

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:)
) GPA DOCKET 11-05
)
GUAM POWER AUTHORITY)
PROPERTY INSURANCE RENEWAL)
_____)

PUC COUNSEL REPORT

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission [PUC] upon the Guam Power Authority [GPA] Petition for Authorization to Exercise the Remaining Two (2) One (1) year options on GPA’s property insurance policy for the period of November 1, 2011 to November 1, 2013.¹
2. GPA General Manager seeks such authority based upon the belief that GPA may be able to avoid a significant rate increase if it could include in the negotiating process a commitment to exercise both options available to GPA to obtain its policy extension.²
3. GPA’s current insurance policy will expire November 1, 2011, if GPA does not renew the existing policy.³

BACKGROUND

4. GPA’s Bond Indenture Agreement requires that GPA maintain insurance coverage for the island wide power system, and that it has an independent Risk Consultant review GPA’s programs periodically and make recommendations for changes in GPA’s coverage.⁴

¹ GPA Petition for Authorization to Exercise the Remaining Two (2) One (1) Year Options of GPA’s Property Insurance Policy, GPA Docket 11-05, filed May 19, 2011.

² Letter from GPA General Manager Joaquin Flores to PUC ALJ, GPA Docket 11-05, dated May 18, 2011, Re: Petition to Exercise up to Two (2) Options for Insurance Coverage.

³ GPA Petition for Authorization, GPA Docket 11-05, filed May 19, 2011.

⁴ Letter from GPA General Manager Joaquin Flores to PUC ALJ, GPA Docket 11-05, dated May 18, 2011 Re: Petition to Exercise up to Two (2) Options for Insurance Coverage, at p. 1.

5. In 2008 GPA issued a multi-step bid for insurance coverage for a period of three (3) years with two (2) options to extend for an additional one (1) year period. In November 2008, GPA began the three (3) year period of coverage which is due to expire November 1, 2011.⁵
6. GPA has insurance coverage for various risks, including Compensation, Auto Liability, Excess Liability, Directors and Officers Coverage. It has sought Transmission and Distribution Coverage, and the Authority determined that such coverage is not available at commercially reasonable rates.⁶
7. The only coverage for which GPA is required to seek PUC review under the Contact Review Threshold of \$1.5M is Property Insurance Policy, which includes Boiler and Machinery Coverage and Terrorism Coverage. The policy is the subject of the present filing.⁷
8. The Projected cost of the FY2011 Policy is \$5.3M per annum, and the proposed renewals “are not expected to deviate significantly from that amount.”⁸
9. On May 30, 2008, the PUC approved GPA’s Petition for Authorization to procure property and casualty insurance subject to certain conditions: [a] the prudence of GPA’s evaluation of the overall economic results of the selected bid; and [b] an opinion of counsel that the procurement mode selected by GPA for the transaction is in compliance with Guam Law.⁹
10. On October 30, 2008, an Administrative Law Judge Order found that GPA had satisfied the required conditions for its property and casualty insurance coverage. In accordance with prior authorization by the PUC, the ALJ approved GPA’s procurement of property and casualty insurance subject to certain additional requirements. Those requirements were later satisfied.¹⁰

⁵ Id.

⁶ Id.

⁷ Id.

⁸ GPA Petition for Authorization to Exercise the Remaining Two (2) Options, GPA Docket 11-05, filed May 19, 2011, at p. 1.

⁹ PUC Order, Docket 02-04, issued May 30, 2008 at par. 5, pgs. 1-2.

¹⁰ ALJ Order, Docket 02-04, in the Matter of GPA Property Insurance Procurement, dated October 30, 2008.

11. The insurance coverage approved by the PUC in 2008 was for a three year term plus two (2) one year options to extend at the mutual agreement of both parties.¹¹
12. On April 12, 2011, the Consolidated Commission on Utilities adopted Resolution No. 2011-16, which would authorize the Management of GPA to exercise up to two options to renew policies for property insurance coverage. Therein the CCU authorizes the GPA General Manager to petition the PUC for renewal of GPA's property insurance coverage for up to two additional one year periods, and to authorize him further to exercise up to two options for the renewal of the property insurance policy.¹²

ANALYSIS

13. The PUC previously approved the GPA insurance coverage adopted in 2008, which provided for a three year term plus two (2) one year options to extend at the mutual agreement of both parties. Thus, it appears that the PUC should not have an objection to the ability of GPA to exercise the existing one year options in its property insurance policy.
14. For various reasons, GPA believes that it would be more prudent for it to attempt to continue with its present property insurance provider and the existing contract, rather than going out for a new multi-step bid process.
15. GPA's independent Insurance Consultant has pointed out that the recent Tsunami in Japan has had the impact of reducing the market appetite for natural catastrophe coverage. The consultant has a concern that if GPA were to rebid its property coverage, with the market in its weakened state, GPA might not be able to attract any bids for this critical coverage whereas, because of its long relationship with its existing insurance underwriters, GPA would likely be able to retain its coverage if it were to exercise an option to extend such coverage.¹³
16. As indicated, the General Manager believes that GPA may be able to avoid a significant increase in its property insurance premium rates if it can include in the

¹¹ Consolidated Commission on Utilities Resolution No. 27-2008, adopted October 21, 2008, at p. 1.

¹² CCU Resolution No. 2011-16, adopted April 12, 2011, at pgs. 1-2.

¹³ Letter from GPA General Manager Joaquin Flores to PUC ALJ, Re: Petition to Exercise Up to Two Options for Insurance Coverage, GPA Docket 11-05, dated May 18, 2011, at p. 2.

negotiating process a commitment to exercise both options available to GPA to obtain a policy extension.¹⁴

17. According to the GM, he would not necessarily take such approach, but wishes to have this negotiating tool available should he need it to avoid a significant rate increase. The ability of GPA to extend all insurance/broker contracts for the 2011-12 and the 2012-13 years is supported by GPA's Risk Management and Insurance Consulting Firm Grennan & Associates, Inc.¹⁵
18. Mr. Mark Grennan gives three reasons as to why it is prudent for GPA to extend all insurance/broker contracts for the 2011-12 and 2012-13 years:
 - Uncertainty in the insurance market. GPA needs to sustain the limits and premiums in place now without wondering if a new insurance company would offer coverage if we were to issue an MSB.
 - No Claim Bonus - GPA was successful in negotiating a No Claims Bonus if there are no claims and GPA renews again with Lloyds of London. At this point, there are no claims so GPA could expect \$250,000 in return premium.
 - Past history shows that we have been very successful when we have the freedom to negotiate renewals without issuing a MSB. The attached spreadsheet shows just how successful we have been over the past 8 years.¹⁶
19. The General Manager has presented a reasonable justification for allowing him to negotiate an extension of the property and casualty insurance for GPA with an ability to negotiate concerning the option(s).

RECOMMENDATION

20. Counsel recommends that the GPA General Manger be granted flexibility, in his negotiations to extend property and casualty insurance coverage, to exercise options to extend coverage with the current insurance providers for up to a two year period.

¹⁴ Id.

¹⁵ Letter from Grennan & Associates, Inc. to GPA CFO Randy Weigand, dated April 12, 2011.

¹⁶ Id.

PUC COUNSEL REPORT

In the Matter of: GPA Property Insurance Renewal

GPA Docket 11-05

June 6, 2011

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21. The General Manager should have the flexibility to bring the option of the two year renewal period to the negotiating table if it might enable GPA to negotiate lower rates in a difficult insurance market.
 22. GPA has indicated that the per annum rate for an extension of its property and casualty insurance should not “deviate significantly” from the \$5.3M per annum cost of the present property and casualty insurance policy. The General Manager of GPA represented to PUC Counsel that the present property and casualty insurance policy allows the provider to increase the annual cost of such policy up to the amount of ten (10) percent.¹⁷
 23. In the event that GPA is able to negotiate per annum extension(s) which do not exceed the annual cost of \$5.3M plus ten percent, GPA should not be required to request additional approval of such amount from the PUC. If the rate exceeds ten percent, further PUC approval shall be required.
 24. Once GPA has negotiated a rate for the extension of its property and casualty insurance, it shall file a copy of such extension and documentation relating to any extension of such property and casualty insurance policy with the PUC, indicating the cost thereof.
 25. A Proposed Order is submitted herewith for the consideration of the Commissioners.

Dated this 14th day of June, 2011.

Frederick J. Horecky
PUC Legal Counsel

¹⁷ Telephone Discussion between GPA General Manager and PUC Counsel on June 13, 2011.