

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

In the Matter of:

**PTI PACIFICA INC.
USAC CERTIFICATION**

PTI Docket 12-01

PUC LEGAL COUNSEL REPORT

BACKGROUND

On August 7, 2012, PTI Pacifica Inc. (“PTI”) petitioned the Guam Public Utilities Commission (“PUC”) to issue a certification that PTI will use federal universal service support funds for purposes in compliance with Section 254(e) of the Telecommunications Act.¹ PTI seeks a finding by the PUC that it will comply with §254(e), which states that universal service funds (“USF”), may be used only for the purposes designated in the Federal Act.

PTI receives monies from interstate USF that are designated to support local services, build needed infrastructure and improve service quality. Each year the PUC is required to certify (by September 30) to the Federal Communications Commission (“FCC”) and the Universal Service Administrative Company (“USAC”) that universal service funds will be used only for the purposes designated in the Federal Act. Absent such a Certification by PUC, PTI, as an “Eligible Telecommunications Carrier” (“ETC”), would be denied funds for each quarter of the year that certification is delayed.

On January 7, 2008, the PUC granted PTI’s Petition for Designation as an ETC throughout the Territory of Guam.² In accord with such Order, PTI’s annual designation as an ETC is subject to its provision of annual certifications and data submissions to the PUC. PUC requires such information so that it can ensure that funds received by PTI will be expended in accordance with the requirements of the Telecommunications Act. Based upon the certifications and documentation provided by PTI in its 2012 Annual Compliance Filing, 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 PTI in calendar year 2012 will be used in accord with the purposes and requirements designated in the Federal Act. Counsel recommends that PTI’s request for USAC certification be GRANTED with respect to wireless services. A draft letter to the FCC is submitted herewith.

¹ PTI 2012 Annual Compliance Filing, PTI Docket 12-01, filed August 7, 2012.

² PUC Order Approving Designation, Docket 08-05, issued January 7, 2008.

RECENT DEVELOPMENTS IN PTI OPERATION

On May 2, 2008, PTI acquired the telecommunications assets of IT&E, a carrier that had been certified as an ETC by the FCC. This transaction included all of IT&E's wireless and wire line operations, including its CLEC operations. In addition, on May 28, 2009, the PUC issued an ORDER approving the assignment and transfer of the Certificate of Authority of IT&E to PTI.³

In 2009, PTI decided to retain its official corporate name but to use IT&E as a trade name on both Guam and in the CNMI so that subscribers on all four of the islands PTI serves realize they are being provided service by the same company.⁴

This is the fourth annual USAC filing by PTI. In 2009, 2010, and 2011, the PUC Chairman, on behalf of the PUC, issued USAC Certifications that PTI Pacifica Inc. would 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.⁵

Along with its Filing, PTI is required to include a detailed build-out plan satisfying the FCC's requirements as part of its annual submission (Five Year Quality Service Improvement Plan). PTI has filed an updated build out plan, in satisfaction of the FCC requirements.⁶ The plan provides site by site descriptions of the improvements that have been made and those planned in the next five years. In compliance with the requirements of 47 C.F.R. §54.209 (a) (1), PTI has filed spreadsheets indicating detailed expenditures on a site by site basis by wire centers.⁷ The spreadsheet indicates that PTI has invested funds in excess of payments received from the Universal Support Fund in improving the service quality of its network to provide the supported services in Guam. It pledges that it will continue to do so.⁸

During the present reporting period, PTI made substantial improvements to existing sites. For 2012-2013, PTI plans to complete LTE installations at various sites, relocate sites, and to make various improvements to different sites.⁹

³ PUC Order Approving Assignment and Transfer of IT&E Overseas Inc. Certificate of Authority to PTI Pacifica Inc., issued May 28, 2009.

⁴ PTI 2011 Annual Compliance Filing, PTI Docket 11-01, Exhibit 3 [Five Year Service Quality Improvement Plan, Guam, August 2011], filed August 19, 2011.

⁵ PUC "Use" Certification, CC Docket 96-45, dated September 15, 2009; PUC "Use" Certification, CC Docket 96-45, dated September 15, 2010; PUC "Use" Certification, CC Docket 96-45, dated September 19, 2011.

⁶ PTI 2012 Annual Compliance Filing, PTI Docket 12-01, Exhibit 3; Exhibit 3 is filed under a Claim of Confidentiality pursuant to the PUC Rules governing Telecommunications Companies.

⁷ Id.

⁸ Id.

⁹ Id. at p. 3.

REQUIREMENTS

The PTI ETC Designation Order contains the following requirements:

- (a) PTI must comply with any local usage requirements prescribed by the FCC;
- (b) PTI must comply with any FCC requirements concerning E911 services when implemented in the Territory of Guam;
- (c) PTI must certify to the Commission that PTI (i) 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 and (ii) advertises the availability of supported services and related charges using media of general distribution;
- (d) PTI must notify the Commission within thirty (30) days of any determination that it cannot provide service to a requesting customer in accordance with the FCC's requirements;
- (e) PTI must file a detailed build-out plan satisfying the FCC's requirements;
- (f) PTI must file with the Commission by August 31 of each year, beginning 2008, an annual certification in substantially the form required by Section 314(b) and Section 54.314(c) of the FCC's rules to verify that PTI will use federal high-cost support only for those facilities and services for which the support is intended;
- (g) PTI must annually submit to the Commission by August 31 of each year the following records and documentation: (i) PTI's progress towards meeting its build-out plans; (ii) information on any outage lasting at least 30 minutes and potentially affecting either at least 10 percent of the end users served or 911
- (h) facilities; (iii) the number of requests for service from potential customers within PTI's service area that were unfulfilled for the past year; (iv) the
- (i) number of complaints per 1,000 handsets; (v) PTI's compliance with the CTIA Consumer Code; (vi) PTI's certification that it is able to function in emergency situations; (vii) PTI's certification that it is offering a local usage plan comparable to that offered by the incumbent local exchange carrier; and (viii) PTI's certification that it acknowledges that the Commission 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.

- (j) PTI must promptly submit to the Commission any additional information or reports that the Commission may reasonably request from time to time.

COMPLIANCE WITH REQUIREMENTS

- (a) *Local usage requirements-*

PTI certified that it does offer the core services identified for USF.¹⁰

- (b) *E911 service-*

In its application for ETC designation, PTI indicated that it would support 911 service and E911 once implemented by the Government of Guam. PTI continues to support 911 services. PTI continues to provide 911 services by forwarding such calls to the applicable government agencies. If and when E911 is adopted in Guam, PTI will comply with such requirements.

- (c) *Certification of services-*

PTI 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 certified that it advertises the availability of supported services in the media of general distribution.¹¹

- (d) *Notification of inability to provide service to a requesting customer-*

PTI reports that for the period of July, 2011, through June 30, 2012, it had no unfulfilled requests for voice service interconnected with the public telephone network.¹²

¹⁰ PTI Compliance Filing, PTI Docket 12-01, Exhibit 1 [Declaration of Steven Carrara, General Counsel].

¹¹ Id.

¹² PTI Compliance Filing, PTI Docket 12-01, p. 3.

(e) *Filing of a detailed build-out plan satisfying the FCC's requirements –*

PTI has filed a detailed Five-year service quality improvement plan which appears to be in compliance with applicable requirements [see further discussion with regard to paragraph (g)(i) below].

(f) *Filing of annual certification under Section 54.314(b)–*

PTI 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.¹³

(g) *Documentation–*

(i) PTI's progress towards meeting its build-out plans – PTI has made progress in 2011-2012 in implementing its full 3G microwave back haul network for its cellular sites; it has implemented new hops. It has installed new 4G LTE base stations. For 2012-2013, PTI plans to complete LTE installations at sites, and to make improvements to its GSM switch to support broadband data roaming services. PTI has given a commitment to continue its efforts to upgrade the capabilities of its supported networks in the future. It continues to appear that PTI has demonstrated substantial progress in achieving the service improvements envisioned by the Federal USF programs.¹⁴

(ii) Information on any outages – PTI reported that it had two brief interruptions of service as the result of microwave interference and fiber connection in October and December 2011 respectively. These disruptions did last at least 30 minutes; however, it is unclear whether either event impacted at least 10% of end users served or 911 facilities. These outages are reported out of an abundance of caution.¹⁵

(iii) Unfulfilled requests for service – - PTI indicates that it had no unfulfilled requests for voice service interconnected with the public telephone network.¹⁶

(iv) Complaints per 1,000 handsets - PTI reports that for the period of July, 2011, through June 30, 2012, it has received 40.60 complaints per 1,000 handsets.¹⁷

¹³ PTI Compliance Filing, PTI Docket 12-01, Exhibit 2 [Declaration of Steven Carrara, General Counsel].

¹⁴ PTI Compliance Filing, PTI Docket 12-01, Exhibit 3, pgs. 1-3.

¹⁵ PTI Compliance Filing, PTI Docket 12-01, pgs. 2-3.

¹⁶ Id. at p.3.

(v) Compliance with the CTIA Consumer Code - PTI certifies that it is in compliance with the CTIA Consumer Code during the reporting period.¹⁸

(vi) Ability to function in emergency situations - PTI certified that it has the ability to remain functional in emergency situations. There is a reasonable amount of backup power to ensure functionality without an external power source. PTI indicated that it can reroute traffic around damaged facilities and is capable of managing traffic spikes resulting from emergency situations.¹⁹

(vii) Certification of local usage plan - PTI presently offers an unlimited usage local calling plan available to all customers. It currently offers various local usage plans that provide consumer value that are reasonably comparable to the plans offered by the ILEC, GTA Telecom. It is continuing to assess its rate plans in Guam, and will report to the Commission at least annually on its offerings, consistent with its ETC reporting requirement.²⁰

(viii) Equal access certification - PTI has certified that the PUC may require it to provide it equal access to long distance carriers in the event that no other ETC is providing equal access in the service area.²¹

(h) *Prompt submission of information or reports-*

PTI must promptly submit to the Commission any additional information or reports that the Commission may reasonably request from time to time. PTI has been responsive in providing information requested by PUC Legal Counsel.

PTI indicates that, for the period of July 2011 through March 2012, it received \$2,508,216 in USF. It further states that these funds have all been used to improve the service quality of PTI's network in Guam.²² Legal Counsel has not become aware of any contrary evidence which would contradict the above certifications by PTI. It is Legal Counsel's belief that PTI has satisfied all of the criteria set forth in the PTI ETC Designation Order and the FCC's requirements. PTI has already made major and substantial progress on its network and service improvement plans. There is no basis upon which it would be expected that future

¹⁷ Id.

¹⁸ Id.

¹⁹ Id. at pgs.3-4.

²⁰ Id. at pgs.4-5.

²¹ Id. at p.5.

²² PTI Five Year Service Quality Improvement Plan at p.1.

USF support will not be used for the purposes intended. Therefore, Legal Counsel recommends approval of PTI's request for USAC certification.

Dated this 23rd day of August, 2012.

Frederick J. Horecky
PUC Legal Counsel