OFFICE OF PUBLIC ACCOUNTABILITY
Doris Flores Brooks, CPA, CGFM
Public Auditor

PROCUREMENT APPEALS

In the Appeal of	)	**Appeal No: OPA-PA-12-011**
PACIFIC DATA SYSTEMS, INC.,	)	**DISCLOSURE AND NOTICE OF STATUS HEARING**
Appellant.	)	

To: **Purchasing Agency:**
General Service Agency, Management
C/O Fred Nishihira
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287 West O'Brien Drive
Hagatna, Guam 96910
Telephone: (671) 475-3324

Appellant:
Pacific Data Systems, Inc.
John Day, President
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Tamuning, Guam 96913
Telephone: (671) 600-0202

Interested Party:
Teleguam Holdings, LLC
C/O Elyze M. Iriarte, ESQ.
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Telephone (671) 472-6813

The Hearing Officer hereby discloses to the parties the following facts regarding its previous representation of GTA TeleGuam Holdings, LLC ("GTA"):

In approximately February 2010, the law office of Lujan Aguigui & Perez LLP ("LAP") was engaged by GTA to provide legal advice regarding PUC Docket No. 08-11. This case involved a dispute (that pre-dated LAP's representation of GTA) between GTA and Pacific Data Systems ("PDS") concerning whether GTA provided dark fibers in guaranteed good working condition as agreed to in their Interconnection Agreement ("ICA"). GTA was represented by

Attorneys Elyze McDonald and Jeff Cook. After the administrative law judge ("ALJ") found in favor of PDS, GTA sought legal advice from LAP. After rendering legal advice, LAP took no further action regarding this matter. Upon information and belief, no action exists concerning this matter.

In approximately March 2010, LAP was engaged by GTA to represent it before the Guam Public Utilities Commission ("PUC") in an arbitration request in PUC Docket No. 10-2 filed by PDS. This matter arose due to PDS's filing of a *Petition for Arbitration of Open Issues Between GTA & PDS Relating to Negotiations of a New ICA*. Due to a lack of agreement as to a few key issues in negotiating a new ICA, PDS filed its petition. Arbitration of the matter was permitted as to open issues regarding the standard of dark fiber, pre-billing vs. post-billing, the term of the new ICA, assurance of payment and dispute resolution. LAP attended hearings before the administrative law judge relating to the arbitration petition and narrowing of issues for arbitration. Legal briefs and documents were filed with the PUC in support of GTA's position concerning the arbitration. In May and June 2010, LAP represented GTA at the arbitration hearings. After the arbitration decisions were issued, LAP represented GTA from June to August 2010 in requesting clarification and to Amend the June 16, 2010, PUC order. After clarification and amendment were obtained shortly thereafter, LAP took no further action concerning the arbitration in Docket No. 10-2, and, based on information and belief, no action exists concerning said arbitration.

In approximately April 2010, LAP represented GTA in proceedings concerning a financial incentive plan ("FIP") for incumbent local exchange carriers and competitive local exchange carriers proposed by the administrative law judge in PUC Docket No. 10-2. ALJ David Mair initiated this case for the purpose of establishing certain standard remedy provisions in all ICAs. Guam telecommunications companies were solicited by the ALJ to submit comments, which GTA did. On April 5, 2010, LAP filed GTA's Position Statement with the PUC and attended a hearing on the matter. On June 8, 2010, a decision on the proposed FIP was rendered by the administrative law judge. Thereafter, the PUC issued an order adopting said FIP decision. On June 14, 2010, LAP submitted GTA's Objections and attended a hearing on the matter in July 2010. Thereafter, no further action was taken by LAP concerning the FIP in Docket No. 10-2 and, based on information and belief, no action exists concerning said FIP.

On November 19, 2010, GTA and TeleGuam Holdings, LLC jointly applied for PUC approval of the sale and transfer of control of GTA and TeleGuam Holdings, LLC, from Shamrock TeleGuam Holdings, LLC, to AP TeleGuam Holdings, Inc. LAP was involved in the November 2010 filings of the Joint Application and Response to Information Requests. Shortly thereafter, in January 2011, LAP declined continued representation in this matter because of a conflict of interest that arose after the filing of the Joint Application. LAP performed no further work regarding said Joint Application.

After January 2011, LAP was not engaged to handle other matters for GTA or its subsidiaries or affiliated companies.

After careful review of these facts, the Hearing Officer believes that no conflict of interest exists which requires its recusal, as the above-described matters are not related to the instant appeal. However, the parties are ordered to file by no later than Friday, July 6, 2012, any objections they may have to the Hearing Officer's competency to preside over this procurement appeal.

A status hearing shall take place **on Tuesday, July 10, 2012, at 11:00 a.m.**, during which time the Hearing Officer will address any filed written objections and other pending issues. Any persons requiring special accommodations, auxiliary aids or services to attend the Status Conference shall contact and submit their request to Michele Huffer, Office of Public Accountability, Suite 401, DNA Building, 238 Archbishop Flores Street, Hagatna, Guam, 96910, at 475-0390 ex 201.

SO ORDERED this 29th day of June, 2012, by:

DELIA LUJAN WOLFF
Hearing Officer

CONCURRED BY:

DORIS FLORES BROOKS, CPA, CGFM
Public Auditor, OPA