BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:	)	**PDS DOCKET 14-01**
PACIFIC DATA SYSTEM INC.'S PETITION FOR ARBRITRATION OF INTERCONNECTION AGREEMENT	)	**ALJ REPORT**

I. INTRODUCTION

This is matter comes before the Guam Public Utilities Commission ["PUC"] upon the Application of Teleguam Holdings LLC ["GTA"] for "Reopening and Rehearing"[1]; notwithstanding the fact that the PUC issued its **final** ARBITRATION ORDER on April 13, 2017[2], GTA essentially seeks to vacate the Order, present new evidence in continuing proceedings, and reargue the major findings and conclusions *ab initio*. For the reasons set forth herein, the Administrative Law Judge ["ALJ"] recommends that the PUC reject GTA's Application for Reopening and Rehearing.

II. THERE IS NO LEGAL BASIS TO "REOPEN" THIS PROCEEDING

GTA requests that this proceeding be "reopened." However, an application for "reopening a hearing" can only be made **"prior to Decision or Order made by the Commission."**[3]

III. GTA FAILS TO STATE ANY PROPER BASIS FOR "REHEARING"

A. Final Order

---

[1] GTA Application for Reopening and Rehearing, PDS Docket 14-01, dated April 24, 2017.

[2] PUC Arbitration Order, PDS Docket 14-01, dated April 13, 2017, a true and correct copy of which is attached hereto as Exhibit "1".

[3] Rule 36 of the Rules for Practice and Procedure of the Guam Public Utilities Commission.

The Arbitration Order of the PUC dated April 13, 2017, is final. As the PUC is aware, from its inception this proceeding has been an arbitration conducted pursuant to Rule 4 of the Interconnection Implementation Rules.[4] GTA and PDS voluntarily agreed that certain disputes, such as the one in this case involving the establishment of UNE rates for 10 loops and 2 sub-loops, would be governed by the arbitration procedure set forth in Rule 4(h). In this proceeding, the PUC is required to "issue a final order accepting or rejecting, in whole or in part, the recommendation of the arbitrator within ten (10) days after the recommendation has been filed." (emphasis added). The April 13, 2017 Arbitration Order of the Commission is a "**final**" Order.

The purpose of arbitration is to end the controversy and avoid future litigation. Board of Education of Toledo City School District v. Toledo Federation of Teachers, AFT Local 250, 2016 WL 6835493 (Ct. App. of Ohio 2016). Arbitration decisions are generally deemed final by the courts, when arbitration is a decision-making process agreed to by the parties. DeLucca v. National Education Association of Rhode Island, 102 F.Supp.3d 408, 415 (D. Rhode Island, May 5, 2015). When a board of arbitrators issues its award and disposes of the claims before it, its decision is final unless and until it is appealed. Hairston v. Allen, 153 A.3d 999, 1002(Superior Ct. of Pennsylvania, 2017).

B. Review of ALJ "Recommendations" no Basis for Rehearing

[4] Interconnection Rules in Connection with Interconnection Agreements between GTA and Competing Local Exchange Carriers and CMRS Operators, Docket 05-1, adopted August 13, 2007.

GTA indicates that the purpose of its motion is "to formally challenge the recommendations of the ALJ" as there is no formal procedure to do so in the rules. A motion for rehearing is not appropriate to challenge ALJ Recommendations. The ALJ recommendations are just that—"recommendations." They are required to be filed with the Commission.[5] However, in this case, the PUC issued its final Arbitration Decision/Award. GTA's challenge of ALJ Recommendations has no meaning or purpose, as there is now a final Arbitration Order of the PUC. The recommendations of the ALJ were incorporated in the final Arbitration Order of the PUC herein and now constitute the PUC Findings of Fact and Conclusions of Law.[6]

C. Impermissible Attempt to Reargue Matters previously raised –a Second or even Third Bite at the Apple

GTA's application for Rehearing is no more than an attempt to reargue **for a third time** issues that were previously argued before both the ALJ and the PUC. Nearly all of the arguments raised by GTA were fully presented to the Arbitrator, the ALJ, during the arbitration proceedings. The same arguments were made to the PUC in its hearing on April 13, 2017. At that time, GTA's consultant Douglas Meredith raised each and every one of the same arguments that GTA again seeks to present to the Commission in this Application for Rehearing.

As proof that the current Application is an attempt to reargue matters already presented to the PUC, GTA has attached to its Application "a true and correct copy of

[5] Rule 4(h)(9) of the Interconnection Implementation Rules.

[6] PUC Arbitration Order, PDS Docket 14-01, dated April 13, 2017, at p. 5.

the presentation made by GTA at the PUC special meeting of April 13, 2017..."[7] In its Application, GTA again incorporates the very same arguments that it already presented to the PUC on April 13, 2017. With regard to reargument or rehearing, parties are not supposed to use motions or applications "as an opportunity to have a second bite of the apple." Countrywide Home Loans Servicing, L.P. v. Peterson, 171 Conn. App. 842, 849 (App. Ct. Conn. 2016). A motion to reargue is not to be used as an opportunity to have a second bite of the apple. Meridian Partners LLC v. Dragone Classic Motorcars, Inc., 171 Conn.App.355, 364 (App. Ct. Conn. 2017).

As the PUC can readily ascertain from a review of GTA's Application, every argument that it raises therein is essentially the same argument set forth in Attachment 1 to its Application, which was the GTA Presentation for PUC Special Meeting April 13, 2017. Most of the same arguments were previously raised before the ALJ. The PUC already considered all of the arguments which GTA raises in its Application, but determined that it would issue the Final Arbitration Order on April 13, 2017. Reargument or rehearing is not designed to afford the unsuccessful party successive opportunities to reargue issues previously decided. Setters v. A1 Properties and Developments (USA) Corp., 139 A.D.3d 492 (Supreme Court, App. Div., New York 2016).

D. Full and Fair Opportunity for GTA to raise all Issues, including TDM, before the ALJ

[7] See Attachment 1 to GTA Application for Reopening and Rehearing

Apparently GTA now claims that inputs decided by the ALJ, such as the use of "Time Division Multiplexing" (TDM), were not at issue during the hearing on the merits and therefore were not properly argued, considered and verified. GTA further claims that it was "unable to introduce evidence supporting its position." The primary issue during the hearing was which network model should be adopted by the PUC. Each party presented its model and what inputs should be included in a model satisfying the TELRIC requirements.

However, the five month period after the initial hearing gave both parties a full opportunity to present whatever additional inputs to the model they desired. In no manner was GTA ever "prevented" from introducing any evidence it felt appropriate. To be sure, from January 2017 until the case was decided, GTA introduced a substantial number of evidentiary materials into the record.

GTA was fully advised by the ALJ Recommendations provided to GTA on January 12, 2017, that TDM was an item of equipment required in the provision of UNE loops. At page 18 of the ALJ Recommendations, there is a reference to "other missing equipment in the PDS proposed model." There the ALJ/PUC consultants indicate GTA's claim that the PDS model "has missing components in the REC location to convert the optical signal to a **TDM** electrical signal to hand off to PDS collocated equipment." For the period of January 12, 2017 until April 13, 2017 a period of three months, GTA had every opportunity to submit whatever information it desired to the ALJ, concerning the use of, or costs imposed by TDM equipment.

GTA claims that the PUC consultants somehow prevented GTA from submitting information concerning TDM. Such a claim is specious. "Consultants" have no authority to prevent anyone from introducing information or evidence into a hearing. The ALJ, and not Consultants, control and authorize what information may be submitted. In fact, on numerous occasions, the ALJ made it expressly clear that GTA had a full opportunity to present any additional equipment costs to the ALJ and that such costs would be considered in the final recommendations to the PUC. In the "Order Re: Reconciliation of the ALJ Recommendations", dated January 23, 2017, the ALJ expressly indicated to the Parties that "GTA must present its position concerning **what additional inputs to the model, if any, are required,** by January 25, 2017.

Furthermore, at the hearing with the parties on January 27, 2017, the ALJ again made it explicitly clear that he was concerned about missing equipment and again indicated that GTA should submit missing equipment costs. However, the time period and opportunity for GTA to present information or evidence concerning "missing equipment" was extended considerably. For a period of more than two months thereafter, GTA continued to submit an extensive number of briefs and comments to the ALJ which included evidence concerning the necessary model inputs. GTA itself presented an extensive number of additional equipment costs.

At any time between January 13, 2017, and April 13, 2017, GTA could have submitted to the ALJ any material it wished concerning the cost of TDM and what additional inputs were required to the model. In its filing dated February 9, 2017, GTA included complaints concerning the use of TDM technology and claims that it did not

have property records for such technology etc. However, it did identify inputs for TDM DLC which had previously been used by the FCC in its Hybrid Cost Proxy Model platform. GTA was able to use such inputs to calculate a per line investment adder for DLC equipment at the nodes and RECs for loops equal to or greater than 12,000 feet.

Even at the hearing on April 13, 2017, GTA submitted new arguments and materials in its presentation to the PUC that had not been presented to the ALJ. However, after more than four months opportunity to gather any evidence or information concerning the alleged costs of TDM, it failed to present any information to the PUC as to what the alleged costs were. GTA was able to find TDM inputs that could be used. If it wanted to submit additional information, it had four months to do so before the PUC issued its final Order in this case.[8] In its brief dated February 23, 2017, GTA again reiterated its objection to use TDM technology and repeated its same arguments. However, at no time, until the final PUC Arbitration Order was issued, did GTA ever submit any additional TDM costs which it wished to include in the inputs.

Had GTA at any time submitted additional costs which it claimed for TDM, the ALJ could have considered those, and if justified, included them in the Model. It is telling that, even in its current Application for Rehearing, GTA has failed to include any new evidence concerning TDM costs which it claims would be incurred regarding the TELRIC Model. Why should GTA be accorded a rehearing when it has presented no new evidence concerning TDM costs and has not even indicated whether it could, or

[8] See Teleguam Holdings, LLC's Comments on Revised Model, submitted February 9, 2017.

how it would obtain such information? Granting GTA's request would be a recipe for endless delay and prolongation of these proceedings.

E. Rehashing of Argument by GTA disallowable at the Discretion of the PUC

A motion for reargument or rehearing is not an opportunity for a party to rehash arguments already decided. State v. Brinkley, 132 A. 3d 839, 842 (Superior Ct. Deleware, Kent County, 2016). Petitions cannot be granted for reargument of matters, either factual or legal, which have been deliberated and decided upon by a tribunal. Special Counsel v. Sullivan, 7 M.S.P.B. 329 (Merit Systems Protection Board 1981). A decision not to allow rehearing is **highly discretionary** with the PUC. Mower, LD III LLC v. Simpson, 392 P.3rd 861, 871 (Ct. App. Utah 2017).

IV. ASPHALT REPAIR

GTA requests reconsideration of the ALJ recommendation that a 6-inch conventional trench in asphalt requires 27 inches of asphalt repair. GTA now claims that a six-inch conventional trench in asphalt must have 18 inches of shoulder on each side for a total repair of 42 inches. This claim purports to be based on the direct testimony of Andrew Labrunda. In his testimony, Mr. Labrunda presented a chart (Chart 4) which depicts that a 24-inch trench requires 18 inches of shoulder asphalt on each side of the trench.

PDS responded that, while the depiction in Chart 4 does reflect 18 inches of asphalt on each side of a 24-inch trench, it does not state this is a requirement for all

widths of conventional trenching.[9] However, neither party has presented evidence concerning the shoulder asphalt requirements for a six-inch trench in asphalt. Additionally, there are no independent sources provided by GTA regarding the cost of a six-inch trench even though GTA uses six-inch asphalt trenching in its cost model. There are estimates from Ryder Corporation for a 2 inch micro trench and an 18 inch conventional trench.

In view of the lack of on record guidance from DPW concerning six-inch trench requirements and the lack of a firm cost estimate for a six-inch asphalt trench from an independent source, the PUC should not grant any rehearing on this matter. GTA's claim that the ALJ "miscalculated" repair costs for asphalt repair was already argued before the PUC on April 13, 2017, yet not accepted by the PUC in its Arbitration Order.

GTA contends that the ALJ "failed to consider the Guam DPW requirement for 18 inches of repair on each side of a conventional trench in asphalt." As pointed out by the PDS Opposition, Mr. Labrunda's testimony never indicated that such a requirement exists.[10] Contrary to GTA's position, the record indicates that the ALJ made every effort to accommodate GTA's trenching costs and in fact adopted GTA's position statements indicating that a 6 inch trench requires 27 inches for repair.

In his Recommendations issued January 12, 2017, the ALJ found that a majority of the trenches would be 6 inches or less, and that GTA's estimate should be revised to reflect such fact. The ALJ did find that the repair and feathering of a 6 inch trench

---

[9] PDS Opposition to Teleguam Holding, LLC's Application for Reopening and Rehearing, PDS. Docket 14-01, filed May 12, 2017, at p. 4.
[10] Id. at p. 3.

should require 18 inches of effort. Thereafter, in its Comments on Producing the ALJ's Conforming Model dated January 25, 2017, GTA stated as follows in Par. 4 with regard to Excavation costs:

> **Conventional trenching in asphalt.** The GTA model now uses a corrected estimate for the asphalt repair of a six-inch trench.
>
> The ALJ recommendation incorrectly states that the Ryder estimate for asphalt repair of a 2-inch trench is 6 inches. The Ryder estimate (See Attachment 1 -- Ryder Estimate Paving Costs.pdf) shows that the asphalt repair for a 2-inch trench is one foot six inches. A "like-for-like comparison" of these corrected data shows that the asphalt repair for a six-inch trench is 27 inches, not 18 inches. GTA uses the corrected like-for-like asphalt repair of 27 inches in the conforming model. (See Attachment 2 – Conforming Cable Costs.xlsx for this calculation.) (emphasis added).

In the ALJ Revised Set of Recommendations dated March 12, 2017, the ALJ adopted the exact position which GTA had set forth in its January 25, 2017 and other position statements. The ALJ indicated that GTA had requested that he revisit the calculation of trench width for a 6-inch trench indicating that the total width of repair should be 27 inches, not the 18 inches in the original ALJ recommendation. In the ALJ Revised Recommendation, he recognized that the repair for a 6-inch trench had previously been miscalculated, and he adopted the GTA estimate of 27 inches for the repair of a 6-inch trench.[11]

Despite the fact that the ALJ adopted the GTA recommendation, GTA now attempts to reargue the issue and once again asks the ALJ to further change the recommendation. The PUC already adopted the ALJ recommendations. Any alleged mistake by the ALJ is due to the fact that GTA did not properly or fully present its

[11] ALJ Revised Set of Recommendations-Addendum, PDS Docket 14-01, dated March 12, 2017, at p. 27-28.

position in these proceedings, as indicated in the PDS Opposition. GTA's request that the "ALJ reconsider his determination" is inappropriate. The ALJ already made his recommendation to the PUC in March, and that recommendation was adopted by the PUC on April 13, 2017. GTA's request that the ALJ "reconsider his determination" is an exercise in futility as the PUC already adopted its final Arbitration Order.

V. HYBRID LOOP INPUTS

GTA argues that the "ALJ's and PUC Consultant's order to incorporate a hybrid loop architecture using Time Division Multiplexing (TDM) equipment does not result in a forward-looking model and is not consistent with FCC requirements". GTA seeks to reargue the same matters raised during the April 13, 2017, hearing. The PUC has already adopted the ALJ/PUC Consultant Recommendations concerning the least cost, most efficient technology, in its final Arbitration Order.

GTA's claim that TDM equipment does not result in a "forward-looking model" has been argued and reargued numerous times in this proceeding. This argument has already been rejected by the ALJ, the Consultants, and the PUC itself in its Order. GTA has raised nothing new in its current Application concerning this issue. The controlling legal principle is that "State Commissions such as the Guam PUC **'have wide latitude in applying the "most efficient technology" standard under the current rules...'**[12]

The Commission found that GTA's sole reliance upon copper homerun loops in providing the UNEs to PDS was not at all forward-looking and resulted in a far more expensive loop because it did not also utilize fiber. There was an express finding that

[12] PUC Arbitration Order, PDS Docket 14-01, par. 73 under Conclusions of Law.

GTA's model is not compliant with the "most efficient technology" standard, as the FCC has repeatedly held that the most efficient wire line technology deployed today in new builds is fiber to the premises. An efficient carrier today would design an all internet protocol (IP) fiber network, not a circuit switch copper network. An IP fiber network is cheaper.

The PUC was justified in finding that GTA's model was not cost efficient because it failed to incorporate the provision of fiber in providing loops to PDS for loops longer than 12,000 feet.[13] TDM technology is the appropriate method for allowing for the unbundling of hybrid loops by GTA. Without the use of such technology, it can be argued that GTA would have no duty to unbundle hybrid loops. Furthermore, the FCC has established that use of technology that is not "state-of-the-art"may be justified on pricing or other considerations.

GTA also continues to assert that the pricing of a UNE loop should match what is provisioned. In the FCC's Verizon Virginia decision, in paragraph 34, the FCC stated "We agree with Verizon that it is rational for a company to continue to use equipment that is no longer state-of-the-art. The TELRIC rules, however, recognize that the value of such equipment in a competitive market will be no higher than the market value of newer, more efficient equipment that performs the same functions. In other words, even if there are valid reasons for Verizon not to deploy particular equipment, the prices Verizon could charge for network elements in a competitive market still would be affected by the deployment of more efficient equipment unless there are reasons why

[13] Id. at pars 7-12, pgs. 7-8.

no carrier would deploy the particular equipment." The FCC is unmistakably clear that the TELRIC pricing methodology completely divorces provisioning from pricing.

TDM may well be an older telecommunications technology (although it is clearly still in use), but when the prices resulting from the TDM analysis are compared to an all copper home run network, it is telling that **the TDM based weighted average UNE loop prices are approximately 17% less than all copper loop alternative** (Compare GTA submissions -- Attachment 1 UNE Loop Rates – All Copper with Inventory pricing (All ALJ recommendations except for FTTN) to Revised ALJ recommendations UNE Loop rates). GTA's all copper home run network can neither stand the test of forward looking nor being most cost efficient.

The value of GTA's all copper network is not the value of the copper. Rather, the value is constrained by the prices that would result from a side by side comparison with a newer, more efficient network. Clearly, if the "TDM" technology results in prices measurably less than the all copper network it replaced, then the copper network is worth no more than its replacement and should be devalued accordingly. Today, fiber is penetrating ever deeper into the GTA and other networks for both cost and functionality reasons. The FCC has recognized, in the context of next generation networks, that fiber to the premises is the least cost, most forward looking technology of choice. One is left to wonder how much lower contemporary network costs are compared to TDM.

In its Application to rehear certain findings concerning the Hybrid loop inputs, GTA has not introduced any new evidence upon which a case could be made for

rehearing. GTA has not provided any justification for a "rehearing" on issues involving TDM. Its position is internally inconsistent. On one hand, it argues that it needs a "rehearing" to provide the ALJ with a working TDM model for TDM equipment required at all nodes and at each REC. On the other hand, GTA repeatedly states that it has no records for TDM feeder technology and has no information as to the costs for such equipment and technology.

In its present Application, GTA has not presented one shred of new evidence or information concerning the cost inputs for TDM technology. What it really requests is a new hearing for additional fact finding and discovery purposes--so that it can go out and attempt to obtain information concerning pricing of TDM. Ordinarily, a motion for rehearing based upon "new evidence" would specifically include evidence that GTA intends to introduce upon a "rehearing." GTA, however, has presented absolutely no evidence, new or otherwise, that would justify a "rehearing". For a period of at least four months, and continuing to the present, GTA has not produced any information or evidence which it would plan to introduce upon a rehearing.

GTA's Application for rehearing based upon new evidence concerning TDM technology is legally deficient and inadequate. The purpose of a motion for reconsideration is to bring to the tribunal's attention **newly discovered evidence.** O'Connor v. County of Cook, 787 N.W. 2d 185, 191(App. Ct. Illinois 2003); to prevail on a motion for reconsideration, the movant must establish either **newly discovered evidence** or a manifest error of law or fact. Schapiro v. Pokos, 802 N.W. 2d 204,210 (Ct.

App. Wisc. 2011). In this case GTA has failed to present any newly discovered evidence concerning TDM technology; the application simply fails to support any rehearing.

This proceeding has been delayed for nearly three years. What GTA proposes is an open ended, substantial further delay in this proceeding without having provided any evidence to support its request. To the contrary, GTA has indicated that it has no other records on TDM. What would be the purpose of a further rehearing if GTA has not even suggested what further records or inputs it could provide?

GTA also claims that the FCC inputs it used did not necessarily contain adequate power systems to be placed at the nodes to offer customers on Guam uninterrupted voice service if commercial power were unavailable. Again, the ALJ repeatedly invited GTA during the proceedings to provide any missing equipment cost information. GTA was fully allowed to cost missing hardware components if the need for such hardware could be justified.

With regard to line powering requirements, GTA was directed to demonstrate that power was not included in the PDS hybrid network. If it was not included, the ALJ recommendation stated that "it must be included in the TELRIC model."[14] GTA again admits that it "does not have current prices for actual TDM electronics, and that it wishes to obtain a "complete set of bids or estimates for equipment and site preparation..."[15] Why has GTA failed to obtain such information to date?

GTA has apparently not made any progress in obtaining such information, but

---

[14] ALJ/PUC Consultant Initial Analysis at p. 19.

[15] GTA Application for Reopening and Rehearing, PDS Docket 14-01, dated April 24, 2017, at pgs. 6-7.

now seeks an open ended rehearing, to begin its information gathering process anew and perhaps to delay the ultimate resolution of this proceeding for years more. It should be noted that the current Interconnection Agreement only extends until August of this year. At that time GTA and PDS will negotiate a new ICA including UNE loop rates. Based only upon its claim that it has no information on the cost of TDM technology, GTA has not provided any valid reason for a "rehearing."

VI. REJECTION OF HOMERUN COPPER LOOPS

GTA has argued against the rejection of homerun copper loops throughout this proceeding. The issue has been argued and reargued, over and over again. The ALJ recommendation, as well as the PUC Arbitration Order, is appropriately based upon the criteria set forth in the Federal Communications Commission Verizon-Virginia TELRIC Order.[16] GTA argues that the "pricing of a UNE-loop should match what is provisioned." However, GTA has not taken into account the basic principle that pricing for TELRIC is not based upon what loops GTA currently provides to PDS today; the pricing for loop rates is based upon the cost that the incumbent would incur today if it built a local network using the "least-cost, most efficient technology currently available."

GTA claims that eight state commissions adopted "forward-looking" scenarios that included homerun coper. However, such approach was only one of many different

[16] See Blessing Responsive Testimony at p. 32, citing Verizon-Virginia.

scenarios adopted by such commissions. PDS points out that homerun copper loops scenarios were not adopted in more than 85% of the nation's jurisdictions.[17]

VII. SUB-LOOP RATES

GTA claims that the Findings of Fact and Conclusions of law "failed to explicitly state that sub-loops are from field FDI to the customer premises and that UNEs ordered from a field FDI are priced at the sub-loop price." It further alleges that both PDS and GTA agree with this explicit requirement.

GTA never even raised this issue until the hearing before the PUC on April 13, 2017. Both Parties understand the requirement such that there is no need to reopen the hearing on this basis. The Parties are free to amend their ICA to contain mutually agreeable language on this issue.

VIII. 2-WIRE UNE LOOPS

GTA now contends that it was "ordered" to develop rates for loop configurations where some of the UNEs overlap with the definition of other UNEs. Some rates are based upon the type of wire, where others are based on specific distances. GTA claims that PDS is not prohibited from "price shopping 2-wire rates." PDS should allegedly not be allowed to use the weighted average for some locations and the distance rates for other locations within the same REC. PDS should be required to use the weighted average to the 2-wire rate.

---

[17] PDS Opposition to Teleguam Holding, LLC's Application for Reopening and Rehearing, PDS. Docket 14-01, filed May 12, 2017, at p. 8.

GTA never raised this issue in a timely fashion. To set the record straight, it was not the ALJ as Arbitrator who determined which loop rates would be arbitrated. It was GTA and PDS who indicated that they could not agree on rates for UNE rates for 10 loops and 2 sub-loops. Based upon the request of the Parties for arbitration, the PUC ordered that GTA would perform a TELRIC STUDY to develop UNE rates for the 10 loops and 2 sub-loops.[18] The PUC properly has approved the 12 UNE rates for 10 loops and 2 sub-loops, as it was requested by the parties to do in this arbitration.

There is no further need to address this matter and it should be left to the resolution of the parties.

IX. TRUE-UP PROVISIONS: COSTS OF THE TELRIC STUDY

The ALJ already established that the issue of whether the cost of the TELRIC study could be included in the final UNE rates "would be decided during the true-up portion of the proceedings."[19] The ALJ previously determined that it is not appropriate to require PDS to share the expense of the TELRIC study.[20] Whether GTA can recover these TELRIC costs through NECA, USAC, or other mechanism is for GTA to present in a separate application to the PUC if it desires. The issue should not be determined in the instant proceeding.

---

[18] PUC Order PDS Docket 14-01, dated August 29, 2014 at par. 25.

[19] ALJ Order Re: Phase II Arbitration Issues, PDS Docket 14-01, p. 3, dated March 17, 2015.

[20] Id.

X. PDS REQUEST THAT REGULATORY EXPENSES FOR GTA'S APPLICATION FOR REHEARING BE ALLOCATED TO GTA

PDS has requested that GTA be liable for the Commission's regulatory expenses on this Application for Rehearing pursuant to Amended Rule 1.b.iii (Rules Governing Regulatory Fees for Telecommunications Companies). That rule authorizes the PUC to allocate regulatory expenses in proceedings, including dispute resolution under Rule 4 of the Interconnection Implementation Rules, against such party or parties as the Commission deems appropriate.

XI. CONCLUSION

For the reasons set forth herein, the ALJ recommends that the PUC deny GTA's Application for Reopening and Rehearing. GTA's Application contains matters that have already been extensively argued previously in this proceeding and were rejected by the PUC in its Arbitration Order. For that reason, GTA should bear the regulatory expense incurred with regard to its Application. A Proposed Order is submitted herewith for the consideration of the Commissioners.

Dated this 23rd day of May, 2017.

/s/ Frederick J. Horecky

Frederick J. Horecky
Administrative Law Judge