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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

JUL 28 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
GUAM PUBLIC UTILITIES COMMISSION	)	
	)	
Petition for Declaratory Ruling	)	CCB Pol. 96-18
Concerning Sections 3(37) and 251(h)	)	
of the Communications Act	)	
	)	
Treatment of the Guam Telephone Authority	)	CC Docket No. 97-134
And Similarly Situated Carriers as Incumbent	)	
Local Exchange Carriers under Section 251(h)(2)	)	

**REPLY COMMENTS OF MCI TELECOMMUNICATIONS CORPORATION**

MCI Telecommunications Corporation (MCI), hereby submits its Reply in response to comments filed in the above-captioned proceeding.<sup>1</sup>

The record established by the parties fully supports the Commission's proposal to treat the Guam Telephone Authority (GTA) as an incumbent local exchange carrier (LEC) for purposes of section 251 of the Telecommunications Act of 1996 (Act).<sup>2</sup> The parties unanimously support opening the local telecommunications market in Guam to competition by subjecting GTA to the procompetitive mechanisms set forth in section 251(c). The only way to bring about local competition in Guam is to remove regulatory barriers to competitive entry and treat GTA, the sole provider of local exchange service on Guam, as an incumbent LEC for purposes of section 251. MCI wholeheartedly concurs with the commentors in this proceeding, all of whom

<sup>1</sup> Guam Public Utilities Commission, Petition for Declaratory Ruling Concerning Section 3(37) and 251(h) of the Communications Act, Treatment of the Guam Telephone Authority and Similarly Situated Carriers as Incumbent Local Exchange Carriers under Section 251(h)(2) of the Communications Act, CCB Pol. 96-18, CC Docket No. 97-134 (released May 19, 1997) (Notice).

<sup>2</sup> 47 U.S.C. § 251.

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agree that GTA satisfies the criteria for treatment as an incumbent LEC.

As GST Telecom expressed, “GTA looks like, walks like, talks like and smells like the kind of monopolist ILEC that is bound by the obligations of section 251(c).”<sup>3</sup> Congress intended that LECs such as GTA, possessing market power in the provision of local service be subject to the interconnection, unbundling, and resale obligations of section 251(c).<sup>4</sup> In its Comments, MCI demonstrated that exempting GTA from the procompetitive obligations of incumbents set forth in section 251 would thwart entry by potential competitors.<sup>5</sup> As every commentor noted, GTA possesses the only existing local exchange infrastructure on Guam,<sup>6</sup> access to which is essential for competing LECs. Absent treatment as an incumbent LEC, GTA would continue to enjoy the benefits of being a monopolist -- control over essential bottleneck facilities, freedom to engage in anticompetitive conduct and pricing, and hold captive ratepayers.

As MCI and other commentors pointed out, the only difference between GTA and statutorily-defined incumbent LECs was that GTA was not a member of the National Exchange Carrier Association (NECA) as of the date the Act was enacted. Absent GTA’s own failure to

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<sup>3</sup> Comments of GST Telecom, Inc., CCB Pol 96-18, CC Docket No. 97-134, at 3 (filed July 7, 1997) (GST Comments).

<sup>4</sup> MCI Comments at 6-7.

<sup>5</sup> *Id.* at 7-8.

<sup>6</sup> GST Comments at 2; Comments of IT&E Overseas, Inc., CCB Pol. 96-18, CC Docket No. 97-134, at 3 (filed July 7, 1997) (IT&E Comments); AT&T Comments, CC Docket No. 97-134, at 1 (filed July 7, 1997); Comments of the Commonwealth of the Northern Mariana Islands, CC Docket No. 97-134, at 5 (filed July 7, 1997) (Commonwealth Comments); Guam Cable Telecommunications, Inc., CCB Pol 96-18, CC Docket No. 97-134, at 2-6 (filed July 7, 1997).

comply with the Commission's Order requiring GTA to file an access tariff,<sup>7</sup> GTA would have been a member of NECA on February 8, 1996. GTA should not be permitted to capitalize on its blatant disregard for the Commission's Order by escaping its obligations under section 251 to facilitate the development of competition in Guam's local market. GTA could have petitioned to become a NECA member over five years ago, and indeed did so after the Act was enacted. MCI concurs with GST's point that GTA is not only functionally equivalent to an incumbent LEC, GTA is an incumbent LEC that is now also a member of NECA.<sup>8</sup>

The record supports the Commission's tentative conclusion that treating GTA as an incumbent LEC would serve the public interest.<sup>9</sup> There is no dispute in the record that the FCC's rules and the Act apply to GTA. Treating GTA as an incumbent LEC would be consistent with Congress' goals to promote competition in the local exchange and exchange access markets. As MCI noted in its Comments, the Commission has determined that Guam subscribers are not to be excluded from enjoying the benefits of competition.<sup>10</sup> Indeed, as the Commonwealth reasoned, increased competition in the local exchange market would lead to lower rates, higher subscribership levels, and enhanced economic growth.<sup>11</sup>

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<sup>7</sup> IT&E Overseas, Inc. and PCI Communications, Inc., 7 FCC Rcd 4023 (1992) (Jurisdiction Order).

<sup>8</sup> GST Comments at 4.

<sup>9</sup> Notice, ¶ 40.

<sup>10</sup> MCI Comments at 9, *citing* Jurisdiction Order, 7 FCC Rcd at 4026.

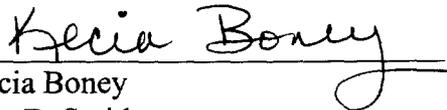
<sup>11</sup> Commonwealth Comments at 12.

## CONCLUSION

The Act was designed to open all local markets to competition, affording consumers options in selecting telecommunications service providers. As the only LEC in Guam, GTA serves virtually all of the subscribers in Guam and possesses the economies of density, connectivity, and scale that make efficient competitive entry almost impossible. Absent an express obligation, GTA will have no incentive to eliminate or even reduce the operational and economic barriers to competitive entry. For these reasons, and consistent with the comments filed in this proceeding, MCI urges the Commission to find that GTA is an incumbent LEC for purposes of section 251(c) of the Act.

Respectfully submitted,

**MCI TELECOMMUNICATIONS  
CORPORATION**



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