

## BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF: ) GPA Docket 23-09  
)  
The Application of the Guam Power )  
Authority Requesting Approval to Adjust ) **ORDER**  
the Power Pole Attachment Rate. )  
)  
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### INTRODUCTION

This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Petition of the Guam Power Authority ["GPA"], and the STIPULATION of the Parties hereto, for an Adjustment to the Power Pole Attachment Rate.<sup>1</sup> The Parties request that Power Pole Attachment Rate be adjusted by \$1.80 per pole per year over the next five years, from \$6.00 to \$15.00. This Docket is a companion docket to GTA Docket 09-04 and resolves issues that were first addressed therein.

### JURISDICTION

The PUC is empowered to establish the rates and charges for services for the Guam Power Authority. 12 GCA §12105(e); all rates and charges must be "just and reasonable", and "shall be filed with the Commission." No rate, charge or assessment shall be modified without the "prior approval of the Commission." 12 GCA §12116(a).

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<sup>1</sup> GPA Petition to Adjust the Power Pole Attachment Rate, GPA Docket 23-09, dated February 16, 2023; STIPULATION IN SUPPORT OF GPA'S FEBRUARY 6, 2023 PETITION, dated August 15, 2023, and attached hereto as Exhibit "1".



## **BACKGROUND**

1. On October 30, 2009, GTA Teleguam LLC ["GTA"] filed a complaint alleging that GPA was assessing rates or charges for pole attachments without a formal tariff, in violation of 12 GCA §§12109 and 12015(a).<sup>2</sup> The Complaint also alleged that the rates charged by GTA for pole attachments were discriminatory.
2. "Pole attachments" are "wires, cables, antenna's, or other equipment usually owned by private company that is attached to a pole owned by GPA."<sup>3</sup>
3. On January 31, 2011, the PUC issued an Order which established an "interim pole attachment rate" to be charged by GPA to all telecommunications companies in the amount of \$6.00 per attachment per year.<sup>4</sup> The "interim pole attachment rate" was "binding", "until such time is a permanent pole attachment rate is set by the PUC."<sup>5</sup>
4. The PUC kept GTA Docket 09-04 "open" to conduct further proceedings as stipulated to by the parties. Such proceedings were required to be scheduled "upon the FCC's revision of its pole attachment rate..."<sup>6</sup>
5. GPA's Petition in the present docket indicates that the Federal Communications Commission updated the pole attachment rate in 2015.<sup>7</sup> The FCC established

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<sup>2</sup> GTA Formal Complaint, GTA Docket 09-04, filed October 30, 2009, at p. 1.

<sup>3</sup> Id.

<sup>4</sup> PUC Order, GTA Docket 09-04, dated January 31, 2011, at p. 2.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> GPA Petition at p. 1.



formulas for determining pole attachment rates for cable and telecommunications attachments. The attachment rate per attachment for the “Telecom Formula” is \$17.13 per year; the “Cable Formula” is \$14.82 per year per attachment.<sup>8</sup>

6. At the PUC conference between GPA and the Telecom companies on August 11, 2023, GPA CFO John Kim indicated that GPA selected the less expensive “cable formula” rather than the “telecom formula” to apply to attachments to its poles.<sup>9</sup>

### **DETERMINATIONS**

7. Since 2011, the Commission, GPA, and the telecom parties have been aware that the FCC would establish permanent pole attachment rates. There was a common understanding that the rate enacted in 2011 was only an “interim” rate.
8. The parties have expended time and effort to negotiate a reasonable charge for permanent pole attachment rates. Although GPA had requested in its Petition that the annual rate for pole attachments be increased from \$6.00 per year to \$15.00 per year over a three-year period, all parties have ultimately agreed that the pole attachment rate per attachment may be increased over a period of five years at the rate of \$1.80 per year.
9. A true and correct copy of the parties’ STIPULATION IN SUPPORT OF GPA’S FEBRUARY 6, 2023 PETITION is attached hereto as Exhibit “1”. The five-year

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<sup>8</sup> UFS (Utility Financial Solutions, LLC), Pole Attachments, Rate Calculations, dated March, 2022 and attached to GPA’s Petition.

<sup>9</sup> Conferences was conducted by the ALJ with GPA and the telecom companies on June 20, 2023, and August 11, 2023, at the PUC Office.



schedule for the implementation of the \$1.80 per year increases commenced immediately upon execution of the STIPULATION by all parties.

10. A table prepared by USF indicated the number of pole attachments that each telecom company has, and the monthly increase projected for a \$3.00 increase in the first year attached to the ALJ Report as Exhibit "2". The annual increases will now be spread out over five years rather than three years. Over the five-year period, for example, the charge for Docomo Pacific will increase from the current monthly amount of \$12,500.00 to \$31,250.00.
11. Based upon the FCC determinations, the increase to \$15.00 per attachment per year is consistent with the standard that the FCC established for the cable formula rate. The proposed pole attachment rate appears to be "just and reasonable" pursuant to 12 GCA §12116(a).

#### **ORDERING PROVISIONS**

After careful review and consideration of the above determinations, the Report and Recommendations of the ALJ, the Stipulation, and the record herein, for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY ORDERES THAT:**

1. The Stipulation of the parties, attached hereto as Exhibit "1", is approved, effective August 24, 2023.
2. The Power Pole Attachment Rate adopted herein shall be adjusted by \$1.80 per pole attachment per year over the next five years, from \$6.00 to \$15.00.



3. The pole attachment rate adopted herein shall be binding upon the parties to the Stipulation and upon all other companies which presently have, or subsequently will have attachments on GPA poles.
4. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

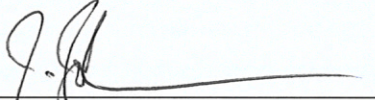
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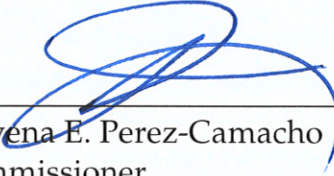
Order  
Approval to Adjust the  
Power Pole Attachment Rate  
GPA Docket 23-09  
August 31, 2023

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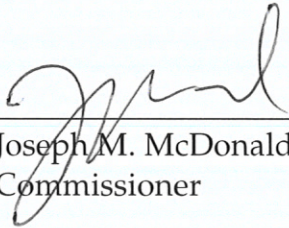
Dated this 31st day of August 2023.



Jeffrey C. Johnson  
Chairman



Rowena E. Perez-Camacho  
Commissioner

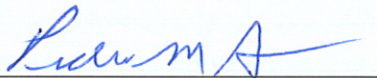


Joseph M. McDonald  
Commissioner

Michael A. Pangelinan  
Commissioner

Peter Montinola  
Commissioner

Doris Flores Brooks  
Commissioner



Pedro S.N. Guerrero  
Commissioner