



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:) GPA Docket 14-13
)
The Application of the Guam Power)
Authority to Reduce the Self Insurance) **PUC COUNSEL REPORT**
Fund Surcharge.)
)
_____)

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Guam Power Authority ["GPA"] Petition for Approval of Request to reduce the Self Insurance Fund Surcharge.¹
2. Pursuant to Public Law 32-140, enacted April 28, 2014, GPA requests that the PUC implement a 50% reduction in the self-insurance surcharge.²
3. Were GPA's Petition adopted by the PUC, the Self-Insurance Surcharge on Customers' Bills would be reduced from \$0.0029 per kilowatt hour (kWh) to \$0.00145 per kilowatt hour (kWh).³

BACKGROUND

4. The Self Insurance Program ["SIP"] was first established by the PUC in 1994. Its purpose was to create a surcharge on customers' bills which would provide a funding source so that GPA could react more quickly and efficiently to the natural consequences of significant storm events, particularly typhoons.⁴ GPA has been unable to obtain Transmission and Distribution insurance on a commercially reasonable basis for many years.
5. The cap for the SIP was initially set at \$2.5M, an amount that matched GPA's T&D insurance deductible. In 1995, the PUC expanded the use of the fund to include generation losses. GPUC authorized an increase to the cap on the SIP from \$2.5M to \$10M, as well as an expansion of uses for the funds in the SIP.⁵

¹ GPA Petition for Contract Review, GPA Docket 14-13, filed June 19, 2014.

² Id. at p. 1.

³ Attachment A to Guam Consolidated Commission on Utilities Resolution No. 2014-21, adopted June 3, 2014.

⁴ Letter from GPA General Manager Joaquin Flores to Frederick J. Horecky, PUC ALJ, Re: GPA Docket 11-09, Phase II Self Insurance Fund Protocols, dated April 15, 2013.

⁵ Id. at p. 2.

6. In GPA Docket 11-04, the Commission authorized GPA to continue collecting the SIP amounts from customers pending completion of GPA's general rate case.⁶
7. In GPA Docket 11-09, Phase II of GPA's Base Rate Relief Filing for FY2011, the Commission considered various revisions to the Self Insurance Program protocols, and the issue as to whether the SIP Reserve Cap should be raised from \$10M to \$20M.⁷
8. In its Order, the Commission approved raising the Cap from \$10M to \$20M, finding that "the parties have established that it is appropriate to raise the Cap..." The Commission cited evidence from the SAIC Report that, 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 \$16,204,919.⁸
9. The Commission further determined that the amount of damage incurred to Guam as a result of those storms, as well as the significant ratepayer cost, substantiated 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. Both consultants for the PUC and GPA gave opinions at the scheduled hearing in the matter that the proposed cap of \$20M represented a reasonable amount to protect GPA against potential losses.⁹
10. Under the SIP Protocols adopted by the PUC, GPA was allowed to continue the same Self-Insurance Surcharge in effect [i.e. \$0.0029 per kilowatt hour (kWh) sold by GPA to civilians and \$0.0007 per kWh sold by GPA to U.S. Navy customers] until the amount in the SIP Reserve reached the SIP Reserve Cap of \$20M.¹⁰
11. In accordance with the Self Insurance Protocol adopted, the Self-Insurance surcharge was to remain in effect until the amount in the SIP Reserve reached the

⁶ PUC Order, GPA Docket 11-04, Guam Power Authority's Filing regarding Self Insurance Policy, dated May 16, 2011 ["the current self-insurance surcharges for both civilian ratepayers and the Navy (\$0.00290 per kWh for civilian ratepayers and \$0.00070 per kWh for the Department of Defense) shall continue in effect until PUC approval of self-insurance fund protocols, or the completion of the next base rate case, whichever is sooner." Ordering Provisions, par. 2].

⁷ PUC Order, GPA Docket 11-09, adopted May 28, 2013.

⁸ Id. at p. 3.

⁹ Id. at p. 3.

¹⁰ ALJ Report, GPA Docket 11-09, dated May 23, 2013, at p. 5.

SIP Reserve Cap, and would be reinstated at any time the balance in the SIP Reserve fell to less than \$18,000,000.¹¹

12. There has been a Self Insurance surcharge in effect on Customers' bills for more than twenty years.¹²
13. GPA recently sought Legislative approval for the issuance of 2014 Revenue Bonds. The Guam Legislature approved the issuance of such bonds through the adoption of Public Law 32-140.¹³ Section 2 of said Public Law provides as follows:

"A new § 8244 is *added* to Article 2 of Chapter 8, Title 12, Guam Code Annotated, to read:

§ 8244. Self-Insurance Fund Surcharge Reduction. The GPA *shall* file a petition with the Guam Public Utilities Commission to reduce the GPA's Self-Insurance Fund surcharge charged to ratepayers by *not less than* seventy percent (70%) of the Self-Insurance Fund surcharge in effect as of the enactment of this Act. GPA *shall* request the GPUC for such reduction *not later than* sixty (60) calendar days after the enactment of this Act, and such filing may be considered by the GPUC through an expedited schedule of review and approval by the GPUC."

14. In compliance with Section 2 of Public Law 32-140, GPA has filed the instant Petition. Instead of seeking to reduce the self-insurance fund surcharge to 70%, as stated in the Public Law, GPA proposes to reduce the self-insurance charge by 50%. However, while seeking to comply with the Legislation in part, GPA maintains that "PL 32-140 violates the bond covenants of GPA..."¹⁴ In addition, while authorizing the General Manager of GPA to petition the PUC for a 50% reduction in the Self Insurance fund, the Guam Consolidated Commission on Utilities stated its belief that "Public Law 32-140 as passed violates the bond covenants of GPA by the

¹¹ Id.; See also Protocol IX of the SIP Protocols.

¹² Supplemental Filing for Reduction of Self Insurance Fund Surcharge, GPA Docket 14-13, filed June 26, 2014, at p. 2.

¹³ Public Law 32-140, An Act to Add New §§8243, 8244, and 8245 to Article 2 of Chapter 8, Title 12, Guam Code Annotated, Relative to Approving the Terms and Conditions of Guam Power Authority Revenue Bonds to Finance Capital Improvements to the Island-Wide Power System, enacted April 28, 2014.

¹⁴ GPA Petition for Contract Review, GPA Docket 14-13, filed June 19, 2014, at p. 1.

Legislative mandate that there be a reduction in the self-insurance surcharge of at least 70%..."¹⁵

ANALYSIS

15. GPA indicates that the current balance in the Self Insurance Fund, as of May 31, 2014, was \$15,465,541. With the current surcharge rate, without any reduction, GPA estimates that the Self Insurance Fund will reach the cap of \$20M by December 15, 2015. However, with a 50% reduction of the surcharge, the cap will not be reached until August 2017. At the 70% rate indicated in Public Law 32-140, the Self Insurance Fund would not reach the cap of \$20M until October 2019.¹⁶
16. Reducing the current Self Insurance surcharge to 50% would not be reasonable or prudent. The Commission previously found it is desirable and advantageous to ratepayers to ensure that there are sufficient funds in the Self Insurance Fund to enable GPA to adequately respond to natural disasters such as typhoons. At a 70% reduction in the surcharge, the SIP Fund would not be filled until October 2019, over four years from now.
17. The Commission found, and all consultants concurred, that it is important to fill the SIP Fund to \$20M as soon as possible. Most participants in the PUC proceedings agreed that such amount would realistically be needed for availability to GPA in the event of a serious disaster such as a major typhoon. Extending the time period during which GPA fills the Self Insurance Fund could leave it vulnerable and without adequate resources in the event of a major typhoon.
18. Guam has not experienced a major typhoon since 2002; based upon the history of such occurrences, it is entirely possible that Guam will at some point face a severe typhoon for which GPA will need adequate resources to fully undertake recovery efforts. Recently the Pacific El Niño/Southern Oscillation Applications Climate (PEAC) Center provided the following assessment:

"If, the climate system trends toward El Niño during the latter half of 2014, this would imply average to above average rainfall throughout Guam and the CNMI on into June. Also, during years that trend toward El Niño, there is typically

¹⁵ Guam Consolidated Commission on Utilities, Resolution No. 2014-21, adopted June 3, 2014, at p. 2.

¹⁶ CCU Resolution No. 2014-21, adopted June 3, 2014, at Attachment A.

above average tropical cyclone activity, with a big increase in the risk of a typhoon in the fall. The warmer sea surface temperature pattern of a developing El Niño starts the tropical cyclone season earlier, and moves the formation region of the cyclones eastward into Micronesia. Although no agency has yet produced guidance regarding the upcoming 2014 typhoon season, the PEAC would like to raise the awareness that Guam and the CNMI could see an elevated risk of a typhoon during 2014.¹⁷ (emphasis added).

19. A recent Editorial in the Marianas Variety Guam Edition, "Be Prepared", dated July 7, 2014 stated: "It has been nearly 12 years since the island has been hit by a major typhoon and over the course of that time, it is not hard to become complacent as memories fade. But we are told by weather forecasters that weather patterns are changing and chances of a serious typhoon this year are higher than they have been in a while."¹⁸
 20. The average GPA customer who utilizes 1,000 kWh per month presently pays \$2.90 per month for the Self Insurance Surcharge. The reduction proposed by GPA would only reduce the surcharge by \$1.45 a month for such average customer. The potential benefit of a minimal reduction in the surcharge is not worth the risk of a lack of preparedness by GPA in the event of a typhoon.
 21. Furthermore, customers have become accustomed to the self-insurance surcharge at the current rate, as the surcharge has been in effect for many years.
 22. After due deliberation, the PUC previously determined that the current surcharge should remain in effect and that the Self Insurance Fund should be filled to its Cap as soon as possible. GPA's proposal would delay filling the fund to its Cap for at least two years.
 23. Since ratepayers are accustomed to the current surcharge, the potential benefit of a minimal reduction in the surcharge is not worth the risk of a lack of preparedness by GPA in the event of a typhoon.
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¹⁷ Pacific ENSO Update, 1st Quarter, 2014, Vol. 20, No. 1, issued February 7, 2014 [a Quarterly Bulletin of the Pacific El Niño/Southern Oscillation Applications Climate (PEAC) Center Providing Information on Climate Variability for the U.S.-Affiliated Pacific Islands], at p. 5.

¹⁸ Marianas Variety Guam Edition, Editorial, published July 7, 2014, at p. 10.

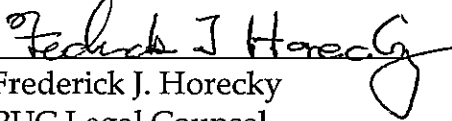
24. In addition, at the present rate, the Cap will reach \$20M by December 2015. At that point, customers will be entirely relieved of paying the self-insurance surcharge at all for so long as the balance in the SIP Reserve does not fall below \$18M.
25. However, under the proposed 50% reduction format, ratepayers will be required to continue to make self-insurance surcharge payments for two years after December 2015.
26. The PUC previously duly considered the Self Insurance Program and the required schedule of payments; neither the present surcharge nor the present payment schedule should be altered.
27. Were GPA's proposal adopted, GPA could be vulnerable and unable to deal with future typhoons. GPA recently recognized the potential problems that could be caused by a reduction in the Self Insurance Surcharge. In its Supplemental Filing dated June 26, 2014, GPA seeks to amend its proposal: the surcharge reduction would be temporary with a termination date of either the date on which the Self-Insurance Fund cap is reached or the date on which a significant uninsured loss is incurred by the Authority.¹⁹
28. GPA's attempt to terminate the surcharge upon the date of a significant uninsured loss does not eliminate risks or dangers. If the surcharge were now to be reduced, if a major typhoon occurred at the end of this year or in the first half of next year, GPA could be left without sufficient funds to address typhoon damage. The Self Insurance Fund would not have been built up as quickly, and not to the \$20M cap. Even if the self-insurance surcharge reduction were terminated after a "significant uninsured loss" by GPA (however such is defined), it would take additional time for GPA to build the fund up to the cap level. During such period of restoring the fund to the cap level, GPA could again be vulnerable to typhoon damage. Artificial reductions in the self-insurance surcharge are not worth the risk, as they could jeopardize GPA's ability to recover after a major typhoon.

¹⁹ Supplemental Filing for Reduction of Self-Insurance Fund Surcharge, GPA Docket 14-13 [Letter from GPA General Manager Joaquin C. Flores to Frederick J. Horecky, PUC ALJ, Ref: Reduction of Self-Insurance Fund Surcharge, dated June 24, 2014, at p. 2].

RECOMMENDATIONS

29. Counsel recommends that the PUC deny GPA's Request to reduce the Self Insurance Fund Surcharge.
30. The Self Insurance Surcharge, as well as the current SIP Protocols, should remain in effect to ensure that GPA has sufficient funds to meet the repair requirements of a major typhoon.
31. A Proposed Order is submitted herewith for the consideration of the Commissioners.

Dated this 7th day of July, 2014.


Frederick J. Horecky
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