

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

PETITION OF GUAM TELECOM LLC)
FOR DESIGNATION AS AN ELIGIBLE) GT DOCKET 10-02
TELECOMMUNICATIONS CARRIER)

ORDER APPROVING DESIGNATION

Procedural History

On October 26, 2010, Guam Telecom LLC (“GT”) submitted a Petition for Designation as an Eligible Telecommunications Carrier (“ETC”) throughout the Territory of Guam.¹ In its petition, GT acknowledged the authority of the Commission to make such a designation and stated that it had never made an ETC application to the Federal Communications Commission (“FCC”). In its Petition, GT contends that it should be granted ETC Designation based upon the criteria and standards set forth in prior Commission Orders and precedent.²

On November 6 and 8, 2010, the PUC placed a notice in the Pacific Daily News inviting written comment from interested parties, on or before November 22, 2010, on GT’s Petition for ETC Designation.³ To date no comments have been received. On November 15, 2010, PUC Counsel filed his Report recommending that, subject to certain conditions, that GT’s Petition be granted.⁴

Previously GT was issued a Certificate of Authority by the PUC to provide resold and facilities based local exchange services on Guam.⁵

Discussion and Findings of Fact

1. Pursuant to 47 U.S.C. §214(e)(2), the Commission is generally responsible for designating a telecommunications carrier as an ETC within the Territory of Guam in accordance with the requirements of the Federal Act.

¹ GT Petition for Designation as an Eligible Telecommunications Carrier, GT Docket 10-02, filed October 26, 2010.

² See PUC Orders Approving ETC Designation in Docket No. 06-08, Application of Pulse Mobile, LLC (Pulse Mobile); and Docket 08-05, Application of PTI Pacifica.

³ See *Notice*, GT Docket 10-02, published in the Pacific Daily News on November 6, 2010.

⁴ PUC Counsel Report, GT Docket 10-02, filed November 15, 2010.

⁵ See GT Docket No. 09-01; in Docket 10-01, PUC approved GT’s General Exchange Tariff No. 1.

2. The Federal Act provides that the Commission may designate a telecommunications carrier as an ETC if the following requirements are satisfied:
 - (a) the carrier offers services that are supported by the federal universal service support mechanism, either using its own facilities or a combination of its own facilities and resale of another carrier's services;
 - (b) the carrier advertises the availability of such services and the charges therefore using media of general distribution; and
 - (c) the designation of such carrier as an ETC is in the public interest (if such carrier is seeking designation for an area served by a rural telephone company that has already been designated as an ETC).⁶
3. GT is authorized to provide resold and facilities based local exchange services, including voice and data, in the entire Territory of Guam.⁷ GT also certifies in its petition that it will offer all of the services designated by the FCC for support pursuant to Section 254(c) of the Federal Act to any requesting customer within its designated service area; GT offers, or will offer, the supported services either using its own facilities or a combination of its own facilities and resale of another carrier's services; and GT advertises, or will advertise, the availability of supported services and the charges therefore using media of general distribution.
4. The FCC has indicated that a commitment in the Petition to provide all of the supported services and to advertise using media of general application upon designation as an ETC is sufficient to satisfy the FCC's requirements. The Commission finds that GT must certify to the Commission no later than August 31, 2011 that GT (a) 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 (b) advertises the availability of supported services and the charges therefore using media of general distribution as described in its Petition. The Commission finds that the August 31 due date is necessary to satisfy the need for sufficient time for the Commission to perform a "due diligence" review.
5. With respect the supported local usage, GT indicates that it "will satisfy the local usage criterion for ETC designation based upon its offering of unlimited local usage calling plans." Consistent with the FCC's rules, the

⁶ 47 U.S.C. §214(e). The FCC has defined the services that are to be supported by the federal universal service support mechanisms to include: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multifrequency (DTMF) signaling or its functional equivalent; (4) single-party service or its functional equivalent; (5) access to emergency services, including 911 and enhanced 911; (6) access to operator services; (7) access to interexchange services; (8) access to directory assistance; and (9) toll limitation for qualifying low-income customers. 47 C.F.R. §54.101(a).

⁷ See GT Docket 09-01 (Issuance of a Certificate of Authority to GT) and GT 10-01 (approving GT's General Exchange Tariff #1).

Commission finds that any designation of GT as an ETC be conditioned on GT's compliance with any local usage requirements prescribed by the FCC.

6. With respect to supported access to emergency service, GT indicates that it will offer emergency service and E911 service. It provides its subscribers with access to all and enhanced all through arrangements with the local incumbent exchange carrier, GTA. To the extent a governmental authority in the Territory of Guam implements E911 systems, GT will be required to provide E911 service. Therefore, the Commission finds that any designation of GT as an ETC be conditioned on GT's compliance with any FCC requirements concerning E911 service when implemented in the Territory of Guam.
7. On March 17, 2005, the FCC adopted additional requirements for ETC designation proceedings in which the FCC acts pursuant to 47 U.S.C. §214(e)(6).⁸ All carriers seeking ETC designation from the FCC must satisfy these requirements. The Commission finds that such additional requirements should be used by the Commission in evaluating GT's petition for ETC designation, in the same manner as the Commission found in Docket 06-08 concerning its evaluation of Pulse Mobile's petition for ETC designation.
8. Pursuant to the additional requirements adopted by the FCC in the *ETC Designation Order*, any applicant for ETC designation must:
 - (1) (i) Commit to provide service throughout its proposed designated service area to all customers making a reasonable request for service. Each applicant shall certify that it will:
 - (A) Provide service on a timely basis to requesting customers within the applicant's service area where the applicant's network already passes through the potential customer's premises; and
 - (B) Provide service within a reasonable period of time, if the potential customer is within the applicant's licensed service area but outside its existing network coverage, if service can be provided at reasonable cost by
 - (1) Modify or replacing the replacing the requesting customer's equipment;
 - (2) Deploying a roof-mounted antenna or other equipment;
 - (3) Adjusting the nearest cell tower;
 - (4) Adjusting network or customer facilities;

⁸ *In the matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 05-46 (released March 17, 2005)(the "ETC Designation Order").

(5) Reselling services from another carrier's facilities to provide service; or

(6) Employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment.

(ii) Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed designated service area. Each applicant shall demonstrate how signal quality, coverage or capacity will improve due to the receipt of high-cost support; the projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support; the specific geographic areas where the improvements will be made; and the estimated population that will be served as a result of the improvements in a particular wire center are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area.

- (2) Demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.
 - (3) Demonstrate that it will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service will satisfy requirement. Other commitments will be considered on a case-by-case basis.
 - (4) Demonstrate that it offers a local usage plan comparable to the one offered by the incumbent local exchange carrier in the service areas for which it seeks designation.
 - (5) Certify that the carrier acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.
9. The Commission finds that GT has satisfied all of the additional mandatory requirements set forth in the *ETC Designation Order*. First, GT has certified that it will provide service throughout the Territory of Guam to all customers making a reasonable request for service in accordance with the FCC's requirements. In this regard, GT has committed that it will 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. Second, GT has certified that it will have a reasonable amount of back-up power, the ability to reroute traffic and the capability to manage traffic spikes to remain functional in emergency situations. Third, GT has committed to comply with applicable service quality rules, standards, and consumer protection. Fourth, GT has indicated that it will offer a rate plan to its universal service customers that includes unlimited local usage comparable to the rate plan offered by GTA Telecom, LLC. Fifth, GT has certified that it acknowledges that the PUC may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

10. GT has submitted a five-year plan that describes proposed improvements or upgrades to its network, and the estimated amount of investment for each project that is funded by high-cost support. However, because the FCC has recognized that such plans are always subject to change and given FCC precedent for the filing of such plans after ETC designation, the Commission finds that such a detailed build-out plan should be updated by GT following ETC designation as part of its annual filing with the Commission.
11. For the public interest determination, the *ETC Designation Order* provides that the Commission should consider the benefits of increased consumer choice, and the unique advantages and disadvantages of the ETC applicant's service offering. The Commission believes that GT's universal service offering may provide a variety of benefits to customers in Guam, including consumer choice and advantageous service offerings. For instance, universal service support will help GT construct facilities to improve its coverage to all areas in Guam. In addition, GT has made detailed commitments to provide high quality service throughout the Territory of Guam. Designation of GT as an ETC will advance universal service by bringing consumer on Guam new and advanced telecommunications services which will create increased competitive choice. Finally, given the size of the federal universal service fund, the Commission believes it is unlikely that GT's ETC designation would have an adverse impact of the federal universal service fund.
12. GT is obligated under Section 254(e) of the Federal Act to use high cost support "only for the provision, maintenance, and upgrading of facilities and service for which support is intended" and is required under Section 54.314 of the FCC's rules to certify annually that it is in compliance with this requirement. GT has certified to the Commission that, "consistent with Section 54.314(b) of the FCC's rules, all federal high-cost support will be used solely for the provision, maintenance and upgrading of facilities and service for which support is intended pursuant to Section 254(e) of the [Federal] Act." The Commission finds that GT should be required to file an annual certification with the Commission in substantially the form required by Section 54.314(b) and (c) of the FCC's rules to verify that GT will use federal high-cost support only for those facilities and services for which the support is intended, regardless of whether the certification

must actually be filed by GT with the USAC and the FCC under Section 54.314(b).

13. In addition, GT has committed to submit to the Commission on an annual basis the following records and documentation, in addition to any other information or reports that the Commission may reasonably request from time to time:
 - GT's progress towards meeting its build-out plans;
 - Information on any outage lasting at least 30 minutes and potentially affecting either at least 10 percent of the end users serviced or 911 facilities;
 - The number of requests for service from potential customers within GT's service area that were unfulfilled for the past year;
 - The number of complaints per 1,000 lines;
 - GT's compliance with applicable service quality standards and consumer protection rules;
 - GT's ability to function in emergency situations;
 - GT's certification that it is offering a local usage plan comparable to that offered by the incumbent local exchange carrier; and
 - GT'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.

14. The Commission finds that GT must submit these records and documentation to the Commission by August 31 of each year, beginning in 2011. Consistent with FCC requirements: (1) the progress report should detail GT's progress towards meeting GT's five-year service quality improvement plan, explanations of how much universal service support was received and how the support was used to improve service quality in each wire center or cell tower for which designation was obtained, and an explanation of why any network improvement targets have not been met; and (2) the information on GT's outages should include the date and time of onset of the outage, a brief description of the outage, the particular services affected by the outage, the geographic areas affected by the outage and steps taken to prevent a similar outage situation in the future. The Commission finds that GT must provide additional information and reports to the Commission when request therefore is made by the Commission or its staff from time to time.

Order

Based upon the foregoing, the Commission orders that:

1. GT is hereby designated as an ETC throughout the Territory of Guam subject to the following conditions:
 - (a) GT must comply with any local usage requirements prescribed by the FCC;
 - (b) GT must comply with any FCC requirements concerning E911 service when implemented in the Territory of Guam;
 - (c) GT must certify to the Commission by August 31 of each year, beginning 2011, that GT (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 the charges therefore using media of general distribution as described in its petition;
 - (d) GT 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) GT must file a detailed build-out plan satisfying the FCC's requirements as part of its annual submission of certifications and documentation;
 - (f) GT must file with the Commission by August 31 of each year, beginning 2011, an annual certification in substantially the form required by Section 54.314(b) and Section 54.314(c) of the FCC's rules to verify that GT will use federal high-cost support only for those facilities and services for which the support is intended;
 - (g) GT must submit to the Commission by August 31 of each year, beginning 2011 the following records and documentation: (i) GT'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 facilities; (iii) the number of requests for service from potential customers within GT's service area that were unfulfilled for the past year; (iv) the number of complaints per 1,000 handsets; (v) GT's compliance with applicable service quality rules, standards, and consumer protection; (vi) GT's certification that it is able to function in emergency situations (vii) GT's certification that it is offering a local usage plan comparable to that offered by the incumbent local exchange carrier; and (viii) GT'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.

- (h) GT must promptly submit to the Commission any additional information or reports that that Commission reasonably request from time to time.
2. The Commission reserves the jurisdiction and authority to (a) institute an inquiry on its own motion to examine GT's records and documentation to ensure that the high-cost support it receives is being used "only for the provision, maintenance, and upgrading of facilities and services" in the Territory of Guam, (b) revoke GT's ETC designation if it fails to fulfill any requirements of Section 214 of the Federal Act, the FCC's rules and regulations or the Commission's order after GT begins receiving universal service support and (c) assess penalties for violations of the Commission's rules and orders.

Dated this 29th day of November, 2010.

Jeffrey C. Johnson
Chairman