

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

**In the Matter of:** )  
 ) **CP Docket 11-01**  
 )  
**Choice Phone LLC’s Request for** )  
**Determination on Jurisdiction to** )  
**Designate Eligible Telecommunications** )  
**Carrier Status** )  
\_\_\_\_\_ )

**ORDER DECLINING TO ASSERT JURISDICTION**

**INTRODUCTION**

1. By letter dated July 27, 2011, Choice Phone LLC, dba iConnect (“Choice Phone”) has requested that the PUC find either that it (a) lacks jurisdiction, or (b) declines to assert jurisdiction, to act upon a petition for ETC designation so that Choice Phone may submit a petition before the FCC.<sup>1</sup>
2. Choice Phone LLC is a commercial mobile radio service (“CMRS”) licensee operating and serving customers in both the Territory of Guam (“Guam”) and the Commonwealth of the Northern Mariana Islands (“CNMI”).<sup>2</sup>

**BACKGROUND**

3. On September 9, 2011, the Administrative Law Judge issued his Report herein. Therein, he addressed in detail the request of Choice Phone LLC dba iConnect that the PUC confirm that it lacks jurisdiction, or declines to assert jurisdiction, to act upon a petition for designation as an eligible telecommunications carrier [“ETC”].

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<sup>1</sup> Letter from Richard C. Yu, Managing Member, Choice Phone LLC, to PUC Administrator Lou Palomo, Re: Choice Phone LLC dba iConnect Request for Determination on Jurisdiction to Designate Eligible Telecommunications Carrier Status, CP Docket 11-01, dated July 27, 2011 at p. 1.

<sup>2</sup> Letter from Richard C. Yu, Managing Member, Choice Phone LLC, to PUC Administrator Lou Palomo, Re: Choice Phone LLC dba iConnect Request for Determination on Jurisdiction to Designate Eligible Telecommunications Carrier Status, CP Docket 11-01, dated July 27, 2011 at p. 1.

4. Choice Phone intends to file a single petition for designation as an ETC, covering both Guam and the Commonwealth of the Northern Mariana Islands [“CNMI”] before the Federal Communications Commission (“FCC”).<sup>3</sup>
5. Under Section 214(e)(6) of the Federal Communications Act of 1934, as amended, the FCC may make an ETC designation with respect to a telecommunications carrier that is “not subject to the jurisdiction of a state commission.”<sup>4</sup>
6. An applicant for ETC designation with the FCC, such as Choice Phone, must demonstrate that it is not subject to the jurisdiction of a state PUC before the FCC may consider its application for ETC designation.<sup>5</sup> To satisfy this requirement, the applicant must provide the FCC with an “affirmative statement” from the state PUC that it lacks or declines to assert jurisdiction to undertake the ETC designation.<sup>6</sup>

#### **DETERMINATIONS**

7. The recommendation of the ALJ concerning Choice Phone’s Request for Determination on Jurisdiction to Designate Eligible Telecommunications Carrier Status should be adopted.
8. In appropriate cases, the PUC may assert jurisdiction over a petition filed by a CMRS provider for ETC designation. It does not necessarily lack jurisdiction over a CMRS provider.
9. However, in light of the specific circumstances set forth in Choice Phone’s Request, Choice Phone LLC should be authorized to file a single petition for ETC designation before the FCC rather than two separate requests in both Guam and the CNMI.
10. The PUC should decline to assert jurisdiction over Choice Phone’s Petition for ETC designation.

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<sup>3</sup> Letter from Richard C. Yu, Managing Member, Choice Phone LLC, to PUC Administrator Lou Palomo, Re: Choice Phone LLC dba iConnect Request for Determination on Jurisdiction to Designate Eligible Telecommunications Carrier Status, CP Docket 11-01, dated July 27, 2011 at p. 1.

<sup>4</sup> 47 U.S.C. §214(e)(6).

<sup>5</sup> Letter from Richard C. Yu, Managing Member, Choice Phone LLC, to PUC Administrator Lou Palomo, Re: Choice Phone LLC dba iConnect Request for Determination on Jurisdiction to Designate Eligible Telecommunications Carrier Status, CP Docket 11-01, dated July 27, 2011 at p. 1.

<sup>6</sup> Id. at p. 1, fn 4.

11. The Chairman should be authorized to issue the letter attached as Exhibit "A" to the ALJ Report.
12. Declination of jurisdiction by the PUC should be subject to performance of the conditions by Choice Phone LLC as set forth in Exhibit "A" to the ALJ Report.

### **ORDERING PROVISIONS**

Upon consideration of the record herein, the Request of Choice Phone LLC for determination on jurisdiction to designate Eligible Telecommunications Carrier Status, and the ALJ Report, for good cause shown and on motion duly made, seconded and carried by the affirmative vote of the undersigned commissioners, the Commission, by and through its Chairman, hereby ORDERS that:

1. The recommendation of the ALJ concerning Choice Phone's Request for Determination on Jurisdiction to Designate Eligible Telecommunications Carrier Status is hereby adopted.
2. In appropriate cases, the PUC may assert jurisdiction over a petition filed by a CMRS provider for ETC designation. It does not necessarily lack jurisdiction over a CMRS provider.
3. However, in light of the specific circumstances set forth in Choice Phone's Request, Choice Phone LLC should be authorized to file a single petition for ETC designation before the FCC rather than two separate requests in both Guam and the CNMI.
4. The PUC will decline to assert jurisdiction to act upon a petition for ETC designation so that Choice Phone may submit a single petition before the FCC for Guam and the CNMI.
5. A letter, in the form attached as Exhibit "A" to the ALJ Report, informing Choice Phone LLC that the PUC declines to assert jurisdiction to act upon Choice Phone's Petition for ETC designation, shall be issued.
6. Choice Phone LLC shall comply with the conditions set forth in the letter attached to the ALJ Report as Exhibit "A".
7. Choice Phone LLC is ordered to pay for the PUC's regulatory fees and expenses incurred in this Docket, including, without limitations, consulting and counsel fees

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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 19<sup>th</sup> day of September 2011.

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Jeffrey C. Johnson  
Chairman