BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:	)	GPA Docket 11-09
Guam Power Authority's 2011 Multi-Year	)	
Base Rate Filing	)	**ALJ REPORT**

Background and Procedural History of this Docket

1. On November 3, 2011, GPA filed its Petition for Approval of Multi-Year Base Rate Increases for: a] 11.8% for the period from March 1, 2012 through September 30, 2012; b] 1.3% for the period from October 1,2012 through September 30, 2013; c] 10.6% for the period from October 1, 2012 through September 30, 2014; d] 0% for the period from October 1, 2014 through September 30, 2015; e] 0% for the period from October 1, 2015 through September 30, 2016. The total rate increase over the five-year period would be 25.3%. The revenues requested by GPA for the five-year period are approximately $10.8 Million in FY 2012, $2.3M in FY 2013, and $18.6M in 2014.

2. GPA's Petition requested numerous other changes, including raising of the self-insurance fund cap to $20 million, PUC approval of certain financial targets proposed by GPA for evaluating rate increases, implementation of a quarterly LEAC true-up process, PUC approval of a revised Tariff M for backup and standby rates and approval for a Payment in Lieu of Taxes (PILOT) surcharge to cover payments in the General Fund of $3.5M in FY 2012 and $875,000 annually in FYs 2013-2016. GPA stated that a surcharge of approximately $.003623 per kWh would be necessary to cover the PILOT of $3.5 million in FY12, with some reductions in theamounts of the surcharges for FY2013 through 2016.

3. GPA also requested a change in the manner in which it allocates its demand charges so that such charges are more reflective of the cost-of-service to serve customers. GPA seeks authority to move toward "cost-based customer charges" in its rates. These "phased in" changes to rate design will likely mean that the average residential customer and lifeline customers will see their rates increase more than the average commercial customer. GPA believes that these changes will more fairly allocate costs so that the customer that caused the cost is responsible for paying the cost. GPA also seeks to increase certain returned check fees and other "convenience fees."

4. On November 29 and December 2, 2011, a scheduling conference was held in this Docket for the purpose of the scheduling of discovery, submission of testimony, prehearing conferences, the evidentiary hearing, and other matters related to the resolution of this proceeding. GPA, GCG, and the Navy presented their positions on the respective schedule.

5. At the conclusion of the hearing, the ALJ ordered that the parties jointly develop a schedule. On December 14, 2011, GPA filed a proposed schedule with PUC. Said schedule is attached hereto as Exhibit "1".

6. In the Scheduling Order dated December 24, 2011, the ALJ adopted the proposed schedule of the parties but reserved the right to reschedule the same for convenience or cause.

7. On February 8, 2012, the ALJ issued an ORDER RE: PRELIMINARY ISSUES. Therein, it was ruled that four issues would be deferred until Phase II of this proceeding:

    1. Payment in Lieu of Taxes [PILOT]

    2. Self Insurance and all issues relating thereto

    3. A clarification of Procedures and Requirements relating to the Working Capital Fund.

    4. LEAC Period [whether the LEAC period should be reduced from six months to three months]

8. Furthermore, the ALJ was requested to make a ruling on an issue relating to the interpretation of the "General Lifeline Rate", as set forth in 12 GCA §12004. 12 GCA §12004 provides in pertinent part: "…General Lifeline Rates may only be increased [by the PUC] when the total actual overall cost of providing service to all classes of customers, increases by no less than 20 percent (20%)." The question presented was whether the 20% requirement is a "one time event", after which the lifeline rate may be increased at the discretion of the PUC, or whether, after the 20% requirement is initially satisfied, it must be satisfied each time again thereafter before the PUC again raises the lifeline rate (the "ratchet" approach). The ALJ adopted the

"ratchet" approach holding that the 20% requirement was not only "a onetime threshold". Even after the 20% requirement has been satisfied, for any increase thereafter, the Commission cannot again increase the general lifeline rates until the 20% requirement is again satisfied. The parties agree that the 20% requirement has been met for purposes of this proceeding.

9. In the conduct of these proceedings, the parties closely adhered to the proposed schedule, with the exception of the conduct of the village hearings, ALJ Decision and PUC Meeting. The latter aspects of the proceedingwere delayed for approximately one month, due to a lack of notice by GPA in billings to its ratepayers of scheduled public hearings on this rate case. The PUC initially scheduled the public hearings for March 9 and March 13, 2012. At the request of GPA, the hearings were subsequently rescheduled to dates in April.

10. On March 7, 2012, the ALJ conducted a contested hearing at which time the parties (GPA, Navy, and GCG) presented argument and position statements concerning three issues involving rate design and the allocation of rate base to Navy. The issues do not affect the total amount of revenues which GPA should receive in the rate case, but address the question of which class of customer bears the burden of the rate allocation. These issues were presented for resolution by the ALJ: whether "Other Revenues" should appropriately be allocated to the Navy in the GPA Transmission Level Cost of Service Study (TLCOS); the manner in which Independent Power Producer Debt Service Costs should be allocated; and whether GPA should be authorized to utilize a new allocation methodology, Average Excess Demand 12 Coincident Peak Methodology (AED/12 CP). In this Report, the ALJ issues his proposed findings on those issues.

11. In accordance with the Ratepayer Bill of Rights, three public hearings were conducted on April 3, 4, and 5, 2012, respectively, at Hagatna, Agat, and Dededo. The public testimonies and comments, in general, demonstrated a high level of awareness and understanding by the public of the issues in this rate proceeding and the problems facing GPA. A summary of the public comments and testimonies is set forth herein.

12. At the "evidentiary" public hearing conducted in Hagatna at the GCIC Building on April 3, 2012, GPA and Georgetown Consulting Group ("GCG") presented a draft Stipulation. Said Stipulation is attached hereto as Exhibit "2". The Stipulation essentially provides for a 6% increase in base rate revenue requirements, effective

May 1, 2012. This increase would be effective for the remainder of 2012 and 2013. In 2014, there would be a simplified base rate filing by GPA, indicating revenue requirements, and any comparisons or changes with regard to revenue requirements and other requirements set forth at the time of the filing. The PUC would then adjust rates, if appropriate. At this time, GPA's target base rate increase for FY2014 is approximately 10.6%, which largely is based upon principal and interest payments which will become due on the 2010 Bond Issue. However, the amount of any such increase will be addressed in 2014. Thus, what was initially a five-year rate plan has been reduced to a set two-year plan with an additional filing for the third year.

13. On April 24, 2012, the ALJ issued his Report herein, which report includes proposed findings on the contested rate design/allocation issues and recommendations on the requested rate increase by GPA.

Stipulation

14. In the "evidentiary" hearing in Hagatna during the evening of April 3, 2012, GCG and GPA presented an overview of the Stipulation which had been entered into by the parties, including the Navy. The Stipulation is attached hereto as Exhibit "2". Rather than repeating the provisions of Stipulation in detail, this Report will set forth the highlights thereof:

    A. There would be a single overall 6% base revenue requirement increase for the period covering FY2012 and FY2013 for meters read on and after May 1, 2012.

    B. For FY2014, GPA would make an abbreviated base rate filing by no later than April 1, 2013, in accordance with certain revenue requirement filing procedures set forth in the Stipulation.

    C. For FY2015 and FY2016 there shall be no incremental base rate changes without a new base rate filing.

    D. In making the calculation for the Debt Service Coverage Ratio the parties agree that Independent Power Producer expenditures, only for the purposes of coverage calculations for revenue requirement determinations, will be treated as expenses and as not as a capitalized lease.

E. In Phase II of this Docket, the PUC will consider and provide additional guidance on the issue of the DSCR requirements on subordinate revenue bonds.

F. A number of steps have been takento provide GPA with adequate financial liquidity to run its day-to-day operations. The WCF balance has been fully met and a mechanism is in place to maintain required amounts. Issues concerning the GPA self-insurance fund with a funding cap, and applicable protocols, will also be examined in Phase II. Finally, with the base rate increases recommended by the parties herein, GPA is projected to end FY2013 with an additional $18.7M of unrestricted cash over the amount in the WCF. At the end of FY2013, it is projected that GPA will have approximately 48 days of cash on hand.

G. In this rate case, GPA has agreed to reduce its budgeted labor and non-labor O&M expenses by approximately $3.6M in FY2012 and FY2013.

H. Effective May 1, 2012, the PUC should award an overall 6% increase in base rate revenues of approximately $9.1M.

I. Effective April 1, 2012, a WCF base rate surcharge of $0.00466 per kWh as ordered by the PUC was implemented. A flat fee of $110,374 per month was charged to Navy (DoD) as the WCF base rate surcharge.

J. Effective May 1, 2012, the civilian WCF base rate surcharge should be increased to reflect the increase in the fuel portion of GPA's WCF requirement. The flat fee WCF surcharge charged to DoD should also be increased. The parties recommend that the increase occurring on May 1, 2012 should be amortized over a 12-month period rather than the remainder of the WCF amortization period. These increases in the WCF surcharge are expected to collect $4.855M over 12 months.

K. For residential service, the Customer Charge would increase gradually from $10.00 in FY2012 to $15.00 in FY2015.

L. Between FY2012 and 2016, the subsidy in the Lifeline Block would be progressively decreased until, in FY2016, the Lifeline Block would equal 80% of the "Tail Block Charge" (i.e. the charge for all kWh use in excess of 500 kWh per customer per month).

M. An increase will be implemented for General and Government non-demand rates (Schedules G&S). Increases in customer charges for Schedules G&S would be phased-in in three fiscal years with approximately a 33% increase in the Customer Charge in the FY2012 rates. There would be subsequent adjustments on October 1, 2012 and October 1, 2013. Energy charges would also be adjusted.

N. New rate structures would be implemented for Demand-Metered Non-Residential Rate Classes (Schedules J, K, L, & P). The voltage discounts will be provided for customers who take service at higher voltages from those for customers that take service at secondary voltage.

O. The new provisions will provide GPA with more flexibility in pricing service for Large Power customers, but specific agreements proposed will be reviewed by the PUC on a case-by-case basis. These negotiated rates will only be available to customers who agree to make a substantial long-term commitment to continued service from GPA.

P. GPA's proposed Standby Service Schedule (Schedule M) should be approved. GPA will include provisions that allow for scheduled maintenance without the incurrence of added demand charges by the customer.

Q. GPA, working cooperatively with PUC, will examine the potential use of "revenue decoupling mechanisms" to stabilize its revenue collections and protect against loss of revenue due to: (1) deployment of energy efficiency and conservation measures by customers; and (2) competition from alternative providers of energy services in self-generation options. It will include, in its next base rate filing, a report on its plan for implementation of revenue decoupling.

R. In order to generate additional cash reserves for use by GPA, the PUC should remove any restriction on the use of the "Funds Reserved for Bond Project Overruns" which the PUC ordered to be placed in a contingency fund in its August 30, 2010 Order in GPA Docket 10-01 (approximately $3.1M).

Public Comments

15. At the Public Hearing conducted in Hagatna on April 3, 2012, Senator Vicente Pangelinan testified concerning various aspects of the rate case. He indicated that any change in methodology which shifts the burden of rates to residential customers raises concerns; GPA management should reduce the burden on ratepayers. A situation may arise where customers are paying more, but getting less from their appliances such as air conditioners. Senator Pangelinan felt that the self-insurance cap should not be raised to $20M (this issue has been deferred until Phase II of the Rate Proceeding). He felt that the excess collected by GPA for self-insurance over $10M should be used to offset any rate increase proposed in this proceeding. In general, the Senator pointed out that the present was not a propitious time for a rate increase: increased rates are proposed at a time when there are no increments or pay raises for the government of Guam employees and the hours of private sector employees are being reduced. Furthermore, a rate increase will likely stymie growth in the private sector. The Senator felt that the Working Capital Fund requirements could be reduced by $10M, which is savings that GPA has stated it will obtain from Petrobras as a result of the amendments to the fuel contract.

16. Wanjoo Kim, the proprietor of Margarita's Restaurant, indicated that businessmen must pass on rate increases/surcharges to their customers. For example, the WCF Surcharge imposed on ratepayers would be passed on to customer meal prices at Margarita's. He was confused by the reasoning that a reduction in power usage apparently necessitates a raise by GPA in rates to meet revenues and fixed expenses. He wished to insure that the PUC Consultants (i.e. GCG) would exercise

a high level of scrutiny. The public would be more amenable to rate increases if GPA was doing everything it could to run a lean and mean organization.

17. Ben Cruz complained that citizens are simply paying too much now for power rates. At a minimum wage of $7.25 an hour, people simply can't afford these rate increases. He feels that the only people making money "are you guys", by which he was apparently referring to the PUC officials conducting the hearing and the consultants. He requests that power bills be lowered. Franklin Hiton of Yona established that overall GPA operations cost nearly $500M a year. General Manager Joaquin Flores of GPA pointed out that a large part of the cost was for fuel. Mr. Hiton wondered why there were insurance charges and felt that residential customers should not pay more than businesses.

18. On April 4, 2012, a public hearing was conducted at the Agat Senior Citizen Center. Mike Lutero indicated that it was difficult for the public to deal with rate increases as minimum wage has not been raised and gas prices go up. He had questions concerning the cost of fuel and use thereof by GPA. His questions were addressed by GPA GM Joaquin Flores. He asked the PUC to consider that employees are staying at the same level of minimum wage.

19. Antonio Babauta questioned whether GPA could reduce the cost of streetlights- - the street lights are on during the daytime and the nighttime. He wondered whether some type of sensitivity device or other equipment could reduce usage, thereby reducing electric bills. GM Flores indicated that GPA was converting to LED lights, which would produce savings. Cel Babauta clarified with GM Flores that 70 cents out of every dollar that GPA spends goes for fuel expense. He wondered what GPA was doing to diversify its resources. GM Flores indicated that contracts were being finalized for a 20 megawatt solar farm next to Leyon and a 14 megawatt wind and solar project. However 34 megawatts of solar and wind would still be less than 2% of GPA's total energy production. Energy production would be in excess of $250M over 20 years, and the new facility would produce less than 4 MW per day. He also mentioned the possibility of conversion of power plants to liquify natural gas. Babauta asked whether GPA could take advantage of ARRA funds for green energy. GM Flores stated that green energy was being promoted and Smart Grid through ARRA funds. Mr. Babauta further asked as to what assurance GPA could give that it is maintaining and up keeping the present power system. He further felt that GPA could encourage local expertise for boiler overhauls, and to train local people to do such work rather than hiring off-island.

GM Flores indicated that the baseloads were under a public-private partnership and had strict performance guarantees. According to him, GPA is presently meeting PUC fuel efficiency standards.

20. Mr. Babauta further asked whether preventive maintenance programs are geared to Guam standards or to manufacturer's standards. Using local standards could lead to greater efficiency. He was concerned about power rate increases and felt that the PUC/GPA should help to counter the need for rate increases. Mr. Flores indicated that there was a demand side program designed to help residents obtain rebates for energy efficient appliances (i.e. $3,000 rebates for up to 50 homes for solar water heaters).

21. MarcialSablan indicated a concern about the rising fuel price and rate increases in general. He wondered if rates for the business customers were going down, but for the residential consumers going up. Bill Blair of GCG indicated that fuel was not being addressed in this rate case. Mr. Sablan further raised concerns about responsibility when there is a typhoon- -who is responsible for branches touching lines, obstacles on power lines, etc. Mr. Flores indicated that GPA does have a tree trimming program through which it hires companies at a cost of $600,000 per year.

22. Mr. Lutero believed that rates were increasing because of fuel prices. He agreed that an increase was needed for rates, and that GPA was doing well in its performance. Brett Silk stated that the electric bill for their veterinary business was higher than the rent in Asan. He asked whether there was a possibility of building waste to fuel plants. GM Flores stated that public law prevents incineration; however waste to energy must be considered and legislators should be convinced to change the policy. Mr. Silk further indicated that it was difficult for businesses to bear the higher cost- -if higher costs are passed on through rates to businesses, the businesses will pass such rates on to their customers. The PUC should think about the concerns of small business. He also queried whether GPA could look for other cheaper fuel oil suppliers. GM Flores indicated that Singapore was the supplier for the region. Mr. Silk asked whether LED lights were available for small businesses. Mr. Flores stated that GPA does have a demand side management program.

23. Antonio Babauta further asked whether there had been any study by GPA on wind energy. Mr. Flores responded that there had been; a Department of Defense study had selected three sites and evaluated them; the Glass Breakwater, Fena, and on Cross-Island road. Mr. Babauta asked whether turbulent water (wave action) could

be used to produce energy. Mr. Flores indicated that the deep water chill flow for air conditioning has been studied, but that GPA would only invest in proven technology. Mr. Babauta further asked whether it was cheaper to use natural gas than oil. Mr. Flores said that it was, but the problem with LNG is that it requires special ships, fuel piers, and infrastructure which would costs in excess of $250M. Suppliers will only come to Guam if there is sufficient volume.

24. Mr. Cel Babauta asked whether GPA has dedicated planners looking into energy resource issues. Mr. Flores stated that, yes, there is the SPORD in GPA which considers such issues and develops an Integrated Resource Plan. Mr. Babauta further questioned whether it might be cheaper to run systems with gas rather than oil; there is a need to explore other resources than oil. He further asked whether the proposed solar plant at Leyon would reduce the power bill. Mr. Flores said that it would, but only very slightly ($.70 per month).

25. Mr. Lutero asked whether there were materials or a course for the public as to how to save power. Mr. Flores stated that GPA has pamphlets available on energy conservation. Mr. Frank Casares stated his view that GPA is always asking for money for improvements. He wondered whether collections were lacking. It seems that the more energy we conserve, the more we pay. He asked whether government agencies were disconnected for non-payment. GM Flores indicated that they were, and that the collections situation with the government had greatly improved. Mr. Casares indicated that the people are "up to their necks" with expense, and that the economy was down.

26. Agat Mayor Carol Tayama thanked PUC and everyone for attending; she asked whether GPA would close the Agat Satellite Office. She requested that it not be closed, as no rent was charged to it and the office provides an important service that people in the south need.

27. The PUC conducted the final public hearing on April 5, 2012, 6:00 p.m., at the Dededo Senior Citizens Center. Marianne Jackson testified that her husband was disabled and on public assistance. They could not afford to pay any additional rate increase. Family members were likewise not fully employed. Burliann Higgins asked that GPA describe its budgeting process that led to the need for a rate increase. GM Flores indicated that GPA has a detailed budgeting process, and that it had already agreed to cut its budget by $3.6M. A rate increase in this case

primarily involves principal and debt service payments on the bond issue. In addition, fuel is a large expense for GPA at $24M a month.

28. Eden Malcatao indicated that she lives in GHURA 34, and that her bill had increased substantially. Franklin Leon Guerrero was opposed to the rate increase. He believes that GPA should lower rates because the people simply can't afford it. According to Public Auditor Brooks, people are consuming less power. The rate increase has caused a "death spiral"- -the more you charge the less they use, and the less they use, the less revenue GPA receives. Customers should be the number one focus for GPA. The people are not "an endless fund." The LEAC appears to be an "automatic cushion" for GPA. Because of the cost of power, people are having to change their lifestyles, go out less. Who protects the public's interest? He wondered about the level of staffing at the power authority; if less people use power, and GPA does not receive sufficient revenues, it will again request rate increases. He indicated that he had personally cut power usage by 50%, but still paid the same for the power bill. GM Joaquin Flores indicated that this was only the third base rate increase in 15 years. GPA has held the line for the last six years. Flores indicated that proceeds from the bond issues had been invested into the system for combustion turbines, water wells, new substations, etc. These fixed debts do not go away when people conserve. The plants are now more reliable; investing in the systems is the key to hold off future rate increases.

29. Katherine Harris indicated that her power bill had increased $80.00, even though they were being more diligent in power usage and using less kW. She was confused as to why her power bill had increased. Mr. Flores mentioned that there were pamphlets at Customer Service indicating how power bills could be reduced; in addition, use of energy efficient air conditioners, such as SER22, and solar water heaters could reduce power bills. Harris asked whether business rates were higher than residential. Mr. Flores indicated that they were, approximately $.27 per kWh for residential and $.29 for the commercial users. He felt that the installation of Smart Grid will provide "time of use rates" to assist consumers with power usage.

30. Franklin Leon Guerrero felt that GPA should do a study on whether a rate decrease would increase power consumption. Raoul Panlasigni indicated that he was not against a power increase; he believed that transformers need to be replaced. However, he wondered whether the rate increase could be limited to 3%.

Contested Rate Design/Allocation Issues

The ALJ hereby presents his findings on the three issues presented at the hearing on March 7, 2012.

<u>"Other Revenues"</u>

31. In written testimony, Bruce Oliver, Rate Design Consultant for Georgetown Consulting Group, raised a concern that a portion of "Other Revenues" was inappropriately allocated to Navy in the GPA TLCOS Study. During the hearing on this issue, the amount was quantified as approximately "$200,000.00."

32. Such revenues include disconnection fees, miscellaneous service charges, rent from electric property/pole attachments, late charges and others. According to Mr. Oliver, GPA did not demonstrate that such charges had any relation to Navy service or activity. As such, these revenues should not be allocated to Navy in the rate base.

33. However, in this case, neither GPA, the utility service provider, nor Navy, the customer, has complained about the allocation of such revenues or requested the change in the current allocation method. The parties to the Customer Service Agreement ("CSA") are satisfied with the present arrangement. In addition, such treatment of other revenues is consistent with treatment of those revenues in prior rate cases going back to the inception of the CSA.

34. Since there has been no complaint by either the utility or the customer concerning the treatment of such revenues, the ALJ recommends that the treatment of such revenues should be in accordance with the allocation previously agreed to by GPA and Navy.

35. It is true that, as a general matter, revenues should be allocated to the customer and/or activity responsible for generation thereof. However, one hundred percent exactitude in such allocation is not necessarily required, and the parties in some instances may make reasonable accommodations to each other.

36. The present system should be retained absent a clear quantification of the amount of such revenues.

Allocation of Independent Power Producer Debt Service Costs

37. The Navy, in the written testimony of its Rate Design Consultant Maurice Brubaker, asserts that principal and interest payments associated with "debt service" incurred by GPA under its agreements with Independent Power Producers should be treated in the same way as principal and interest on GPA's other indebtedness, such as bond issues. Navy believes that the IPP purchase structure is "an alternative to separate financing of the assets, and the obligations themselves have the characteristics of debt, with principal and interest payments just like principal and interest payments on bond issues." At the end of the "lease term", "the ownership of the asset [the IPP Plant] reverts to GPA."

38. Furthermore, Navy, through the testimony of Brubaker, asserts that it is inappropriate to assign the IPP principal and interest payments to Generation O&M expense. Instead, the principal and interest associated with IPP arrangements should be combined with the principal and interest payments on GPA's other obligations and treated as part of the debt service in the TLCOS.

39. According to the statements during the hearing by Joseph T. Trainor, Rate Consultant for GPA, this allocation issue involves approximately $500,000.00.

40. The ALJ does not concur that IPP payments, including principal and interest, are akin to debt service payments on GPA bond issues. Payments made by GPA to IPPs are for electric power production and deliveries.

41. Under the GPA-Navy CSA, the first step in the cost of service process is to properly functionalize costs. These IPP principal and interest payments are clearly costs which must be functionalized as production-related expenditures.

42. Payments made to IPPs for deliveries of electric power and purchased power expenses for GPA are accounted for by GPA in FERC Account 555.

43. The CSA requires functionalization of Account 555 expenses to Production. All payments made by GPA to IPPs, whether fixed or variable, relate only to the delivery of electric power used by GPA's system.

44. The terms of the CSA require that all costs, including GPA's payment of interest and principal under IPP contracts, must be properly functionalized and classified

before they are allocated between Navy and GPA's Civilian Service classes in GPA's TLCOS.

45. Navy's reallocation of these IPP costs on total rate base would cause significant portions of those costs to be assigned to GPA's customer accounting, distribution and transmission functions. Such treatment is not appropriate or justifiable.

46. Fixed payments made to IPPs are related to production of power (i.e. production function, and do not involve the use of any transmission , distribution, or customer investments (unlike GPA general debt).

47. That GPA includes IPP fixed payment obligations in its debt service coverage calculations does not preclude such costs from being functionalized as production costs for purposes of developing a proper cost-of-service.

48. Inclusion of IPP fixed payment obligations in GPA's debt service coverage calculations does not change the functional nature of the IPP fixed obligations.

49. The ALJ recommends that GPA continue to be authorized to treat IPP debt service costs as production-related expenditures and demand costs in accordance with their treatment within the TLCOS.

Production Demand Cost Allocation Methodology (the proposed change from 12 Coincident Peak (12 CP) Methodology to Average and Excess Demand (AED/12 CP) methodology

50. From the inception of the CSA in the early 1990s, the method used by GPA for the allocation of demand costs is referred to as the "12 Coincident Peak" method. This allocation method is based on the premise that applicable demand costs should be allocated according to each class' average responsibility for the 12 monthly system peak loads.

51. To determine the 12 CP allocation factor for Navy, the total of Navy coincident peak loads for the 12 months of the rate setting period is divided by the total of the 12 monthly system peak loads. Navy's transmission demand allocation factor is 12.53%.

52. In every rate proceeding since the inception of CSA, GPA has used the 12 CP allocation factor to determine Navy's share of cost of service.

53. The 12 CP method which GPA has used in prior proceedings allocates all production demand costs on the basis of Coincident Peak demand requirements.

54. In this proceeding, for the first time, GPA proposes to change the methodology for allocation of production demand to the "Average Excess Demand/12 Coincident Peak Methodology."

55. The AED/12 CP allocation factor consists of a weighted average of two allocation factors. The first allocation factor is based on average demand system energy requirements (SER) divided by 8,760 hours. The second allocation factor reflects "excess" demand and is based on the rate schedules' monthly peak demands 12 CP. Previously GPA has allocated production costs based on 12 CP.

56. GPA's rationale for adopting the new AED/12 CP allocation methodology is that such methodology more appropriately and accurately aligns cost causation and cost responsibility in power systems where energy (rather than capacity) costs are the major consideration in generation system planning.

57. GPA states that its preference for base load plants, rather than peaking units, is designed to reduce energy costs. Because of the need to develop energy efficient plants, energy consumers should bear a considerable proportion of the additional cost for more efficient generation capacity.

58. GPA submits that it is appropriate to use an AED/12 CP demand allocation basis to recognize an average usage component of generation investment in GPA's cost of service study for the purposes of determining the embedded costs of providing utility services to its customers.

59. GPA further asserts that the non-coincident peak of the US Navy usage takes place in the early morning, which is different from GPA's normal peak period of early evening (7:00 p.m.). Thus, GPA must run its generation assets to meet the Navy's NCP peak, which affects the amount of and timing of generation maintenance. The higher load requirements placed on GPA's system in the early morning creates costs by shifting the generation stack of GPA early morning. Navy peak load

requires additional base load capacity; this fact is alleged to support GPA's use of the AED/12 CP methodology.

60. For FY2011, adoption of GPA's AED/12 CP allocation methodology would shift $3.7 Million from GPA's civilian service to Navy.

61. As a practical matter, the 12 CP Methodology has been in effect for over 20 years. Any party seeking to change such a long standing and accepted methodology bears a heavy burden of proof. Given the long history of unchallenged use of the current 12 CP methodology, it would be a drastic shift to adopt the new methodology and an extraordinary immediate rate impact upon the Navy.

62. Given the substantial impact that would be caused by such a shift, GPA also has a strong burden under Article 18.3 of the CSA to prove that "GPA's infrastructure or the character of Navy's demand for service has changed" such that 12 CP is no longer reflective of the costs of serving Navy.

63. At the present time, GPA has notmet its burden of proof under Article 18.3.

64. Proof has not been offered that GPA's infrastructure has changed. GPA alleges that its present "very high capacity margin (more than 90%) was developed, not because GPA needs that much capacity in reserve to meet projected peak loads, but because GPA has added more efficient generation plants to reduce energy costs."

65. However, a review of GPA's planning history does not necessarily support that there has been a sudden or immediate shift by GPA from the system expansion for capacity to efficient construction of generation plants for reduction of energy costs.

66. It appears that the reason for the high reserve margin at present for GPA may be that GPA has over forecasted its generation requirements and built capacity in excess of what turned out to be needed. In accordance with the Brubaker testimony, the primary reason for the large reserve margin would appear to be GPA's attempt to meet its forecasted generation requirements, not the alleged intentional construction of excess capacity for the express purpose of reducing energy costs.

67. Although a portion of GPA's generating capacity costs may have been incurred to reduce energy costs, the remainder of GPA's investment in generating capacity

costs have been incurred to serve its Coincident Peak requirements that are not related to the class non-coincident peak demand measures that GPA employs to allocate the excess demand component of its AED/12 CP allocations.

68. There has been some showing that Navy's NC Peak will take place in the early morning, and that such places additional demands upon the GPA system. However, there has not been a sufficient showing by GPA that GPA's infrastructure or the character of Navy's demand for service has changed with regard to the NCP. GPA has not met the high burden of proof to justify the adoption of a new methodology by PUC. "Cost allocation is not an exact science. There is not one true method."

69. The ALJ does not recommend that the PUC make a final determination as to the validity of the AED/12 CP methodology at the present time. However, there are concerns as to GPA's use of the "Non-Coincident Peaks" in its allocation methodology, and whether GPA has demonstrated a "cost-causative relationship between the measures of class NCP demand that are used in the AED/12 CP methodology to allocate costs associated with "excess demand" and GPA's incurrence of those costs." GCG and Navy have also raised legitimate concerns about GPA's use of the Non-Coincident Peak ("NCP") demand measures to allocate what it labels as the "Excess Demand" portion of its production demand costs.

70. There are also concerns raised as to whether GPA's +/- 7% error estimate applies to measures of class NCPs. Any errors in GPA's NCP estimates would impact the allocation of costs among GPA's Civilian Service Classes as well as the allocation of costs between Navy and Civilian Classes.

71. Errors in NCP estimates for Civilian Service Classes would have a noticeable impact on assessments of cost responsibilities for Residential, Commercial, and Governmental rate classifications.

72. The proposed AED/12 CP methodology uses data for a single Non-Coincident Peak hour for each rate class to assess class responsibilities for "excess" demand, which does notappear to be appropriate.

73. Based upon the foregoing, at the present time, the ALJ recommends that the 12 CP methodology for allocating GPA's production demand costs should be retained. To

date, GPA has not provided a sufficient justification to change from the well-established 12 CP methodology to an AED/12 CP methodology.

74. At the same time, the ALJ also has concerns as to whether the present 12 CP allocation methodology fully assigns cost responsibility for generation (energy) costs upon parties such as Navy.

75. The present methodology may not fully allocate responsibility for the costs imposed upon GPA for the particular generation requirements of the Navy (i.e., the NCP of the Navy in the early morning, as opposed to GPA's normal peak period of early evening).

76. For that reason, although the ALJ does not recommend using the AED/12 CP methodology in the context of determining revenue requirements for the initial year of this rate case, the ALJ recommends that the PUC authorize and instruct the ALJ and the parties to continue to examine and assess the possible use of such methodology, with modifications if necessary, or a variant thereof, inPhase II of this rate proceeding.

77. The ALJ recommends that the PUC instruct the parties to continue to discuss and negotiate whether a compromise can be reached concerning the adoption of the AED/12 CP methodology, alternatives such as the AS&P discussed by Mr. Oliver, or other possible alternatives. The ALJ should be authorized to conduct further proceedings on these issues in Phase II of this Docket, as well as in the proceedings for review of the new proposed CSA.

78. The PUC will also have the opportunity to further review this issue in the context of its approval of the new CSA. GPA and Navy should work diligently to resolve these allocation issues and, hopefully, arrive upon an agreed upon methodology.

Analysis

79. The ALJ recommends that the PUC adopt his proposed findings regarding the three contested rate designs/allocation issues set forth above.

80. The PUC should adopt the recommendations of the parties contained in the Stipulation. The rates and procedures agreed to in the Stipulation are reasonably necessary and prudent to enable GPA to meet its potential obligations, operating

expenses, debt service, and capital improvement needs. A substantial driver of the need for a base rate increase appears to be the principal and interest payments which will become due on the 2010 Bond Issue.

81. This rate case is perhaps the most complicated rate case to ever be addressed by the PUC. Over the years "rate design" issues, involving the allocation of rates among the different customer classes, has often been discussed or theorized. However, in this proceeding, the parties have made substantial progress in proposing changes that will move toward equity and fairness in the allocation structure. There is an underlying recognition of the principle that the cost of utility service should be borne by the party or parties responsible for causing such cost. Equity and non-discrimination in rates are goals of the proposed changes. Social/legislative goals, such as the reduced "lifeline rate" will remain; however, the proposed rate structure moves towards greater fairness and equity in allocation.

82. The parties in this proceeding have worked together in a collaborative manner to resolve issues. While some issues could not be resolved by the parties, they made substantial progress with most of the issues and in a number of different areas. The agreed upon base rate increase recommended should be in the area of 2.0% on the overall bill.

83. GPA has made substantial concessions in reducing the amount of base rate increases it initially sought in its Petition. The recommended base rate increase is now less than 50% of the amount originally requested by GPA. GPA's willingness to reduce its budgeted labor and non-labor O&M expenses by approximately $3.6M in FY2012 and FY2013 is indicative of the spirit of compromise.

84. GPA did respond to the often repeated position of GCG, which was supported by the ALJ, that the present economic conditions in Guam make it very difficult for ratepayers to bear new rate increases. The parties have all worked together to keep the necessary increases to the lowest levels possible.

85. The Commission should determine that the proposed rates, as well as the recommendations, set forth in the Stipulation are "just" and "reasonable" pursuant to 12 GCA §§12015 and 12017.

Recommendations

86. The undersigned recommends that the PUC approve the Stipulation of the parties.

87. The recommendation for an increase in the lifeline rate should also be approved. The PUC should adopt the ALJ Ruling on this issue.

88. The parties should be ordered to perform the additional obligations set forth in the Stipulation as they have agreed.

89. The PUC should remove any restriction on the use of the "Funds Reserved for Bond Project Overruns", which the PUC ordered to be placed in a contingency fund in its August 30, 2010 Order in GPA Docket 10-01 (approximately $3.1M).

90. The ALJ will subsequently submit a proposed Decision herein. The PUC should review such proposed decision, and make the determinations which are necessary to reach a decision on GPA's FY2011 Multi-Year Base Rate Relief Filing.

Dated this 24th day of April, 2012.

Frederick J. Horecky
Administrative Law Judge
Public Utilities Commission