

LUKAS, NACE, GUTIERREZ & SACHS, LLP

1650 TYSONS BOULEVARD, SUITE 1500
MCLEAN, VIRGINIA 22102
703 584 8678 • 703 584 8695 FAX

WWW.FCCLAW.COM

RUSSELL D. LUKAS
DAVID L. NACE
THOMAS GUTIERREZ*
ELIZABETH R. SACHS*
DAVID A. LAFURIA
PAMELA L. GIST
TODD SLAMOWITZ*
TODD B. LANTOR*
STEVEN M. CHERNOFF*
KATHERINE PATSAS NEWITT*

CONSULTING ENGINEERS
ALI KUZEHKANANI
LEILA REZANAVAZ
—
OF COUNSEL
GEORGE L. LYON, JR.
LEONARD S. KOLSKY*
JOHN CIMKO*
J. K. HAGE III*
JOHN J. McAVOY*
HON. GERALD S. MCGOWAN*
TAMARA DAVIS BROWN*

*NOT ADMITTED IN VA

October 1, 2009

FILED/ACCEPTED

OCT - 1 2009

Federal Communications Commission
Office of the Secretary

DL: (703) 584-8666
TL: (703) 584-8671
SC: (703) 584-8670
dlafuria@fcclaw.com
tlantor@fcclaw.com
schernoff@fcclaw.com

ORIGINAL

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, DC 20554

Re: Federal-State Joint Board on Universal Service
CC Docket No. 96-45

Dear Secretary Dortch:

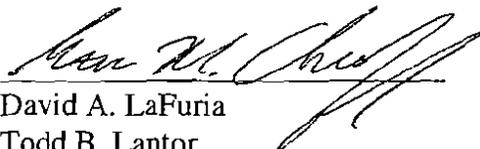
On behalf of DOCOMO PACIFIC, Inc. d/b/a Guam Cellular and Paging (SAC 669001 for Guam) ("DOCOMO"), please find attached a redacted, public version of DOCOMO's Annual ETC Report under Section 54.209 of the FCC's Rules ("ETC Report"). The attached ETC Report has been marked "**REDACTED - FOR PUBLIC INSPECTION.**"

DOCOMO is also submitting, under separate cover, a confidential version of this ETC Report. The confidential version is market "**CONFIDENTIAL - NOT FOR PUBLIC INSPECTION.**"

No. of Copies rec'd 0+4
List ABCDE

Please contact the undersigned at 703-584-8678 if any questions arise concerning the above-referenced enclosures or if you require any additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steven M. Chernoff", is written over a horizontal line.

David A. LaFuria
Todd B. Lantor
Steven M. Chernoff

Attorneys for:
DOCOMO PACIFIC, Inc.
d/b/a Guam Cellular and Paging

REDACTED – FOR PUBLIC INSPECTION

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

In the Matter of)
)
Federal-State Joint Board on) CC Docket No. 96-45
Universal Service)
_____)

ANNUAL ETC REPORT OF DOCOMO PACIFIC, INC. D/B/A GUAM
CELLULAR AND PAGING

DOCOMO PACIFIC, INC. d/b/a Guam Cellular and Paging (“DOCOMO” or “the Company”) an Eligible Telecommunications Company in the territories of Guam and the islands of Saipan, Tinian and Rota in the Commonwealth of the Northern Mariana Islands hereby provides the Commission with an annual compliance filing containing information as set forth in the Commission’s Report and Order in the above-captioned proceeding (“*ETC Report and Order*”)¹ and in the Commission orders designating Company as an ETC.²

1. Construction Plan Progress and Use of Support

Pursuant to the *ETC Report and Order*, DOCOMO must “submit... progress reports on the ETC’ five-year service quality improvement plan, including maps detailing progress towards meeting its plan targets, an explanation of how much universal service support was

¹ *In the Matter of the Federal-State Joint Board on Universal Service, Report and Order*, 20 FCC Rcd 6371 (2005).

² *See Federal-State Joint Board on Universal Service, DOCOMO PACIFIC, INC. d/b/a Guam Cellular and Paging, inc. DOCOMOPetition for Designation as an Eligible Telecommunications Carrier in the Territory of Guam*, 17 FCC Rcd 1502, 1506-07 (2002).

REDACTED – FOR PUBLIC INSPECTION

received and how support was used to improve signal quality, coverage, or capacity; and an explanation regarding any network improvement targets that have not been fulfilled.”³

In the last twelve months (July 1, 2008 – June 30, 2009) DOCOMO has received a total of [REDACTED] in high-cost support from the Universal Service Fund. During the same period, DOCOMO invested [REDACTED] in capital improvements and another [REDACTED] in other eligible improvements to infrastructure and services, not counting General and Administrative expenses, for a total of [REDACTED]. Since its designation, Saipancell has used its high-cost support to improve existing cell site coverage, performance and reliability by upgrading antennas, deploying generators, and installing microwave links.

For the period between July 1, 2008, and June 30, 2009, DOCOMO completed construction of [REDACTED] WCDMA sites⁴ – [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DOCOMO also completed capacity upgrade of [REDACTED] GPRS to GSM/EDGE sites – [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] DOCOMO has also improved existing cell site coverage, performance and reliability by upgrading antennas, deploying Base Transmission Systems, installing Microwaves and Cellular Base Station Controller upgrades.

³ See ETC Report and Order, *supra*, 20 FCC Rcd at 6400; 47 C.F.R. § 54.209(a)(1).

⁴ Locations are shown on the attached map that is included in Exhibit A.

REDACTED – FOR PUBLIC INSPECTION

DOCOMO's updated 5-year service quality improvement plan is attached hereto as Exhibit A.

2. Outage Reporting

In the last twelve months DOCOMO has not had any outages of at least 30 minutes in duration on the facilities it owns, operates, leases, or otherwise utilizes that potentially affect at least ten percent of the end users served in its designated service area in Guam, pursuant to the Federal Communications Commission's *Outage Reporting Order*.⁵

3. Service Requests

In the last twelve months, there were no unfulfilled requests for service from potential customers within the designated ETC service area. However, DOCOMO hereby certifies that it continues to follow the six-step process for provisioning service to requesting customers.⁶

Specifically, in response to such requests for service at a residence or business, DOCOMO will take the following steps:

1. If a request comes from a customer within its existing network, DOCOMO will provide service immediately using its standard customer equipment.
2. If a request comes from a customer residing in any area where DOCOMO does not provide service, DOCOMO will take a series of steps to provide service.

* First, it will determine whether the customer's equipment can be modified or replaced to provide acceptable service.

* Second, it will determine whether a roof-mounted antenna or other network

⁵ See *New Part 4 of the Commission's Rules Concerning Disruptions to Communications Report and Order and Further Notice of Proposed Rulemaking*, 199 FCC Rcd 16830, 16923-24, §4.5 (2004) ("*Outage Reporting Order*"). See also 47 C.F.R. § 54.209(a)(2).

⁶ See 47 C.F.R. § 54.202(a)(1)(A).

REDACTED – FOR PUBLIC INSPECTION

equipment can be deployed at the premises to provide service.

* Third, it will determine whether adjustments at the nearest cell site can be made to provide service.

* Fourth, it will determine whether there are any other adjustments to network or customer facilities which can be made to provide service.

* Fifth, it will explore the possibility of offering the service of DOCOMO's other technology service that has different coverage footprint.

* Sixth, it will determine whether an additional cell site, a cell-extender, or repeater can be employed or can be constructed to provide service, and evaluate the costs and benefits of using scarce high-cost support to serve the number of customers requesting service. If there is no possibility of providing service short of these measures, DOCOMO will notify the customer and notify the FCC of how many requests for service could not be filled in its next annual certification report. The FCC will retain authority to resolve any customer complaints that DOCOMO has refused to respond to a reasonable request for service.

4. Consumer Complaints

In the twelve months prior to June 30, 2008, DOCOMO did not receive and is not aware of any consumer complaints having been filed with either the Guam Public Utilities Commission or the FCC in the designated ETC service area.⁷

5. Commitment to CTIA's Consumer Code for Wireless Services.

In the *ETC Report and Order*, the FCC reiterated that carriers must commit to abide by applicable service quality standards and consumer protection rules.⁸ In the case of

⁷ 47 C.F.R. § 54.209(a)(4).

REDACTED – FOR PUBLIC INSPECTION

ETCs that are wireless carriers, the FCC has concluded a carrier may make this demonstration by committing to abide by the CTIA Consumer Code for Wireless Service.⁹ In submitting this report DOCOMO certifies that it will continue to abide by the CTIA Consumer Code for Wireless Service, as it may be amended from time to time, for all of its operations in Guam.¹⁰

6. Ability to Remain Functional in Emergencies.

Section 54.202(a)(2) of the FCC's Rules requires an ETC applicant to:

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.

Once designated, an ETC must provide annually a "certification that the carrier is able to function in emergency situations as set forth in Section 54.201(a)(2)"¹¹

DOCOMO is mindful of the importance of ensuring uninterrupted service so that law enforcement and public safety officials, as well as the general public, can make important calls in the event of a hurricane or other emergency. DOCOMO hereby certifies that the company is capable to function in emergency situations as defined in the above-referenced *ETC Report and Order* via the company's Network Operations Center that is

⁸ 47 C.F.R. § 54.209(a)(5).

⁹ 47 C.F.R. § 54.202(a)(3).

¹⁰ Under the CTIA Consumer Code, wireless carriers agree to: (1) disclose rates and terms of service to customers; (2) make available maps showing where service is generally available; (3) provide contract terms to customers and confirm changes in service; (4) allow a trial period for new service; (5) provide specific disclosures in advertising; (6) separately identify carrier charges from taxes on billing statements; (7) provide customers the right to terminate service for changes to contract terms; (8) provide ready access to customer service; (9) promptly respond to consumer inquiries and complaints received from government agencies; and (10) abide by policies for protection of consumer privacy. The CTIA Code can be viewed on the Web at http://www.wow-com.com/pdf/The_Code.pdf.

¹¹ 47 C.F.R. § 54.202(a)(2).

REDACTED – FOR PUBLIC INSPECTION

backed up from commercial power by a primary and secondary 175 KW generators with full automatic transfer functions. Generators are fueled from a 2000 gallon diesel storage tank. Traffic between the LEC and DOCOMO is divided between fiber optic cable and standard copper cable and therefore enables the ability to reroute where necessary.

DOCOMO also maintains a full cell site inside the facilities of the Guam Civil Defense Center. DOCOMO also certifies that the company has in place an automated notification system and manual procedures for the management of traffic spikes resulting from emergency situations.

7. Local Usage

In the *ETC Report and Order*, the Commission concluded that each ETC must annually certify that it offers at least one local usage plan comparable to the one offered by the incumbent LEC in the service areas for which the applicant seeks designation.¹² In the *ETC Report and Order* on which that requirement was based, FCC declined to adopt a specific local usage threshold or require that an applicant match the incumbent's offering. Rather, the FCC concluded that the comparability of rate plans should be evaluated on a case-by-case basis, in consideration of the number of included minutes, the size of the "local" calling area, monthly price, and other factors. As examples, the FCC mentioned that an applicant may offer "a local calling plan that has a different calling area than the local exchange area provided by the LECs in the same region, or . . . a specified number of free minutes of service within the local service area."¹³ The FCC also envisioned cases

¹² 47 C.F.R. § 54.209(a)(7).

¹³ See *ETC Report and Order*, *supra*, 20 FCC Rcd at 6385.

REDACTED – FOR PUBLIC INSPECTION

where an applicant may offer an unlimited calling plan that bundles local minutes with long distance minutes.¹⁴

DOCOMO satisfies the FCC's local usage requirement. Customers may choose from a variety of plans with different combinations of local calling areas, included minutes, and monthly rates, to suit individual consumer needs. For example, DOCOMO's 3,000 Minute Plan, which offers 3,000 minutes and has a home (roaming free) calling area consist of Guam, Saipan, Rota and Tinian. The plan is available for a monthly price of \$59.50. DOCOMO also offers a number of lower-priced usage plans for customers with lower monthly usage. For example, the 200 minute plan is priced at \$19.50.

Customers seeking both low cost and flexibility can select DOCOMO's prepaid offerings, which is priced at 20 cents per minute. These offerings allow customers to pay for blocks of minutes in increments of \$10 or \$20. There are no contracts, monthly charges, activation fees, credit checks, or term commitments. DOCOMO's service offerings described above allow consumers to select a plan that provides them with equal or greater value than a wireline rate plan, which can require customers to pay significant per-minute toll charges for calls made to locations beyond a small local calling area. Providing deeper geographic reach delivers a significant benefit to the consumer, and the FCC has cited studies concluding that "wireless service is cheaper than wireline, particularly if one is making a long distance call or when traveling."¹⁵

¹⁴ *Id.*

¹⁵ *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report & Analysis of Competitive Market Conditions with Respect to Commercial Mobile Servs., Twelfth Report*, 23 FCC Rcd. 2241, 2342 (2007) ("Twelfth CMRS Competition Report").

REDACTED – FOR PUBLIC INSPECTION

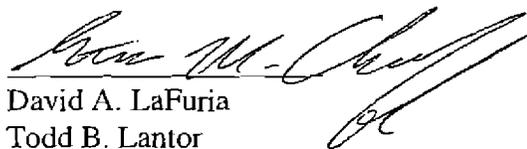
In sum, DOCOMO certifies that it offers at least one plan that is comparable to ILEC rate plans under the applicable FCC test.

8. Equal Access.

As required of applicants before the FCC under the *ETC Report and Order*,¹⁶ DOCOMO acknowledges that the FCC may require it to provide equal access to interexchange carriers in the event no other ETC is providing equal access in the designated ETC service area.

We trust that you will find this to be responsive to the compliance materials requested in the *ETC Report and Order* and in the orders designating DOCOMO as an ETC in Guam.

Respectfully submitted,



David A. LaFuria
Todd B. Lantor
Steven M. Chernoff
Lukas, Nace, Gutierrez & Sachs
1650 Tysons Blvd., Suite 1500
McLean, VA 22102
(703)584-8666

Attorneys for:
DOCOMO PACIFIC, INC.
d/ba Guam Cellular and Paging

Dated: October 1, 2009

¹⁶ See *ETC Report and Order*, *supra*, 20 FCC Rcd at 6386.

DECLARATION UNDER PENALTY OF PERJURY

I, Jay R Shedd, do hereby declare under penalty of perjury as follows:

1. I am the Chief Executive Officer of DOCOMO PACIFIC, Inc. d/b/a Guam Cellular and Paging

2. This Affidavit is submitted in support of DOCOMO PACIFIC's Annual Compliance Filing and Request for Recertification, pursuant to *Report and Order In the Matter of the Federal-State Joint Board on Universal Service*, FCC 05-46 (rel. March 17, 2005) and Sections 54.202 and 54.209 of the FCC's Rules.

3. I declare under penalty of perjury that the statements contained in the foregoing Annual Compliance Filing are true and correct to the best of my knowledge, information and belief.

Executed on September 25TH, 2009



Jay R. Shedd
Chief Executive Officer
DOCOMO PACIFIC, Inc. d/b/a Guam Cellular and Paging

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this 25TH day of September, 2009.



NOTARY PUBLIC

My Commission Expires: _____

SHELLEY M. D. SAN AGUSTIN
NOTARY PUBLIC
In and for Guam, U.S.A.
My Commission Expires: Dec. 01, 2012
139 Murray Blvd., Suite 100, Magaña Guam 96910

REDACTED – FOR PUBLIC INSPECTION

Exhibit A

Updated Five-Year Service Quality Improvement Plan

**THIS EXHIBIT IS WITHHELD AS THE FILER
HAS REQUESTED CONFIDENTIAL TREATMENT**