weeks. Given the relatively short period of time for resolution of the issues, the ALJ does not feel it appropriate to issue an interim ruling which would, in effect, constitute a determination on the merits. However, PDS has raised significant issues as to whether the refusal of GTA to provide dark fiber to PDS at GIAA effects PDS' ability to provide uninterrupted service to its customers or precludes the provisioning of any service, functionality, or network element.
6. For the foregoing reasons, the ALJ will forgo any ruling at the present time for relief until conducting the hearing on the merits.

SO ORDERED this 2<sup>nd</sup> day of July, 2012.

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FREDERICK J. HORECKY  
Administrative Law Judge