

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:

GPA DOCKET 11-09

GUAM POWER AUTHORITY'S 2011
MULTI YEAR BASE RATE RELIEF
FILING [PHASE II ISSUES]

ORDER

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] as a part of the "PHASE II" issues in the Guam Power Authority's ["GPA's"] 2011 Multi Year Base Rate Relief Filing.
2. In the ORDER RE: PRELIMINARY ISSUES rendered by the Administrative Law Judge ["ALJ"] on February 8, 2012, certain issues, including the Self Insurance Surcharge and the formula for determination of the debt service coverage ratio on subordinate debt, were deferred until PHASE II of this proceeding.¹
3. This ORDER addresses the resolution of PHASE II issues concerning the Self Insurance Program Protocols and the formula for determining the debt service coverage ratio for subordinate debt.

BACKGROUND

4. The history of the Self Insurance Program ["SIP"] has been addressed in the ALJ Report filed herein on May 23, 2013.² The background and conclusions stated in the Report are adopted herein. The program has generally been designed to provide a source of funding which enables GPA to make repairs to the island wide power system resulting from natural disasters, particularly typhoons.
5. Since the inception of the Program, the PUC has broadened the scope of permissible expenditures under the program and has increased the cap on the SIP to \$10 million.³ In GPUC Docket 11-04, the Commission authorized GPA to continue collecting the SIP amounts from customers pending completion of GPA's general rate case (even though the cap had already been reached).⁴

¹ ORDER RE: PRELIMINARY ISSUES, GPA DOCKET 11-09, issued February 8, 2012.

² ALJ Report re: PHASE II ISSUES, GPA Docket 11-09, filed on May 24, 2013.

³ Letter from GPA General Manager Joaquin Flores to Frederick J. Horecky, PUC ALJ, Re: GPA Docket 11-09-Phase II Self Insurance Fund Protocols

⁴ Id. at p. 2.

6. Both GPA and the PUC Independent Consultant, the Georgetown Consulting Group ["GCG"] have filed reports on the Self-Insurance Program and the applicable protocols.⁵ On April 15, 2013, both GPA and GCG also submitted their respective positions regarding subordinate debt service ratio coverage.⁶
7. Initially there was a difference of opinion between GPA and GCG as to the formula by which the debt service coverage ratio on subordinate debt should be calculated. GPA's proposed formula was based upon total debt service costs, whereas GCG proposed to determine the ratio based upon subordinate debt service costs.⁷
8. Subsequent to conversations between GCG and GPA in April of 2013, the parties agreed that the methodology proposed by GPA for determining the subordinate debt service coverage ratio may be utilized.
9. However, GCG believes the PUC should reconsider its current standard of 1.4x for subordinate debt service coverage: "The regulatory standard should be reset to 1.3x and the "S&P" Method should be used for the computation."⁸
10. On May 15, 2013, GPA and GCG entered into a proposed Stipulation concerning the Self Insurance Program Protocols and the Subordinate Debt Service Coverage Ratio.⁹ On May 17, 2013, the parties met for a hearing conducted before the Administrative Law Judge at the PUC Conference Room.
11. The parties, through their various representatives, were in attendance. The Navy, although not a party to the Stipulation, also appeared at the hearing. At that time the parties presented their positions concerning the two issues and the proposed Self Insurance Protocols. The ALJ conducted an inquiry into the provisions agreed to and also requested that the parties consider certain revisions to the Protocols.

⁵ SAIC, Report on SELF-INSURANCE PROTOCOLS, Guam Power Authority, GPA Docket 11-09, filed April 15, 2013; GCG Report of the Technical Consultants, GPA Docket 11-09 concerning the setting of self-insurance cap, possible protocols for accessing funds, and debt service coverage ratio requirements on subordinate revenue bonds, filed April 15, 2013.

⁶ GCG Report, Id.; Black & Veatch, FINANCIAL MEMORANDUM: Debt Rating Criteria and the Utility Rate Making Process, GPA Docket 11-09, filed April 15, 2013.

⁷ Letter from GPA GM Joaquin Flores to ALJ Fred Horecky, GPA Docket 11-09 Phase II, Re: Subordinate Debt Service Coverage Ratio Filing, filed April 15, 2013.

⁸ Report of the Technical Consultants Madan, Gawlik & Margerison, GPA Docket 11-09, filed April 15, 2013.

⁹ STIPULATION RE: PHASE II ISSUES, GPA Docket 11-09, filed May 15, 2013.

DETERMINATIONS

12. On May 15, 2013, GPA and GCG filed their STIPULATION RE: PHASE II ISSUES. The Stipulation has been the result of extended discussion between the parties; attached as Exhibit A to the Stipulation are the Self Insurance Program Protocols. The Protocols appropriately define the scope, draw down procedures, review process, and other aspects of the Self-Insurance Program. The parties filed revised Self Insurance Protocols on May 22, 2013.
13. The further extension of the scope of GPA's use of Self Insurance Funds from losses resulting from natural disasters, such as typhoons and earthquakes, to "all unanticipated and extraordinary expenses associated with insurable events, including losses from accidents, explosions, fires and similar events", and equipment failures, is a beneficial development. GPA will have readily available financial resources to address unanticipated losses from uninsurable events. It will be able to address natural and other disasters in a timely manner.
14. Under the proposed Protocols, the SIP Reserve will continue to accrue until it reaches the SIP Reserve Cap of \$20,000,000. The parties have established that it is appropriate to raise the Cap from \$10M to \$20M. GPA will be required to retain an outside consultant specializing in actuarial analysis to perform an analysis of the Cap by June 2016, if acceptable to the PUC. Any further request for changes in the SIP Cap to the PUC shall contain a recommendation from such consultant.
15. In the SAIC Report, certain disaster charge figures are cited. In 2002, the total disaster charges to GPA work orders for Typhoons Chataan and Pongsona were \$38,453,272. GPA Ratepayer Cost for those typhoons was \$16,204,919.¹⁰ The amount of damage incurred to Guam as a result of those storms, as well as the significant ratepayer cost, substantiate that the proposed level for the self-insurance cap approximates an amount that could be necessary for disaster repairs in a worst case storm scenario.
16. Both the Consultants for the PUC and GPA gave their opinions at the scheduled hearing on this matter that the proposed cap of \$20M represents a reasonable amount to protect GPA against potential losses. The proposed cap should be adopted by the PUC.
17. Under the proposed protocols, the Self-Insurance Surcharge remains the same as

¹⁰ SAIC, Self-Insurance Protocols (Guam Power Authority) April 15, 2013.

the present surcharge: \$0.0029 per kilowatt hour (kWh) sold by GPA to civilians and \$0.0007 per kWh sold by GPA to U.S. Navy customers.

18. The Protocols have protections which should be sufficient to insure that GPA properly expends the Self Insurance Funds. The Consolidated Commission on Utilities ["CCU"] must authorize all SIP draws above \$5M. There are various reporting requirements that GPA must undertake, to the CCU and the PUC, for the drawdown of funds from the SIP reserve. Use of the SIP Reserve for mitigation activities not associated with a storm event requires the prior approval from both the CCU and the GPUC.
19. All SIP reserve draw downs and Draw Declarations in excess of \$2.5M must be audited by an independent third party for SIPP compliance on an annual basis.
20. The PUC retains its express and inherent regulatory oversight authorities under the protocols to review all expenditures by GPA under the Self Insurance Protocols, to determine whether any expenditure is in accordance with the Protocols, and to fashion appropriate remedies for any transaction found not to meet the parameters of the Protocols.
21. The Self Insurance Protocols are the product of careful deliberation and should be approved and adopted by the PUC.
22. With regard to Debt Service Coverage Ratio, GPA and GCG have essentially agreed to use the methodology proposed by GPA to calculate debt service coverage ratio on subordinate debt. The agreed upon formula in the Stipulation is as follows:
$$\frac{(\text{Net Revenues as defined by the PUC or S\&P Method})}{(\text{total debt service for senior and subordinate debt})^{11}}$$
23. It is appropriate to utilize a formula for the calculation of the debt service coverage ratio on subordinate debt in a manner that analyzes the financial strength of GPA in the perspective of overall strength of the utility organization, not merely from the view of an investor in subordinate bonds. The proposed formula should be adopted.
24. The parties have not reached an agreement at the present time as to the proper DSCR standard to be adopted by the PUC for regulatory purposes for subordinate debt.

¹¹ Stipulation Re: Phase II Issues, GPA Docket 11-09, filed May 23, 2013.

25. In its ORDER dated June 3, 2010, in GPA Docket 10-01, the PUC stated as follows:
“The Commission affirms its commitment to support a debt service coverage ratio of 1.75 times on senior debt including the proposed Revenue Bonds and 1.4 times on the Subordinate Revenue Bonds proposed.” (Emphasis added).
26. At the hearing before the ALJ on this matter, GPA, through its Consultant Joseph Trainor, suggested that it would not, in any event, be appropriate to change the current debt service coverage ratio for subordinate debt without examining all of the new data and rate information submitted in the pending petition for the FY2014 rate case.
27. It would not be appropriate to change that 1.4x standard for subordinate debt without a full consideration of that issue and within the context of consideration in a larger rate proceeding. Therefore, the parties will be permitted to further examine this issue, and to present their respective positions, in the context of the FY 2014 rate petition case.

ORDERING PROVISIONS


After careful review and consideration of the above Determinations, the Reports of GPA’s Consultants and GCG, the Report and Recommendations of the ALJ, all matters of record herein, the STIPULATION RE: PHASE II ISSUES, and the SELF INSURANCE PROGRAM PROTOCOLS, for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission hereby ORDERS that:

1. The STIPULATION RE: PHASE II ISSUES, filed herein, is hereby adopted and approved.
2. The SELF INSURANCE PROGRAM PROTOCOLS, attached as Exhibit A to the STIPULATION RE PHASE II ISSUES, are hereby approved. GPA shall carry out the Self-Insurance Program in accordance with the Protocols.
3. The Self-Insurance Cap is hereby raised from \$10M to \$20M. The current Self-Insurance Surcharge amounts to civilian and Navy customers will remain the same.
4. In accordance with the STIPULATION of the parties, the recommended formula


for calculation of the debt service coverage ratio on subordinate debt is adopted. Such method is the determination of net revenues as defined by the PUC or S&P Method divided by Total Debt Service for senior and subordinate debt.

5. As to the current DSCR standard of 1.4x for subordinate debt, such standard shall remain in effect as it has previously been approved through PUC Order.
6. The parties may revisit the issue of the appropriate standard in the context of the current rate petition filed for the establishment of FY2014 rates.
7. 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 the PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.


Dated this 28th day of May, 2013.



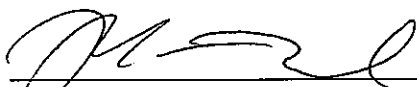
Jeffrey C. Johnson
Chairman




Rowena E. Perez
Commissioner



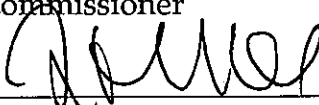
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Commissioner



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