

PUBLIC UTILITIES COMMISSION
BUSINESS MEETING
AUGUST 13, 2007
SUITE 202 GCIC BUILDING
414 W. SOLEDAD AVE. HAGATNA, GUAM



MINUTES

A business meeting of the Guam Public Utilities Commission was convened at 6:00 p.m. on August 13, 2007 pursuant to due and lawful notice. Commissioners McDonald, Cantoria, Crisostomo, Johnson and Brooks were in attendance. The following matters were considered at the meeting pursuant to the agenda made *Attachment A*.

1. Administration.

After review and discussion of the minutes of the May 26, 2007 meeting and on motion duly made, seconded and unanimously carried, the Commission resolved to approve the minutes.

The commissioners considered and accepted commissioner Brooks' July 25, 2007 letter of resignation as chairman. Mr. Brooks will remain as a commissioner. After discussion and on motion duly made, seconded and carried and pursuant to the authority of 12 GCA § 12001[e], commissioner Jeffrey Johnson was elected to be the new chairman.

After review and discussion, on motion duly made, seconded and carried the commissioners resolved to adopt the Administrative Order in form made *Attachment B*.

2. Guam Power Authority.

The commissioners reviewed a proposed regulatory order, which would address: a] the need to increase the LEAC factor for the period August 13, 2007 through January 31, 2008; b] four GPA petitions for contract review; c] a protocol for establishing regulatory benchmarks for line loss; and d] a protocol for regulatory involvement in GPA's development of an integrated resource plan. After ALJ's presentation of the proposed order and discussion, on motion duly made, seconded and carried, the commissioners resolved to adopt and approve the order in form made *Attachment C*.

3. Guam Waterworks Authority.

The commissioners next reviewed ALJ's report and proposed order regarding GWA's June 13, 2007 petition for FY07 rate relief. ALJ briefed the commissioners on his report, public comments that were presented during PUC's three public hearings and on the proposed order. After discussion and on motion duly made, seconded and unanimously carried, the commissioners resolved to adopt the order in form made *Attachment D*.

The commissioners also considered a proposed order to approve GWA's June 19, 2007 petition to use interest on bond proceeds. After discussion and on motion duly made, seconded and unanimously carried, the commissioners resolved to approve the petition, with conditions pursuant to the order in form made *Attachment E*.

4. Solid Waste Management.

The commissioners next considered Chairman Brooks' August 6, 2007 letter to Governor Camacho and Speaker Forbes, which expressed concern about PUC's appointment to the Solid Waste Law Review Commission, as established by Executive Order 2007-09. ALJ briefed the commissioners regarding these concerns and presented a proposed resolution by which PUC would respectfully decline its appointment to the SWLRC. After discussion and on motion duly made, seconded and unanimously carried, the commissioners resolved to adopt the resolution in form made *Attachment F*.

5. Telecommunications.

Prior to the beginning of discussion of the telecommunications agenda items, commissioner Brooks excused himself, consistent with his voluntary disqualification in all telecom dockets.

- a.* The commissioners first reviewed proposed interconnection implementation rules, which had been crafted by PUC's regulatory consultant and subjected to public notice and comments by telecommunications companies. The record of these proceedings is summarized in Georgetown's July 21, 2007 report. After ALJ's briefing and review of the Georgetown report, the proposed rules and a proposed order, on motion duly made, seconded and unanimously carried, the commissioners resolved to adopt the proposed rules and order in form made *Attachment G*.

- b. The commissioners next were next briefed by ALJ on his July 25, 2007 report in Docket 07-5, regarding the arbitration of open issues between GTA Telecom and Guam Cellular and Paging, Inc. regarding the establishment of interconnection arrangements between them under federal law. After review and discussion of the report, including the determinations recommended therein and after review of a proposed arbitration decision, on motion duly made, seconded and unanimously carried, the commissioners resolved to adopt the decision in form made *Attachment H*.
- c. ALJ briefed the commissioners on proposed orders by which PUC would approve a negotiated interconnection agreement between IT&E Overseas, Inc. and GTA Telecom LLC and ITE's general tariff. PUC's consultant has recommended approval of the agreement and the tariff. After discussion and on motion duly made, seconded and unanimously carried, the commissioners resolved to adopt the orders in form made Attachments I and J.

There being no further business, the meeting was adjourned.



Jeffrey Johnson
Chairman

GUAM PUBLIC UTILITIES COMMISSION

BUSINESS MEETING
SUITE 202 GCIC BUILDING
414 W. SOLEDAD AVE. HAGATNA
6:00 p.m. Monday August 13, 2007

AGENDA

1. Administration.
 - a. Approval of minutes - May 26, 2007 business meeting.
 - b. Office of chairman.
 - c. Administrative Orders:
 - Certifying Officer
 - Consulting services protocol
2. Guam Power Authority. [*Regulatory Order*]
 - a. LEAC factor [*August 13, 2007 through January 31, 2008*].
 - b. Procurement petitions [*insurance extension, TECP, excess bond proceeds, and Cabras PMC extension*].
 - c. Line loss performance and monitoring
 - d. Integrated resource plan.
3. Guam Waterworks Authority.
 - a. GWA FY07 Rate Petition - PUC Decision
 - b. Petition [*Use of bond proceeds interest*]
4. Solid Waste Management

Resolution
5. Telecommunications.
 - a. Docket 05-1 - Interconnection implementation rules
 - b. Docket 07-5 - Guamcell interconnection - arbitration decision
 - c. Docket 07-6 - ITE interconnection agreement
 - d. Docket 07-7 - ITE general tariff
6. Other business.

**PUBLIC UTILITIES COMMISSION
BUSINESS MEETING
MAY 26, 2007
SUITE 207 GCIC BUILDING HAGATNA**

MINUTES

The Guam Public Utilities Commission [PUC] conducted a business meeting commencing at 3:00 p.m. on May 26, 2007 pursuant to due and lawful notice¹. Commissioners Brooks, Johnson, Crisostomo and McDonald were in attendance. The following matters were considered at the meeting under the agenda made *Attachment A*.

1. Approval of minutes.

After review and discussion of the minutes of the February 1, 2007 meeting and on motion duly made, seconded and unanimously carried, the Commission resolved to approve the minutes.

2. Guam Power Authority.

The commissioners reviewed an Administrative Law Judge report dated May 21, 2007 regarding GPA petitions which request:

- a. Ratification of GPA's Shell diesel contract.
- b. Authorization to recover TCP interest expenses its tariff schedule Z [LEAC].
- c. Establishment of a regulatory asset to recover uninsured losses under the self-insurance fund established by PUC orders dated December 21, 1992 and March 3, 1995.
- d. Authorization to amend its customer service agreement with Navy.
- e. Authorization to convert the Macheche to San Vitores and Macheche to Guam Airport 34 kV transmission lines to underground facilities.

After review of the ALJ report and the positions of the parties, including stipulations between GPA and Georgetown [GCG] concerning the Shell contract

¹ The meeting was initially noticed for May 24, 2007. Due to a lack of a quorum, the meeting was reset for 3:00 p.m. May 24, with notice of the rescheduled meeting posted as required by 5 GCA § 8109.

and the regulatory asset petitions, and on motion duly made, seconded and carried, the commissioners resolved to adopt the order made *Attachment B²*.

3. Telecommunications.

The agenda items for telecommunications items were tabled.

4. Solid Waste Management.

The commissioners reviewed a proposed order, which would express serious reservations about PUC's ability to regulate solid waste management activities in the face of Public Law 29-150, which authorizes the Governor to use rate revenues in the Solid Waste Operations Fund for purposes other than solid waste management. Under the proposed order, PUC would suspend all regulatory activities regarding solid waste management until the Fund's integrity was restored. After discussion, the commissioners directed that approval of the order should be deferred until Federal magistrate judge Manibusan issued his report and recommendations in Federal District Court Civil Case 02-22 [*USA v. Government of Guam*].

5. Guam Waterworks Authority.

The commissioners reviewed ALJ's May 11, 2007 order, which dismissed Guam Waterworks Authority's March 30, 2007 petition for rate relief. GWA had failed to comply with the mandatory prefiling notice requirements of the Guam Ratepayers' Bill of Rights [12 GCA § 12001.2(b)].

There being no further business, the meeting was adjourned.

Terrence Brooks
Chairman

² GPA's petition for authorization to recover accrued TECP expenses under its Tariff Schedule Z was denied on a vote of 3 against and one in favor of approving the petition. Under 12 GCA § 12006, the affirmative vote of four commissioners is required to act or issue a decision.

**PUBLIC UTILITIES COMMISSION
OF GUAM**

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Terrence M. Brooks, Chairman
Filomena M. Cantoria
Edward Crisostomo
Joseph M. McDonald
Rowena E. Perez
Jeff Johnston

Harry M. Boertzel, Esq.
Administrative Law Judge

Lourdes R. Palomo
Administrator

July 25, 2007

Dear fellow Commissioners and Judge Boertzel:

After nineteen years of service as Guam Public Utilities Commission commissioner [*thirteen of those years as chairman*], an opportunity has presented itself, which after much thought, I find that I really can't decline. Effective August 1, 2007 I shall become counsel for a regulated local telephone company. As a result, I am voluntarily disqualifying myself under PUC Rule 26 [b] from any further deliberation and regulatory action in PUC telecom dockets, including all telephone matters and issues, which come before PUC for consideration and action. I have instructed PUC's administrator not to provide me with any further documents, records or filings in any telecom regulatory docket.

I have also decided that I should resign as PUC's chairman. The chair should be ready and able to act in all areas of regulation, which have been assigned to PUC under Guam law. I will continue to serve as chairman, subject to my voluntary disqualification in all telecom dockets, until our scheduled August 13, 2007 business meeting. At this meeting, I respectfully recommend that you elect a new chairman pursuant to 12 GCA § 12001[e].

I am prepared to continue to serve as a commissioner for so long as my involvement as a commissioner is limited to regulatory matters concerning Guam Power Authority, Guam Waterworks Authority and solid waste management. However, should my new client require that I appear before the Commission on its behalf, I will have no choice but to resign from the Commission.

It has been a sincere pleasure working with the Commission, you Commissioners, Harry and our fine consultants.

Sincerely,


Terrence M. Brooks

cc: Governor Felix Camacho
Senator James Espaldon

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



REGULATORY PROTOCOL
GOVERNING CONSULTANT
SERVICES

ADMINISTRATIVE ORDER

This Order supercedes an administrative resolution dated February 2, 1996 and is intended to establish the rules and guidelines under which Georgetown Consulting Group, Inc., which serves as the Guam Public Utilities Commission's [PUC] independent regulatory consultant, will provide consulting services to PUC.

1. All services, which are performed by GCG and its sub-consultants and sub-contractors, including counsel, collectively referred to as "Consultants" shall be pursuant a scope of work set forth by PUC's administrative law judge [ALJ] in his regulatory and conference letters [instructions].
2. Consultants' billing rates are set forth in Attachment A, which can be modified from time to time with PUC's approval.
3. The following policies shall govern Consultant's reimbursement for out-of-pocket expenses:
 - a. All travel must be authorized by ALJ. Air travel shall be at economy class or its equivalent. Train travel shall be at cost. Automobile travel shall be billed at IRS guideline rates.
 - b. Lodging should be at business class hotels, with every effort made to secure a corporate or government rate.
 - c. Meal expenses and on-island car rental should be reasonable. Expenses attributable to the consumption of alcoholic beverages are not reimbursable.
 - d. Consultants shall not charge for travel time. Work done while traveling should be billed appropriately.
 - e. Other expenses should be reasonable.
 - f. Taxes are not reimbursable.
4. GCG shall annually certify that it is duly licensed and authorized to engage in business on Guam and has filed all requisite Guam tax returns and paid all requisite taxes. Certifications shall be due on January 15 of each year.

5. GCG invoices shall consolidate all subconsultant billings and be provided to PUC on a monthly basis. Invoices shall contain the following information:

- a. The name of each Consultant working on the engagement.
- b. The hours of each Consultant broken out on a daily basis and by docket.
- c. A description of the specific work activities performed by the Consultant.
- d. Details of expenses of each Consultant by major line item.
- e. A certification that the submitted invoices have been carefully reviewed for accuracy.

6. This order is dated and shall be effective as of August 13, 2007.

Dated this 13th day of August 2007.

Terrence M. Brooks



Edward C. Crisostomo

Rowena E. Perez



Joseph M. McDonald



Filomena M. Cantoria



Jeffrey C. Johnson

ATTACHMENT A

HOURLY BILLING RATES

J. Madan	\$150
E. Margerison	\$150
M. Dirmeier	\$150
W. Blair	\$175
J. Baldwin	\$175
T. Roberts	\$175
J. Ingram	\$390
W. Schweikert	\$175
L. Gawlik	\$200
J. Dorr	\$50

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

GUAM POWER AUTHORITY
REGULATORY REVIEW

DOCKET 02-4



Regulatory Order

[LEAC, Procurement Approvals:(insurance, TECP, Excess bond proceeds, Cabras PMC);Line losses; Integrated Resource Plan]

This Order reviews: a] Guam Power Authority's [GPA] June 15, 2007 request that there be no recalculation of the current LEAC factor for the cycle commencing August 1, 2007 and ending January 31, 2008; b] GPA's petitions under PUC's contract review protocol for regulatory approval to: i] extend the term of its property and casualty insurance policy; ii] secure a new \$30 million dollar credit facility; iii] use excess bond proceeds; and iv] procure a performance manager for Cabras plants 1 & 2; c] a process for establishing regulatory benchmarks for GPA's reduction of line losses; and; d] a process for regulatory oversight of GPA's development of an integrated resource plan.

Findings

After careful review of the record for each of the regulatory matters discussed below and for good cause shown, the Guam Public Utilities Commission [PUC] makes the following findings:

1. LEAC.

Pursuant to GPA's Tariff Schedule Z, its LEAC factor is subject to recalculation every six months to enable it to recover the projected cost of its fuel and associated costs. Each recalculation under the tariff is subject to PUC's review and approval.

On June 15, 2007, GPA filed a report with PUC regarding its projected fuel costs for the next six-month cycle, commencing on August 1, 2007 and ending January 31, 2007. While GPA's adjusted projections under the tariff would require an increase in the LEAC factor from \$0.108893 per kilowatt hour to \$0.123957 per kilowatt hour [about an 8.7% increase in the average monthly residential bill], it requested that PUC approve no adjustment to the LEAC factor for the next six-month cycle.

On July 24, 2007, PUC's regulatory consultant [Georgetown Consulting Group (GCG)] filed its report regarding the GPA position. GCG asserts that GPA has

long-term transmission study. By report dated July 25, 2007, GCG recommends that excess bond proceeds be authorized to fund these projects, subject to the following conditions: i] GPA obtains legal comfort that such uses are permissible under applicable bond covenants; ii] the scope of the load and cost of service studies should be subject to regulatory review; and iii] the scope of the long range transmission study should be integrated into the process discussed in paragraph 3 of this Order. GPA has not objected to these recommendations. The petition should be approved subject to these conditions.

c. TECP.

On June 21, 2007, GPA petitioned PUC for authorization to request GEDCA to issue a request for proposal for a \$30 million dollar tax exempt commercial paper credit facility, which would replace and increase its existing \$20 million dollar taxable paper facility. By its July 20, 2007 report GCG has recommended that the petition be approved, subject to the following conditions: i] GPA should obtain regulatory approval for the use of the credit proceeds; and ii] a portion of the proceeds must be used to retire the existing TCP facility. GPA has not objected to these conditions. The petition should be approved subject to these conditions.

d. Insurance contract extension.

On June 18, 2007, GPA petitioned PUC for authorization to extend its property, boiler and machinery insurance policy for another year. By report dated July 29, 2007, GCG recommends that the petition be approved. The petition should be approved.

3. GPA Line Loss Performance and Monitoring.

In its February 1, 2007 Regulatory Order, PUC emphasized its continuing concern regarding line losses, which impose additional rate burden on GPA customers. GPA is directed to fully comply with ALJ directives, which will prepare this subject for regulatory action in the May 2007 regulatory session. Notwithstanding this directive and the history of this regulatory issue, as recounted in ALJ's October 25, 2006 letter, GPA and GCG have not been able to agree to a regulatory benchmarking and monitoring protocol for line losses. *[Each percentage of reduction in line losses would reduce fuel expenses by \$1.5 million dollars.]*

This lack of progress requires the commencement of formal regulatory proceedings to establish these important benchmarks. Accordingly, ALJ should be authorized and directed to oversee further proceedings, including an evidentiary hearing if necessary, which will enable PUC to take definitive action on this regulatory issue during the October 2007 regulatory session.

not provided convincing evidence why PUC should deviate from the requirements of the LEAC tariff. GCG points out that a decision not to increase the LEAC factor to cover projected increased fuel expenses during the next six months would expose GPA customers to significant rate shock in February 2008 when this deferred shortfall must be addressed as well as GPA's petition for a significant base rate increase.

On August 6, 2007, PUC conducted a noticed public hearing to consider the positions of GPA and GCG on the issue of whether the LEAC factor should be recalculated in accordance with the requirements of GPA's Tariff Schedule Z for the next six-month cycle. At the hearing, GPA informed PUC that after considering the GCG report and in light of a steady increase in fuel costs since its June 15, 2007 report, it now supports the GCG position that the LEAC factor should be recalculated pursuant to the requirements of Tariff Schedule Z. Given GPA's change of position, there is nothing in the record to support a deviation from the tariff requirement that the LEAC factor be adjusted based on the best available projections of GPA fuel expenses for the next cycle. Accordingly, GPA and GCG's joint recommendation that the LEAC factor for the period commencing August 13, 2007 and ending January 31, 2008 should be increased to \$0.123957 per kilowatt-hour should be approved.

2. Contract Review Petitions.

Pursuant to PUC's February 2, 2006 contract review protocol order, as amended, GPA has filed four petitions, which are before PUC for consideration:

a. Cabras performance management.

On May 30, 2007, GPA petitioned PUC for authorization to proceed with the procurement process for a new performance manager for Cabras plants 1 & 2 to replace the current contract, which expires on December 31, 2007. By report dated July 27, 2007, GCG recommends that PUC approve the petition. As GCG points out in its report: "The use of PMC contracts has enabled GPA to move from a plant operating environment of day-to-day crisis management to a more proactive operating environment. The successful results of past PMC activities have been well established as well as customer benefits. We believe that GPA continues to need a PMC for the management of Cabras 1 & 2 operations and maintenance." The petition should be approved.

b. Excess bond proceeds.

On June 29, 2007 GPA petitioned PUC for authorization to use excess bond funds to fund a load research/cost of service study; an integrated resource plan; and a

4. Integrated Resource Plan.

PUC has long supported GPA's development and use of an integrated resource planning process as a foundation for meeting the future energy needs of its customers. Regulatory proceedings during the early 1990s [*Docket 90-02*] considered a twenty-year resource plan, which was developed by R.W. Beck. In that proceeding, regulatory interest centered on reliability criteria, Navy customer service agreement requirements, load forecasting, least cost planning and demand side management. Significant results of this regulatory process were: i] a regulatory finding that the study describes the basic planning characteristics [i.e., potential demand, demand-side management opportunities, available generating technologies, etc.] that PUC should consider in its review of future GPA applications for approval of new generating facilities; and ii] a stipulated process to guide regulatory involvement in implementing the plan.¹

The 1990 Beck IRP, which was projected to cover the period 1990 to 2009, has outlived its useful life. PUC supports GPA's decision, that given its dependency on costly fuel oil and given anticipated growth from tourism and military expansion, it is both timely and important that a new IRP be undertaken. GPA has recently engaged the services of R.W. Beck to guide it through a new planning process, which is outlined in GPA's July 18, 2007 White Paper. The White Paper calls for GPA management of the planning process under a twenty-one step 329 day timeline. In contrast, Georgetown asserts that the planning process should be closely overseen by ALJ². ALJ recommends that GPA manage the process provided that: i] it meets the multi-step 329 day timeline; ii] the process proceeds in close consultation with PUC staff; and iii] the proposed plan is subject to a full regulatory review and approval process, with participation by interested parties and stakeholders. PUC agrees with ALJ's recommendation. ALJ should be authorized and directed to oversee a regulatory process, which assures that his recommendations are met.

Ordering Provisions

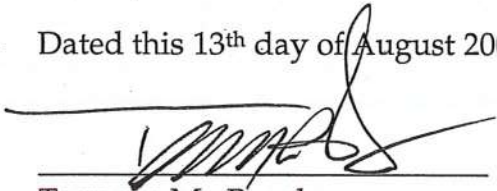
After careful review of the above findings, for good cause shown and on motion duly made, seconded and carried by the affirmative vote of the undersigned commissioners, the Guam Public Utilities Commission **HEREBY ORDERS THAT:**

¹ See Georgetown – GPA Stipulation on Generation Approval Procedures dated December 13, 1991 in Docket 99-02.

² See Georgetown Staff Updates dated April 18, 2007 and July 28, 2007.

1. A LEAC factor of \$0.123957 shall be used by GPA for all civilian bills, for meters read on and after August 13, 2007 and through the period ending January 31, 2008 to recover its forecasted fuel and related expenses for that period and the balance of its deferred fuel expense. *ds*
2. The four procurements discussed in section 2 of the Findings section of this Order are hereby approved, subject to GPA's compliance with the conditions described in said section 2.
3. ALJ is authorized and directed to oversee regulatory proceedings, including if necessary an adjudicatory hearing, which will lead to PUC's establishment during its October 2007 regulatory session of regulatory benchmarks and a monitoring protocol for GPA line loss performance.
4. ALJ is authorized and directed to oversee regulatory activities, which assure that his recommendations regarding regulatory interaction with GPA's integrated resource planning process are implemented.

Dated this 13th day of August 2007.

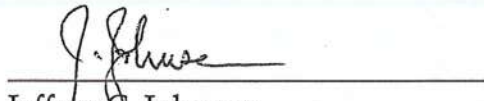

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Edward R. Margerison
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July 24, 2007

Harry Boertzel, Esq. ALJ
The Guam Public Utilities Commission
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Hagatna, Guam 96932

Re: GPA LEAC Effective August 1, 2007 – PUC Docket 02-04

Dear Harry,

This letter is in response to Guam Power Authority's ("GPA" or "Authority") June 2007 filing to the Public Utilities Commission ("PUC" or "Commission") requesting that the current fuel cost recovery factor ("factor") remain effective through January 31, 2008, rather than expire July 31, 2007. GPA's petition was filed under the portion of GPA's tariffs referred to as the Levelized Energy Adjustment Clause ("LEAC" or "clause"). GPA indicated in its June filing, under the projections available at that time, that the current factor of \$0.108893 per kWh would be insufficient to recover the full balance of fuel costs for the six-month LEAC period and eliminate the balance of un-recovered fuel costs from prior periods of \$4.3 million that was projected to exist as of July 31, 2007.¹ Furthermore, GPA's original projections indicated that not only would the \$4.3 million deferred fuel expense not be recovered, but that this balance would increase to \$5 million by January 31, 2008, if the factor was left unadjusted. The reason that the Consolidated Commission on Utilities ("CCU") wished to keep the current factor in place is that the CCU determined that the impact of a base rate increase anticipated for February 2008 would be greater than its ratepayers could bear. Absent from the filing was any indication of what the fuel factor would need to be in February 2008, if the PUC were to accept the GPA position to essentially "freeze" the factor for six months.

In your letter to the General Manager of GPA dated July 2, 2007, you requested an explanation of the position of GPA in this matter and specifically the reason(s) for this business decision. The response to your letter ("the response") contained no substantive information, but rather indicated that GPA and its advisors had originally believed that there would be a softening in the market regarding the price of oil (although the June filing contradicts this statement) and as such the existing factor might have been sufficient. The response concluded with a true and verifiable statement that fuel prices have not softened and in fact have continued their upward trend. The response continued with the statement that GPA was reviewing its sensitivity analysis in order to determine the best course of action. What this means in terms of requested Commission action now or in the future is not clear.

¹ In a recent phone call, we were advised that the June 2007 balance of un-recovered fuel expense was in excess of \$7 million.

Under the LEAC protocol GPA is free to file for an increase if the balance of deferred fuel expense is in excess of \$2 million and all indications are that a filing will need to occur to avoid the continuing cash constraints on GPA.

GPA's original petition to leave the LEAC unchanged filed included a projected price for No. 6 fuel oil for July deliveries of \$60.42 per barrel and essentially constant prices thereafter. The actual prices for July delivery were \$61.06 per barrel. GPA relies on the forecast of Morgan Stanley ("MS") on fuel prices. From the time of GPA's original filing to the present, the MS forecast for fuel for January 2008 has increased approximately \$3 per barrel.²

While GPA has not updated or modified its position, it has responded to the specific request of Georgetown Consulting Group ("GCG") to update ("the update") the information regarding all aspects of its projections, including the impact that would occur on February 1, 2008 should the PUC accept GPA's position in this matter. As suggested by GPA's response to your letter, the news is not good. The price of oil in the projected period is now estimated to be about \$3 per barrel higher than originally projected. While there are some small corrections in the update that will reduce the factor, this increased fuel price projection plus the loss of the cost efficient Cabras #4 from the dispatch in the update for a few months will more than offset the small decrease in the other items.

This letter and attachments hereto will summarize GPA's original filing and the updated information provided by it and will be the basis for our discussions and recommendations. We have attached: Exhibit A1 ("The Forecast Period" – Six Months Ending January 31, 2008 as filed); Exhibit A2 ("The Forecast Period" – Six Months Ending January 31, 2008 as updated); Exhibit B1 ("The Period" – Six Months Ending July 31, 2008 reflecting the updated projections and collecting the January 31, 2008 deferred fuel expense); and Exhibit B2 (Six months ending July 2008 assuming a \$0 balance of deferred fuel at start of period). These exhibits provide the detailed information used to derive the factor and reconcile the fuel cost recovery with related fuel costs. We will send you a separate report on a potential stipulated agreement regarding a Line Loss Reduction Program as required by your letter of July 2, 2007, ¶1.c.

Conclusions and Recommendations

The following are our conclusions and recommendations:

- In light of the current situation regarding fuel prices, we do not agree with GPA's position regarding the fuel factor. GPA has recommended that the LEAC factor remain the same over the 6 months August 1, 2007 to January 31, 2008 (the next LEAC period), rather than be adjusted based on the best available information for fuel oil prices and GPA generation at the time of this report. If the PUC were to merely follow the routine rate-making principles underlying the LEAC and use the most recent information available to it, it is Georgetown's recommendation that the PUC should raise the LEAC factor from the current factor of \$0.108893 to \$0.123957. This would represent an increase of 8.7% on a typical residential customer bill or a monthly increase of \$15.06. This would reduce the balance of fuel expense

² Morgan Stanley has requested that its projection of fuel prices be kept confidential.

that is legitimately owed by the ratepayers to GPA to \$0 by January 31, 2008 (**Exhibit A2, Schedule 1**).

- Based on the original and lower fuel price forecast that was provided by MS when GPA's petition was filed, and all of the best assumptions at that time, the following would have been the recommendation, if GPA had requested the PUC to apply the traditional and normal derivation of the LEAC factor for August 1, 2007: The LEAC factor would increase from the current \$0.108893 to \$0.116192. This increase would represent an increase of \$7.30 per month on a typical residential bill or an increase of approximately 4.2% on the total bill. In the absence of the increase indicated, the deferred fuel balance at the end of the LEAC period would be approximately \$5 million rather than \$0. This would mean that GPA would have to fund this deferred fuel expense from some other source of funds. (**Exhibit A1, Schedule 1**)
- Since GPA has used the excess bond funds to finance the current LEAC and is planning to use these funds for hazard mitigation projects, we inquired what financing source would GPA use to defer further collection of fuel expense. In response to our questions, GPA indicated that it would temporarily fund the projected deferred fuel balance with the proposed issuance of additional commercial paper (See **Attachment 1, Item 1.14**)³. This source of funds is not yet available to GPA and is currently before the PUC for its approval.
- Approximately \$4.5 million of these excess bond funds were actually used by GPA and GPA states that is repaying the borrowed amount at the rate of \$382,000 per month, beginning March 2007. Therefore, sufficient funds will not be available for the hazard mitigation projects and fund the additional deferred fuel expense recovery will not be available from this source for most of the remainder of 2007.
- The excess bond funds that are currently financing the last CCU decision to keep the fuel factor low have not been paid back in full. As of May 2007, there was a balance of only \$1.8 million of excess bond funds. GPA is currently repaying the \$4.5 million that it "borrowed" from these funds. As required by the PUC order, GPA is to reimburse the excess bond fund at the rate of \$382 thousand per month. These are the same excess bond funds that have also been approved as a source for funding \$4.1 million of Hazard Mitigation Programs ("Undergrounding").
- GPA has recently filed a contract review petition with the PUC for approval of other uses for the excess bond funds for other projects, such as an Integrated Resource Plan (IRP), cost of service studies and a Long-range Transmission study. Quite simply, we do not believe that the excess bond fund has these many lives.
- Based on the best information available at this time, if the indicated increase in the LEAC factor were to be totally deferred at this time, as requested by GPA, the factor for the next LEAC to be implemented on February 1, 2008, would have to be increased significantly. Based on the current projections, the LEAC factor would need to be increased from the current \$0.108893 per kWh to \$0.19546 per kWh an increase of \$22.17 on the typical residential

³ The Commercial Paper Filing suggests different uses of these proceeds.

monthly bill or an increase of 12.8% on the total residential monthly bill (**Exhibit B1, Schedule 1**).

- It is important to understand that GPA has filed a preliminary notice of a petition to seek a base rate increase of 13.8% in the February 2008 time frame. Thus, the total typical residential bill would be increased in February 2008 by 26.6% if the base rate increase were approved and all current LEAC projections are borne out. This would constitute significant rate shock, which should be avoided, if possible.
- If the PUC were to accept the GCG recommendation to increase the factor based upon the updated fuel price and operational projections, the LEAC factor would be projected to decrease for the LEAC period commencing February 1, 2008 by 4.3%. If the base rate increase was approved and all projections are accurate, this would result in an overall net increase of only about 9.6% on February 1, 2008. (**Exhibit B2, Schedule 1**).
- The following table summarizes the impact on the average residential bill depending upon the PUC decision in this proceeding:

		GPA Proposed Freeze	GPA Filed Data	GPA Updated Data
Fuel Cost Factor	(\$/kWh)	\$ 0.108893	\$0.116192	\$ 0.123957
Increase in Factor	(\$/kWh)	\$ -	\$0.007298	\$ 0.015064
Monthly Increase	\$	\$ -	\$ 7.30	\$ 15.06
Monthly Increase	%	0.0%	4.2%	8.7%
1/08 Def. Fuel Balance	(\$000's)	\$ 5,007	\$ -	\$ -

The following table summarizes the forecasted February 1, 2008 factor:

		GPA Proposed Freeze	GPA ⁴ Filed Data	GPA Updated Data
Fuel Cost Factor	(\$/kWh)	\$ 0.195457	<i>0.131068</i>	N/A \$ 0.115816
Increase in Factor	(\$/kWh)	\$ 0.086564	N/A	\$ (0.008141)
Monthly Increase	\$	\$ 22.17	N/A	\$ (8.14)
Monthly Increase	%	12.8%	N/A	-4.3%
1/08 Def. Fuel Balance	(\$000's)	\$ 10,334	N/A	\$ -

- GPA continues to get superior production from its base load units to the substantial benefit of its ratepayers. In its initial petition, GPA projects that 97% of energy requirements will be met by the base load units. In the updated analysis provided to us in response to interrogatories,

⁴ GPA did not provide a forecast for this period in its filing using the original forecasted prices.

GPA projects that 96% of the energy requirements will be met by base load units, despite Cabras #4 being out of service due to repairs related to the recent explosion and fire. This performance should be applauded.

- GPA has on numerous occasions indicated to the PUC that it is severely cash constrained. As a result it has in the past requested relief for the cash constraints in manners with which GCG has often disagreed. Deferring justifiable recovery of \$5 million of GPA's deferred fuel balance and refusing additional cash inflow over the next 6 months would presumably only further exacerbate the critical situation facing GPA. This would, in our judgment, not be prudent. According to GPA, its cash shortage impacts maintenance – a topic that will be examined in detail in the base rate case. While GPA's performance from its base load units has been outstanding, the GPA General Manager (GM) has often indicated to the PUC continued deferral of appropriate maintenance could impact that performance and GPA's record of performance might be broken. Approving GPA's request to defer an adjustment of the LEAC factor and depriving GPA of cash to which it is entitled under its tariff would only increase the risk to the ratepayers.
- GPA continues with its hedging program. At the current time GPA has only 25% of its supply "hedged." This hedging contract will absorb some of the shock of the rising fuel prices, but the current hedge ceases in September 2007. No future contracts are forecasted. While the fuel hedging program cannot offset completely the anticipated increase in fuel prices, it is forecasted to contribute about \$1.1 million as a credit to the total cost of civilian fuel of \$98.5 million.
- GPA has complied with the PUC order to exclude interest on Taxable Commercial Paper ("TCP") from the cost of fuel. GPA has removed this expense with a journal entry in April 2007 and has also restated its books for Fiscal 2006 by decreasing the cost of fuel for that year and decreasing the amount of deferred fuel that will be recoverable through the LEAC (**Attachment 1, Items 1.1 through 1.4**).
- The LEAC is an integral part of the GPA's tariff. It is designed to operate in a semi-automatic fashion. Prudently incurred fuel and fuel-related costs over which GPA has little control are supposed to be passed through to GPA's ratepayers. This is done so that GPA can continue to purchase fuel and maintain its system. A simple application of the LEAC that results in an increase in the LEAC factor is not a rate increase; it is merely enforcing GPA's existing tariffs.

GPA's LEAC filing

Your recent request indicated that you indicated you wanted GCG to provide an expedited report. In order to comply with your request, we have not included the detailed narrative that would normally accompany this report. All top level observations are included in the summary of conclusions.

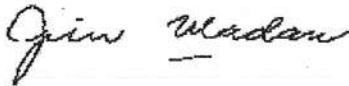
However, we have also included in our filing the appropriate files that derive the various factors and proposals as described above. We note that in each of these files, Schedule 6, Schedule 7 and Schedule 8 contain the forecast price of Morgan Stanley. GPA has requested that this information be treated as

Harry M. Boertzel, ALJ
July 24, 2007
Page 6 of 6

confidential. While schedules 1-5 are dependant upon this forecast, the information contained therein does not provide the spot prices forecasted by MS.

This concludes our report. If I can be of further assistance to you, please do not hesitate to contact me.

Cordially,



Jamshed K. Madan

Attachments

**cc: Bill Blair, Esq.
Graham Botha, Esq.
Lou Sablan, CCU
Randall Wiegand, CFO - GPA
Joaquin Flores, GM-GPA**

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Guam Power Authority

LEAC Presentation

August 6, 2007

Andy Balajadia, GM - Acting

Purpose of LEAC

The fuel factor which eventually became the Levelized Energy Adjustment Clause aka Tariff Z came into being to enable GPA to recover its cost of fuel without going through a formal base rate process. Under the Tariff, GPA is allowed to be made whole as fuel prices fluctuate.



LEAC Background

The Levelized Energy Adjustment Clause is reset every February 1st and August 1st. GPA must file its LEAC projections 45 days prior to the effective dates. The process for GPA to meet the filing deadline means that GPA begins its planning process in the middle of May. The LEAC was approved by the CCU on June 6 for filing on June 14.

GPA's Petition, cont.

GPA viewed the estimated under-recovery as a high side estimate when combined with the advice from GPA's hedge providers.

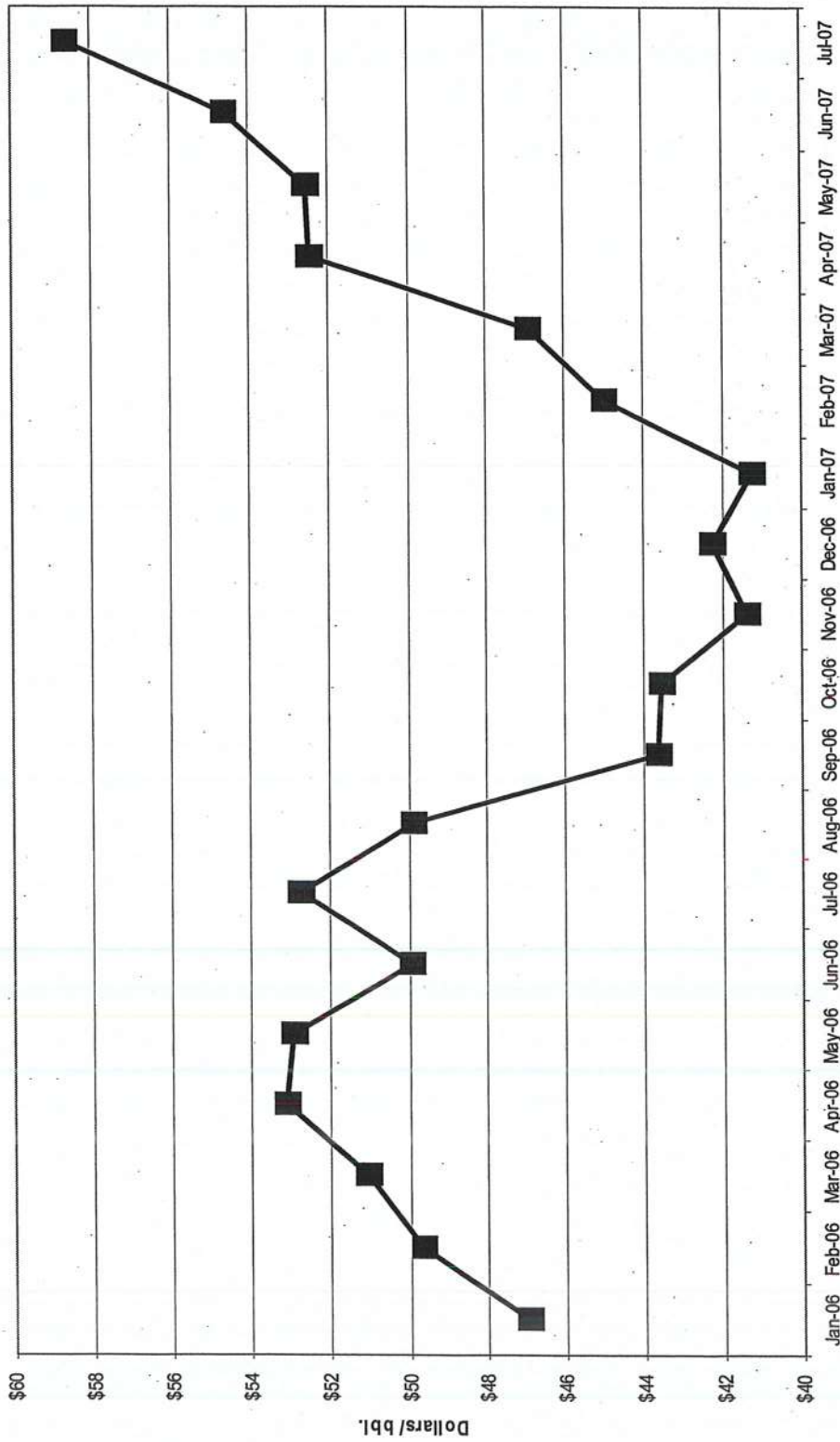
GPA provided some sensitivity analysis to the CCU and the decision was made to leave the LEAC rate unchanged.

Spot Price Activity

Even before GPA filed its petition, a major trend in spot price activity began which has led to record breaking levels for the fuel type which is most closely related to GPA's fuel type. The price has gone from \$352 in GPA's filing to \$400.81 on Friday August 3 – a 13.8% increase!! This increased GPA's forecast under-recovery from \$700k to \$12.5 million!!

Guam Power
is People Power.

Fuel Price Fluctuation



GCG Position

- The Georgetown Consulting Group performed their review of GPA's filing using spot prices as of July 9 and determined that an 8.69% increase would be necessary to keep GPA whole for the next six months.

No Disagreement

When we entered the prices used by Ed Margerison in our LEAC model, we got the exact same number that he did. Thus, in this instance, there is no disagreement between GCG and GPA on any of the assumptions used in the calculation.



New Situation

This situation has never occurred before and GPA has been caught a little off guard. Due to scheduling issues we have not had a chance to revisit the prior position of the CCU with the CCU.

Three Positions on Record

- 1) No Change – GPA Petition
- 2) 4.21% Change – GPA Calculations in Petition
- 3) 8.69% Change – GCG Response

The Increase would be greater if today's prices were used. Thus, if there is no change from today's prices, GPA will be slightly under-recovered on 2/1/08

GPA Management Position

The position of GPA management is that the Georgetown recommendation of an 8.69% LEAC adjustment should be adopted by the PUC. If the PUC does not adopt the revised position, it is likely GPA will file an emergency petition for a LEAC adjustment immediately following the 8/14 CCU meeting. That rate would likely be higher than the GCG recommendation.

The Double Whammy

GARP requires that rate changes should be as smooth as possible as opposed to steep increases and decreases. If the PUC adopts the GPA position, there in all probability would be a LEAC increase on 2/1/08 at the same time the proposed base rate increase would go into effect. A violation of GARP.

Conclusion

GPA requests the PUC to adopt the GCG recommendation of 8.69%.

GPA will carefully monitor the fuel prices going forward to ensure the projected under-recovery does not significantly increase.



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Edward R. Margerison
Jean Dorrell

July 27, 2007

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The Guam Public Utilities Commission
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Re: FY 2007 Contract Review Cabras PMC – Docket 94-04

Dear Harry:

Attached please find staff's report on the Guam Power Authority's petition to approve the extension of the contract with its performance manager.

If you wish to discuss the attached, please do not hesitate to call.

Cordially,

Jamshed K. Madan

Cc: William J. Blair, Esq.
Larry Gawlik
Randy Wiegand, GPA
Kin Flores, GPA
Graham Botha, Esq.

Staff Report on GPA Performance Management Contractor Activities

This staff report addresses the Guam Power Authority's (GPA) May 30, 2007 request for Public Utilities Commission (PUC) authorization for it to proceed with the procurement process for a new Performance Management Contract (PMC) for Cabras Units 1&2. Currently GPA has a contract with Taiwan Electrical and Mechanical Engineering Services, Inc. for the provision of Cabras 1&2 PMC services. This contract will expire on December 31, 2007.

We have had the opportunity to fully review the materials supplied by GPA in its May 30, 2007 request including the GPA staff "white paper" on procuring a new PMC to replace the expiring PMC contract for Cabras 1&2 and the supporting draft procurement documents for a new Cabras 1&2 PMC. Based upon our understanding of the benefits the PMC process has provided GPA and its consumers as well as our review and analysis of the information submitted by GPA, we recommend the PUC authorize GPA to proceed with the procurement of a new PMC contract for Cabras 1&2.

BACKGROUND

During the latter part of the previous decade and the early part of this decade (1997-2002), poor management of the operations and maintenance of GPA's Cabras power plant resulted in ratepayers incurring substantial penalties due to high generating unit unavailability rates and poor unit efficiencies. The PUC expressed its serious concern to GPA over the impact on customers in early 2000. In early 2001 GPA put into place a short-term arrangement with a third-party to serve as interim management contractor (IMC) for Cabras 1&2 operations. This arrangement remained in place for a short period of time during which Cabras performance improved. In March 2002, the IMC arrangement was allowed to elapse and once again Cabras performance declined. After strong encouragement from the PUC for GPA to retain a permanent PMC, GPA in late 2002 selected a permanent PMC services contractor who initiated the management of Cabras 1&2 operations and maintenance in January 2003. The PMC has been responsible for the management of Cabras 1&2 operations and maintenance since that time.

Since initiating the PMC for its base load units GPA has seen significant improvements in performance that have resulted in substantial benefits to GPA and its consumers. These performance improvements have taken place in the areas of staffing, training, procurement, and unit availability and efficiency—the two most critical areas impacting consumer rates. In its April 26, 2007 "white paper" on procuring a PMC to replace the expiring PMC contract at Cabras 1&2 GPA makes a compelling case for continuing to use a PMC for the management of the operations and maintenance of its Cabras 1&2 generating units. The "white paper" indicates that the improvements in unit availability have allowed GPA to more effectively use its base load units to produce greater levels of the power consumed on the GPA system by consumers. As measured by base-load production, GPA has moved from a level of 83 percent in the pre-2002 period to in

excess of 98 percent of its power being produced from base-load units in the most recent three years. Base load power production at these recent levels is extraordinarily high and given the efficiency of GPA's base load units has resulted in substantial savings to its consumers. GPA estimates that the savings to consumers from the use of a PMC is in excess of \$65 million since 2003. GPA further estimates that the benefits derived from the PMC outweigh the cost of the PMC by a factor in excess of seven (7)—a tremendous return on its investment in a PMC.

The activities of the PMC have included the timely completion of performance and construction improvement projects, supervising plant staff, training staff, managing inventory control, procurement, and most importantly the meeting of specific performance targets for operations of GPA's base-load units. Some of the critical PMC accomplishments have included:

- Completing major overhauls of generating units in a timely manner.
- Demonstrating the ability to access equipment and resources during periods of catastrophic equipment failures resulting in substantial benefits to consumers.
- Improving the equivalent availability of GPA's base-load units, benefiting consumers by having in service GPA's most efficient generating units.
- Improving the efficiency (heat rate) of GPA's base-load units, benefiting consumers by lowering the costs of power production.

GPA has requested the Commission approve the proposed procurement documents for the purpose of retaining a new PMC for the management of Cabras 1&2 operations and maintenance. The proposed procurement process and documents for the new PMC essentially mimic GPA's earlier PMC agreements and the associated terms and conditions. This arrangement has served GPA and its consumers exceedingly well. Accordingly, we continue to believe the PMC approach to management of Cabras 1&2 operations and maintenance is an excellent example of an effective approach a public-private partnership which is equitable and beneficial to GPA consumers.

During the next PMC contracting period GPA will focus on continuing to maintain its high performance as demonstrated by unit availability and efficiency. Nothing is more important to holding down the costs to consumers in this continued period of high fuel costs. GPA remains totally dependent on high cost oil fired generating units and a PMC is critical for maintaining both GPA unit availability and efficiency. In addition, improving the skill levels of GPA plant operating and maintenance personnel will continue to be a key objective of the PMC. GPA plans during this next PMC contract period on having the PMC hire experienced plant engineers who can independently perform many of the functions of the PMC.

GPA also plans during the next PMC contracting period on continuing the transformation to a plant operations and maintenance culture that recognizes the benefits of root-cause analysis, performance analysis, and predictive maintenance. In the implementation of a proactive maintenance culture it will be vital for plant personnel to use information-based tools, statistical analysis, and other automated information processes to better control plant operations and availability. Here the PMC offers GPA with invaluable industry experience that it cannot access otherwise. The PMC process has proven in the

past that it can bring to GPA a vast network of industry experts for key technical needs. These specialized experts reside both in the back office of the PMC as well in its sub-contractor pool of resources.

One of the most important functions that the PMC will continue to provide GPA is its ability to avoid the problems encountered with GovGuam procurement requirements, which do not lend themselves to critical functions and time-dependent operations such as a power plant. What may work well for an administrative GovGuam office does not translate directly to a power production facility.

CONCLUSION

The use of PMC contracts has enabled GPA to move from a plant operating environment of day-to-day crisis management to a more proactive operating environment. The successful results of past PMC activities have been well established as well as the consumer benefits. We believe that GPA continues to need a PMC for the management of Cabras 1&2 operations and maintenance; otherwise, it runs the unacceptable risk of encountering the same problems it found in the latter decade and the early part of this decade. This would be unacceptable. Accordingly, we recommend the PUC approve the draft PMC procurement documents for Cabras 1&2 and allow GPA to proceed with the procurement process.

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July 25, 2007

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Hagatna, Guam 96932

Re: FY 2007: Contract Review GPA Excess Bond Proceeds – Docket 94-04

Dear Harry:

On or about June 29, 2007 Guam Power Authority (“GPA” or “Authority”) filed a request for the Public Utilities Commission (“PUC” or “Commission”) approval of uses of excess bond funds for three specific projects, i.e. a Load Research/Cost of Service Study; an Integrated Resource Plan; and a Long-term Transmission Study. While the stated level of costs for these studies would not automatically trigger the need for PUC approval, under the current provisions of the contract review protocol GPA is required to seek PUC approval of the use of any debt proceeds. Specifically:

The following GPA contracts and obligations shall require prior PUC approval under 12 GCA 12004, which shall be obtained before the procurement process is begun:

All externally funded loan obligations and other financial obligations such as lines of credit, bonds and bond reserve fund forward delivery agreements [such as discussed in PUC's March 30, 2004 Order in Docket 94-04], in the excess of \$1,500,000 and any use of the proceeds of such obligations and transactions;¹ [Emphasis Added]

The following table summarizes GPA's request and the estimated amounts for each of the proposed projects:

<u>Project</u>	<u>Cost</u>
Load Research/Cost of Service Study	\$ 550,000
Integrated Resource Plan	250,000
Long-Term Transmission Study	150,000
TOTAL EXCESS BOND FUNDS	\$ 950,000

¹ Contract Review Protocol, February 2006, ¶1.d.

We believe that the approval of the FEMA underground projects (approved by the PUC on May 24, 2007) effectively eliminated all of the available excess bond funds. The timing of the availability of cash from the excess bond funds are a concern to GCG. As you will recall, GPA requested that it be permitted to use \$4.8 million of the excess bond funds to finance the Consolidated Commission on Utilities ("CCU") request to extend the implementation date of the scheduled October 1, 2006 LEAC factor to January 2007 resulting in an additional deferred fuel balance of approximately \$5 million. GPA was to have replenished in a period not to exceed 12 months. The PUC approved this limited use of excess bond funds² to finance the additional deferred fuel balance and GPA subsequently used \$4.5 million of cash from this source. The PUC then ordered GPA to begin repayment at the monthly rate of \$382 thousand per month.³

GPA also requested that the PUC permit the use of these same excess bond funds for the purpose of financing two underground projects that will be funded in large part by the Federal Emergency Management Administration ("FEMA"). The PUC also approved this GPA request.⁴

The following table summarizes the uses and proposed uses of the excess bond funds including the three projects that are the subject of this petition:

Total Excess Bond Funds	\$ 5,157,000
LEAC Funding Thru 1/31/2007	<u>(4,500,000)</u>
Net Excess	\$ 657,000
PUC-Approved UG Projects	<u>(4,200,000)</u>
Net Balance Before GPA Repayment	\$(3,543,000)
LEAC Repayments thru 1/31/2008	<u>4,500,000</u>
Net Balance After GPA Repayment	\$ 957,000
Three Additional Projects (Studies)	<u>(950,000)</u>
Net Excess	\$ 7,000

The filing is silent on when GPA proposes to use the funds for the three projects described in this filing and whether or not the underground projects will need to be deferred or whether the underground projects are proceeding on schedule. The filing is accompanied by CCU resolution No.2006-16 which authorizes use of the excess funds up to \$1 million for the uses described above and the resolution indicates the necessity for these projects.

Recent information obtained from discovery and from conversations with GPA management indicates that these funds may not be as available as GPA once believed due to the restriction on the uses of funds derived from the original 1994 bond funds. While the attached discovery responses seems to indicate these proceeds will be available,⁵ we were advise that GPA has not obtained a confirmation from Bond Counsel on this matter. While the use of these funds (or funds from other sources) for

² PUC Order dated September 28, 2006, Ordering ¶ 8.

³ PUC Order dated February 2, 2007, ¶1.d.

⁴ PUC Order dated May 23, 2007, ¶ 5.

⁵ Attachment A, Item 1-9 and 1-10.

these fundamental studies is advisable, we will request further declaration of the excess bond fund availability.

The following is a brief description of the three studies and our comments regarding these studies.

Load Research Study/Cost of Service Study

GPA is seeking assistance in funding a cost of service study both at the distribution level and the transmission level. This study is a requirement to quantify the cost of service for the various classes of customers and would form a basis for rate design. These studies usually take months to gather the required data, review the results and prepare positions on both rate planning and design. According to GPA this study once funding is available will take approximately 18 months to complete.⁶ In the filing, GPA indicates that no complete study with the requisite information for rate design has been performed since 1994. The rate design portion of this study will be critical in establishing GPA's rates based upon cost (something that has been continuously deferred in rate case after rate case). In the past GPA has been reluctant to adjust inter customer-class rate disparities because of the potential impact on residential customers. GPA has responded that it does not believe that the proposed study can be used in the rate case (at least the first phase).⁷ GPA has indicated that it will be filing a rate case in the fall of 2007.

This would mean that the first portion of the rate case increase (and largest) would be across the board, i.e. equivalent percentage increases among all civilian classes of customers (assuming lifeline adjustments). If lifeline is not adjusted, the percentage of increase would be somewhat larger for the commercial and large power customers (including government). Previous studies have indicated that the Commercial and Large Power customers may be paying in excess of their cost. An across the board increase will only exacerbate this disparity and may potentially require future increases in the residential rates while requiring reductions in other rates. GPA must explain to the PUC by the next regulatory session why it has waited this long to undertake a study of this importance and with a base rate proceeding about to be launched why GPA believes it prudent for the PUC to accept such deficiency in its proposed rate filing.

The Customer Service Agreement ("CSA") between Navy and GPA requires that if rates to the Navy are to be changed, a full Transmission Level Cost of Service is required (Navy's cost of service) to determine Navy rates. In addition, the GAA has also requested a transmission level study to establish its rates. GPA cannot increase the rates to Navy until this Transmission level study provides the cost of service for the Navy. GPA has informally acknowledged that it must perform the study on an ad hoc basis. The study and its contents are defined in the CSA so that a study of this type can be performed, once the overall cost of service is determined. If GPA fails to include this study in its request for rates, a significant portion of GPA's cost of service will not be recovered, assuming that utility costs have increased since the last time Navy rates were set.

While the proposed scope of this project includes possible testimony by the contractor, including possible rebuttal of the Navy and GCG testimonies, it does not seem likely that there will be any study (other than transmission level) that will be available in the near term rendering it impossible for any action to be taken on determining cost allocation by customer classes (the principle objective of a rate proceeding).

⁶ Attachment 1, Item 1.2.

⁷ Attachment 1, Items 1.3 & 1.4.

Integrated Resource Plan

The second study that GPA wants to fund with excess bond funds is an Integrated Resource Plan ("IRP"). The IRP is also a component of the tasks in the Load Study described above and must be completed before the Load Study so that any recommendations in the IRP will be incorporated into the Load Study.

GCG has in the past recommended a complete IRP be performed by and for GPA especially in light of the fact that the Authority relies solely upon oil to produce energy. In April 2007, GCG made several recommendations regarding the Work Plan for the IRP and GPA has filed its response. GCG will make further comments on the IRP in our response to that recent filing.

Long Range Transmission Planning

GPA is requesting to use as a source of cash the excess bond funds to complete a transmission study with RW Beck's assistance. This study was supposed to have begun in January 2007, but GPA indicates that it deferred this program due to the lack of funding available to it. This study will update a 1997 study. The work scope attached to this filing is from the RW Beck response to an earlier RFP. GPA responds that it did not bring this contract to the PUC as the contract fell below the threshold required under the contract review protocol (\$1.5 million).

Conclusions and Recommendations

GCG recommends approval of this source of capital for these projects. In order of priority GCG believes that the load research and IRP are the most significant of these studies. While we recommend approval of all three projects for funding from the excess bond funds, we recommend that the PUC order that to the extent funds are limited in any way it is the IRP and the load research must have priority in order to assign cost of service to GPA's various rate classifications. Since the competing uses of the excess bond funds are becoming increasingly complicated, we recommend that GPA be required to provide a quarterly report on the availability and the status of projects that the PUC has approved to be uses of the funds.

We also note that the petition as filed also includes a scope for each of the projects. While we recommend that the excess bond funds (if legally available) be the source of funding for the needed projects the determination of the scope of each of the projects should be dealt with separately:

1. For the IRP, the PUC ordered GPA recent response to the previous report filed by GCG on the IRP process is being reviewed. We just recently received that report and we are to respond to that report on July 27, 2007. That report will contain our recommendations on the scope of the GPA effort. The PUC should take those comments into account with the funding recommendation herein.
2. For the load study and cost of service study we have not had sufficient time to recommend an appropriate scope. We recommend that the scope issue be deferred to the next regulatory session. GPA also believes that discussions between GCG and GPA are appropriate before and during the rate case.⁸

⁸ Attachment 1, Item 1.2.

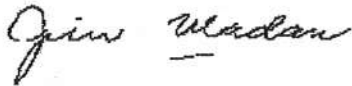
Harry M Boertzel, ALJ
June 25, 2007
Page 5 of 5

3. For the long range transmission study we recommend that the scope of that study be integrated into the process stipulated to between GPA and GCG for the reduction of line losses and also be a topic for discussion in the next regulatory session.

Finally, we recommend that GPA provide the PUC with a definitive opinion of bond counsel that the excess bond funds (and potential future excess bond proceeds⁹) can be used for the three projects as requested and if not, what source is available to GPA.¹⁰

If we can be of further service, please do not hesitate to call.

Cordially,



Jamshed K. Madan

Cc: William J. Blair, Esq.
Graham Botha, Esq.
Larry Gawlik
Lou Sablan, CCU
Randy Wiegand, GPA
Kin Flores, GPA

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Proceeds\07_07_25_GCG_Letter_to_HMB_Use_of_Bond_Proceeds.doc

⁹ Current projections of capital costs using bond proceeds indicate that there may be additional excess funds at some point in time.

¹⁰ We have recommended approval of the increased level of the TCP program. This may become the source of funding for these studies until such time as additional base revenues are ordered by the PUC.

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July 20, 2007

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Re: FY 2007: Contract Review TECP – Docket 94-04

Dear Harry:

On June 21, 2007 Guam Power Authority (“GPA” or “Authority”) filed a request for Public Utilities Commission (“PUC” or “Commission”) approval of a request to the Guam Economic Development and Commerce Authority (“GEDCA”) to issue a Request For Proposal (“RFP”) on GPA’s behalf for the purpose of soliciting a financial institution to provide a new letter of credit facility with the purpose of increasing GPA’s level of Commercial Paper from \$20 million to \$30 million. Under the current provisions of the contract review protocol GPA is required to seek PUC approval of this additional debt. Specifically:

The following GPA contracts and obligations shall require prior PUC approval under 12 GCA 12004, which shall be obtained before the procurement process is begun:

All externally funded loan obligations and other financial obligations such as lines of credit, bonds and bond reserve fund forward delivery agreements [such as discussed in PUC’s March 30, 2004 Order in Docket 94-04], in the excess of \$1,500,000 and any use of the proceeds of such obligations and transactions;¹

While the filing includes narrative regarding the potential use of the additional \$10 million of debt for maintenance on substations, Dededo #2 and the Yigo combustion unit, GPA has not requested PUC approval of these projects nor has it presented the required information under the provisions of the contract review protocol for such approval.

GPA’s petition is reflects PL28-116 (**Exhibit A**) increasing the commercial paper program to \$50 million offset by any lines of credit available to GPA. At the current moment should the PUC approve the request to increase the level of commercial paper from \$20 million to \$30 million, GPA will have total access to \$50 million of short-term debt.

¹ Contract Review Protocol, February 2006, ¶1.d.

GPA had previously requested that the Commission approve an additional line of credit of \$10 million in September 2006. This line of credit would have brought the total short term indebtedness of GPA to \$50 million. When we inquired in the attached discovery (**Exhibit B**) whether GPA obtained the LOC, GPA responded that it had failed to receive this note or line due to the fact that the bidder was reluctant to take a second position (to the bonds) on its debt. As result, GPA either deferred the purchases and uses of the LOC that had been approved by the PUC or used internally generated funds, thus further exacerbating the cash flow situation at the Authority. I have been advised by our Counsel that his opinion is that the \$10 million Line of Credit that was approved by the PUC in September 2006 (**Exhibit C**) and the uses therefor are not in conflict with PL28-116 and the GPA is able to obtain this additional source of short-term debt as a result of the PUC decision. I have attached that opinion to this letter. (**Exhibit D**)

In addition to seeking approval of the increased debt from the PUC, GPA also states in its filing that due to improved investor opinion of GPA's financial position, it appears to GPA that there is a potential that it will receive approval to issue tax exempt commercial paper (TECP) as opposed to the current taxable paper ("TCP") that GPA has currently issued. GPA received an investment upgrade by Standard and Poors (S&P) of April 2007 to BB+/Stable or investment grade. When asked whether GPA's other rating agencies (Moody's and Fitch) increased their ratings, GPA responded that there have been no further updates.

In this filing GPA had originally estimated that it will save about \$300 thousand of annual commercial paper interest on a balance of \$20 million interest as a result of tax-exempt interest rates approximately 1/3 lower than the taxable rates. When we requested that GPA provide an analysis showing the interest calculation of \$20 million of TCP versus \$30 million of TECP, GPA provided the following table:

	TCP	TECP
Principal Amount	\$20,000,000	\$30,000,000
Letter of Credit Provider Fee	387,900.00	556,850.00
Goldman Sachs - Management fees	10,200.00	15,300.00
AMBAC - Insurance	116,000.00	174,000.00
Total Fees	\$ 514,100.00	746,150.00
Interest Expense	1,072,000.00	1,008,000.00
Total Costs	\$ 1,586,100.00	\$ 1,754,150.00
True Interest Rate	7.93%	5.85%

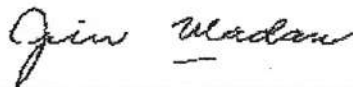
As shown above, the cost of service with the approval of the additional debt is minimal and will not greatly impact the cost of service and the future rate being prepared by GPA (\$1.754 million versus \$1.586 million), but will allow GPA greater flexibility in its cash management. In addition, GPA may choose to replace the current lines of credit with TECP, if economic. We recommend that the PUC approve GPA's request to increase the commercial paper program from \$20 million to \$30

Harry M Boertzel, ALJ
July 20, 2007
Page 3 of 3

million and request that GPA apprise the PUC of the results of the RFP by GEDCA and any other changes from the current short-term debt (\$30 million of Commercial Paper plus a \$20 million line of credit within the context of the upcoming base rate filing. We also remind GPA of its obligation to seek Commission approval for the additional uses of the increase in the commercial paper program.

If we can be of further service, please do not hesitate to call.

Cordially,



Jamshed K. Madan

Cc: William J. Blair, Esq.
Lou Palomo, PUC
Graham Botha, Esq.
Lou Sablan, CCU
Randy Wiegand, GPA
Kin Flores, GPA

C:\Guam\Guam Power\Dkt9404-Contracts\Fiscal 2007\TECP Extension\07 07 20 GCG Letter to HMB_TECP Rebid.doc

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Edward R. Margerison
Jean Dorrell

July 20, 2007

Harry Boertzel, Esq. ALJ
The Guam Public Utilities Commission
Suite 207, GCIC Building
Hagatna, Guam 96932

Re: FY 2007: Contract Review Property and Casualty Insurance Policy Extension – Docket 94-04

Dear Harry:

On June 18, 2007, the Guam Power Authority (“GPA” or “Authority”) filed a request for approval to extend the Property, Boiler and Machinery Insurance Policy for an additional year. The current policy with Lloyds of London is a three year contract with renewal options for the next two years. The policy is currently in the first year of extension and GPA is requesting PUC approval of GPA’s decision to opt for the second year extension. In support of its petition, GPA attached a Consolidated Commission on Utilities (“CCU”) Resolution No. 2007-13 authorizing GPA management to exercise the option for insurance coverage for an additional year. In support of the CCU resolution, GPA provided a June 5, 2007 report from the Chief Financial Officer (“CFO”) in support of this extension. The CFO estimates that the annual premium resulting from this extension will be approximately \$6 million or slightly less than the current annual premium. GPA will use revenues to pay for this premium.

The CFO supports this cost estimate stating that while there is currently a worldwide upward pressure on insurance pricing, he believes that GPA’s recent track record would indicate that there may be a decrease in the premium over existing levels. Also attached to the CCU Resolution is a statement from the General Manager (“GM”) stating that property insurance is a requirement under the Bond Indenture requiring that GPA secure and maintain against the risk of loss be or damage by fire, severe weather and earthquakes. While the GM likewise anticipates a reduction in the premium of between \$500,000 and \$750,000, his estimate of annual premium costs is \$8.1 million. While there appears to be a conflicting amount of total annual cost (\$6 million versus \$8.1 million), the reason for this difference is a result of grouping all of GPA’s various policies (\$8.1 million in premiums) versus the property, boiler and machinery portion of this policy (\$6.4 million¹).

All of the other policies have been approved by the PUC for a five year term and two of these policies (D&O and Crime) fall below the \$1.5 million threshold for that five-year term. To clarify this seeming inconsistency, GPA provided the following table:²

¹ Plus vendor financing for partial premium payments.

² Response to Request 1-2.

	<u>FY08</u>
Property Boiler Machinery(including vendor financing)	\$ 6,964,056
General /Auto Liability	478,481
D&O	88,086
Crime	75,790
Excess Pollution	572,400
	<hr/> \$ 8,178,813

Regarding the other two insurance contracts (General/Auto and Excess Pollution) whose total premiums do exceed the threshold, the premiums have not changed since the original PUC approval and according to the February 2002 protocol do not require re-approval since the cost does not exceed the initial cost by 120%. Specifically:

For a multi-year procurement with fixed terms and fixed annual costs, GPA must obtain PUC approval if the total costs over the entire procurement term exceed the review threshold. No additional PUC review shall be required after the initial review process.³

On June 26, 2007, GPA filed a supplement to the June 18, 2007 filing. This supplement provides additional support for GPA's request in the form of a letter from "Grennan & Associates, Inc." This entity is GPA's risk management consultant. Grennan and Associates states that the insurance market is in extreme flux and in its opinion, to seek a new insurance contract by going through the RFP process could have "dire" consequences and could result in no bid from firms (or consortiums) that have the ability to cover approximately \$300 million of property. Additionally, the risk manager argues that an additional year would further improve GPA's relationship with underwriters and improve GPA's bargaining position in negotiating the next property insurance contract scheduled on or about November 2008.

Regulatory History of Insurance Contract

On September 24, 2003, the PUC approved the IFB for insurance coverage of GPA property. This approval was made during a PUC meeting and was based upon a September 23, 2003 letter from GCG which is attached to these minutes. **(Exhibit A)**

The contract remained in force and an amendment increasing the deductible related to this contract was retroactively approved at a PUC meeting of February 2, 2006. **(Exhibit B)** Subsequent to that amendment, GPA filed for PUC approval of the first annual extension of the insurance contract. **(Exhibit C)** After reviewing that filing, GCG sent a letter to you on April 12, 2006 recommending approval of the first extension of the insurance contract. **(Exhibit D)** and the PUC approved this extension at its April 20, 2006 meeting with the caveat that GPA should advise the PUC if the annual premium exceeds 12% [sic]⁴ of existing cost. **(Exhibit E)**

³ Contract Review Protocol, ¶4.c.

⁴ We assume that the PUC order meant 120% and not 12%.

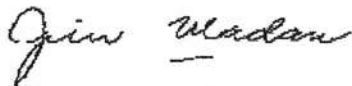
Harry M. Boertzel, ALJ
July 20, 2007
Page 3 of 3

Conclusion

While we believe that this filing may not have been required under the provisions of the current contract review protocol, as a precaution we recommend PUC approval of GPA's extension of the property insurance. The contract review protocol of February 2006 seems to indicate that GPA did not have to file for PUC approval, since the annual premium for this multi-year contract is anticipated to be within the 120% of the approved amount and as such does not require additional PUC action.

If you wish to discuss any and all of the above, please do not hesitate to call.

Cordially,



Jamshed K. Madan

C: Lou Palomo, PUC
Graham Botha, Esq. (GPA)
Lou Sablan, CCU
William J. Blair, Esq.
Randy Wiegand, GPA
Kin Flores, GPA

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Harry M. Boertzel
Administrative Law Judge

Lourdes R. Palomo
Administrator

October 25, 2006

VIA ELECTRONIC TRANSMISSION

Joaquin C. Flores, P.E., General Manager
Guam Power Authority
Post Office Box 2977
Hagatna, Guam 96932

Jamshed K. Madan, Principal
Georgetown Consulting Group, Inc.
716 Danbury RD.
Ridgefield, CT 06877

RE: Docket 02-04 [LEAC - Line loss reduction action plan]

Gentlemen:

In its September 28, 2006 order, the Guam Public Utilities Commission [PUC] directed me to *develop GPA and Georgetown [GCG] positions on line loss benchmarks for PUC consideration during the January 2007 LEAC proceeding*. The subject of line losses and the opportunity to substantially reduce fuel expenses if the losses are reduced to reasonable levels has been of interest to PUC for several years.¹ In its March 26, 2006 LEAC report, GCG estimated that a three percent reduction in T&D line losses could save ratepayers \$5 million dollars annually.

On or before December 8, 2006 GCG should: a] investigate whether the GPA plan described in footnote one was adopted by GPA management and CCU; b] audit GPA's progress in achieving the GPA plan objectives and goals; and c] provide

¹ See PUC LEAC orders dated October 14, 2004, April 22, 2005, and April 20, 2006. The October 14, 2004 order required GPA to file an action plan to reduce line losses with PUC by December 1, 2004 and to file quarterly reports with PUC on its progress in meeting plan objectives. I am aware of a December 1, 2004 *Quality Management Plan for the Cost Effective Reduction of System Losses*, which was prepared by GPA's Strategic Planning and Operations Research Division. It is unclear whether this plan was ever ratified by GPA management or by the CCU. As noted in GCG's March 26, 2006 LEAC report, GPA has failed to comply with the quarterly report requirement, unless requested through discovery.

its vision of an action plan, including estimated budget and funding source, under which GPA would be expected to meet clearly defined benchmarks to promptly achieve reasonable line loss reductions. The GCG action plan should review standards and benchmarks, which have been established by comparable mainland utilities. On or before January 12, 2007 GPA may file comments regarding the GCG report.

A GPA regulatory conference will be held at 2:00 p.m. on January 19, 2007, at which we will discuss whether a joint GPA/GCG position on the action plan is feasible. GPA and GCG will be given the opportunity to review their positions on a line loss action plan during PUC's LEAC hearing, which will be held at 6:00 p.m. on January 23, 2007.

Please let me know if you have any questions.

Cordially,



Harry M. Boertzel

cc: Simon Sanchez, CCU chair
Terrence Brooks, PUC chair
Bill Blair, Esq.

Memo

To: Harry Boertzel, Esq. ALJ
Guam Public Utilities Commission

From: Larry Gawlik

Date: July 27, 2007

RE: GPA Line Loss Performance and Monitoring

The purpose of this memo is to provide an update on the status of discussions between Guam Power Authority (GPA) and Georgetown Consulting Group, Inc. (GCG) concerning GPA line losses and the development of line loss performance benchmarks. Pursuant to your direction GPA and GCG have been engaged in the development of a joint recommendation (stipulation) concerning line loss performance. GPA's line loss performance data has been analyzed as well as telephone conferences held and numerous emails exchanged for the purpose of developing line loss performance objectives for the PUC's use in future LEAC rate proceedings. While progress has been made we have not yet arrived at a successful conclusion. We anticipate further discussion prior to the GPA regulatory conference. While we are optimistic that we may be able to successfully conclude these discussions, it would be prudent to plan the regulatory session on the basis that GPA and GCG will not reach a mutual agreement on this matter.

The latest draft of the proposed stipulation principles can be found attached as Exhibit A to the July 27, 2007 memo from GPA. While there is agreement on many of the principles there is no agreement on the most critical of the line loss principles. Specifically, item 7 which identifies line loss benchmarks that are proposed to be phased-in over a 24-month period (i.e., the next four (4) LEAC rate proceedings). It proposes that GPA line loss performance be measured on a 24-month trailing average basis. In other words, each monthly value over the past 24-months would be averaged together. As we go forward in time the line loss value for the next month would be added and the line loss value for the then 25th month would be dropped from the calculation.

The performance benchmark proposed in item 7 for the LEAC period ending January 2008 is 7.6 percent. As a critical point of reference, on a 24-month trailing average basis GPA is currently operating at a line loss level of 7.46 percent and has been below the 7.6 percent benchmark since March. The proposed line loss performance benchmark decreases to a 7.3 percent level at July 2008. At that time all of the performance benchmarks going forward will then be re-evaluated in the June-October 2008 timeframe following the completion of a GPA transmission loss study. GPA has indicated that it will be performing a transmission loss study and would like for this new information to be included in the establishment of the later phase-in performance benchmarks and the final long-term line loss performance benchmark. GCG proposed this re-evaluation period for the purpose of considering new information such as the type that may come out of such a study.

While we understand that GPA would like to wait until its transmission study is completed before it agrees to the use of performance benchmarks for the purpose of measuring its line loss performance and any potential penalty situation, we must point out that GPA completed its report entitled "Projected Target for the Reduction of Unaccounted for Energy (System Losses)" in November 2004. It was in that study that GPA proposed a line loss performance target of less than six (6) percent by FY 2008 and indicated the need to conduct a transmission loss study as part of its loss mitigation program. Now 33-months later the transmission loss study has yet to be authorized by GPA and it now proposing that the PUC wait an additional 24-months before it consider implementing performance benchmarks and potential penalties should GPA fail to meet a line loss performance benchmark (it should be understood that GPA does not oppose having targets—only the potential penalties that may be associated with non-performance).

In its filing on Friday, July 27, 2007 GPA indicates that it would be willing to consider application of performance benchmarks and the potential imposition of penalties should it fail to meet a performance benchmark. Any such agreement by GPA would be dependent upon a performance standard and penalty mechanism that would allow:

- (a) Application of a 0.5% bandwidth where no penalty or bonus will be applied; and
- (b) Creation of a system of rewarding a bonus for over achievement that can be banked for future use to credit any performance shortcomings.

On its face (a) is simply equivalent to changing the proposed performance standard contained in item 7 of the proposed stipulation principles for the six-month period ending January 2008 from 7.6 percent to 8.1 percent. This doesn't seem to be reasonable since GPA on a 24-month trailing average basis has demonstrated during the course of the past year that it consistently exceeded this level of performance and today is operating at a 7.46 percent level. Such a proposal does not demonstrate the level of improvement needed to mitigate the line loss risk to consumers and should be rejected. While it is not our intent to slam the door entirely on the concept of a bandwidth, we believe a 0.5 percent bandwidth to be far too liberal.

As for the condition contained in (b) we believe GPA fails to appreciate the excessive line loss burden its consumers have carried for the past five years. Now as GPA starts to more aggressively tackle its excessive line losses it proposes to institute a bonus program if it over achieves by someone unknown amount the proposed line loss performance benchmarks. Meanwhile, all of the capital that will be required to achieve such over performance will be supplied by or financed by GPA consumers. Since GPA consumers will bear the total burden of the capital required to invest in line loss projects and have picked up 100 percent of liability of excessive line losses to date it simply is not equitable to reward GPA as proposed. This aspect of the GPA proposal should be rejected.

As to GPA's second point, GCG long ago recognized that GPA was withholding capital investments in line loss programs and extended a proposal to GPA to use the LEAC rate mechanism as a short-term funding mechanism to accelerate investments in line loss reduction projects. We reaffirm our willingness to support the use of the LEAC rate process for this purpose; however, it has never been our intent that these additional consumer revenues would simply be given to GPA. While we can appreciate GPA's desire that ratepayers give it funds, it has always been our intent that these funds would be repaid by GPA within a reasonable period from other available cash

resources (i.e., revenue generated from interest coverage above 1.0x, capital financing, lines of credit or other sources). We believe this is simply a misunderstanding on GPA's behalf of our original proposal.

As for GPA's third point, item 9 was written to specifically avoid setting up a situation of micro management. It is designed to emphasize to GPA that if it intentionally withholds maintenance funds for generator maintenance and such actions result in adverse consequences to consumers that it would be our intent to view these actions the same way viewed by regulatory commissions throughout the world. In other words, if maintenance dollars were withheld and the impact is lower availability or efficiency adversely impacting consumers, GPA would find itself subject to financial penalties (hence the incentive is not to incur such disallowance--the purpose of this regulatory tool). Item 9 is meant to act as a balance to encourage GPA not to cut back on maintenance and purposely shift the burden of such cut backs to consumers by increasing their LEAC rates. Such action can't be tolerated by any regulatory authority when a utility clearly makes all of the decisions concerning its operations and has countless other avenues available (i.e., pursue a rate increase, short-term borrowing, cut back in less critical areas, reduce employee levels, freeze wages, and so forth). So in order to avoid telling GPA how to manage its cash resources (i.e., what to cut, how to finance, whether to seek a rate increase, and so forth) the intent is to tell GPA that intentionally cutting maintenance funds and shifting the impact to consumers thru the LEAC rate would not be viewed as an acceptable practice and would have consequences.

GPA's fourth point will of course be addressed by the transmission loss study that it proposes to shortly authorize and no action is required at this time. However, we would like to correct the misconception about holding GPA accountable to its historical line loss levels. It is not GCG that proposed a long-term target by FY 2008 of less than 6 percent. At this point in time, GCG has not suggested a definitive line loss value lower than 7.0 percent and has stated that for the six-month period ending July 2009 and beyond that the performance benchmark be subject to review of the line loss reduction study and that the establishment of a definitive long-term line losses and unaccounted for energy performance standard should be collaboratively developed by GPA and GCG and reported to the PUC for final action no later than October 31, 2008. To the contrary, it was GPA in its report entitled "Projected Target for the Reduction of Unaccounted for Energy (System Losses)" completed in November 2004 that stated a target line loss performance standard of less than six (6) percent by FY 2008.

In conclusion, our intent is to continue to strive for a successful stipulation. However, it would be prudent to assume that this will not happen prior to the GPA regulatory session.

cc: Jim Madan



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUAHAN
P.O. BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

July 27, 2007

ORIGINAL

Mr. Harry Boertzel, Esq. ALJ
Guam Public Utilities Commission
Suite 207, GCIC Building
Hagatna, Guam 96932



Dear Harry:

RE: GPA and GCG Stipulation on Line Loss Performance and Monitoring

This letter provides the reasons why the Authority has not stipulated with Georgetown Consulting Group (GCG) regarding a program to reduce system losses and unaccounted for energy. Exhibit A provides the GCG's latest position on this issue.

The Authority and GCG agree on many of the line loss principles. The Authority accepts the following points without reservation:

- Establishing minimum line loss and unaccounted for energy performance benchmarks will protect GPA ratepayers from LEAC rates containing fuel costs associated with line loss and unaccounted for energy levels above prudent levels.
- Reducing line loss and unaccounted for energy levels is in best interest of GPA and ratepayers and will result in a lowering of the LEAC rate charged ratepayers. Reducing line loss and unaccounted for energy is consistent with prudent electric power industry practices.

- At current fuel oil prices the LEAC rate impact of each percent of GPA line losses is estimated to cost ratepayers an additional \$1.5 million per year. Changes in fuel oil prices will have a corresponding impact on the LEAC rates charged ratepayers.
- In its November 30, 2006 report entitled "Projected Target for the Reduction of Unaccounted for Energy (System Losses)" GPA identified a preliminary line loss and unaccounted for energy performance target of less than six (6) percent by FY 2008; however, GPA believes it prudent to conduct a study of its system characteristics prior to establishing definitive long-term line loss and unaccounted for energy performance benchmark for use in setting future LEAC rates. This study will be initiated no later than September 1, 2007 and is expected to be completed no later than June 30, 2008.
- GPA currently does not have the cash resources necessary for continued implementation of its line loss mitigation program. The key line loss mitigation activities identified by GPA as requiring additional funding include:
 - ◆ Computer modeling of the GPA delivery system network.
 - ◆ Simulation analysis and studies optimizing improvements to the delivery system.
 - ◆ Consulting assistance and temporary staff augmentation to conduct modeling, analysis, and capital improvement studies.
 - ◆ Capital improvements to the GPA delivery system including but not limited to the addition of capacitors, transformer replacements, circuit phase balancing and economic conductor sizing.

First, the Authority will accept a performance standard for system losses and unaccounted for energy, wherein, if it does not meet these standards, then the Guam Public Utilities (PUC) may consider penalizing the Authority by denying portions of LEAC recovery. However, the Authority does not believe that punitive actions by the PUC should commence immediately with the period ending January 2008. The Authority

will agree to penalties for poor performance after the 24 month interim period, but under the following conditions:

- (a) Application of a % bandwidth where no penalty or bonus will be applied;
- (b) Creation of a system of rewarding a bonus for over achievement that can be banked for future use to credit any performance shortcomings.

The Authority may submit to an earlier adoption of the above system during the interim period under the following conditions:

- (a) Application of a 0.5% bandwidth where no penalty or bonus will be applied;
- (b) Creation of a system of rewarding a bonus for over achievement that can be banked for future use to credit any performance shortcomings.

The Authority believes that there is significant variance in month-to-month performance due to the varying nature of system loads. This is an even greater concern as Guam approaches a period of rapid load growth due to the activities of the military buildup. Additionally, models created for the purpose of analysis will have variances and errors as is typical for all such models. Therefore project results for reducing these losses may not reach expected targets.

The Authority considers that the 24 month interim period is a trial period to test and analyze the losses data, to model and simulate the T&D system to help identify reasonable line losses and mitigation levels, to implement and evaluate certain mitigation programs, and to determine what reasonable performance levels that are to be applied in the long term. Its position is that it will accept the interim period targets as benchmarks on progress and validation of study projections if there are no penalties associated with under-performance.

The Authority will agree to a post-interim period benchmark and bandwidth based on detailed analysis made collaboratively during the interim period.

Second, the Authority agrees that LEAC funds should be used as a mechanism to accelerate progress to reduce losses. However, the Authority had the prior understanding that access to these funds was to accelerate efforts because the long-term benefit that to

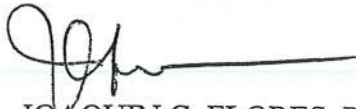
ratepayers merits this special treatment of the LEAC mechanism. In this case, the Authority does not believe it necessary to repay these funds out of base rates.

Third, the Authority believes that the provision of # 9 in Exhibit A is not workable and has the potential for micromanagement of the Authority. The Authority does not understand how the provisions of item 9 can be implemented without excessive review by the PUC.

Fourth, the Authority has considered the effect of distributed generation on system losses. The Authority believes that historic system loss and unaccounted for energy performance prior to Typhoon Pongsona may have significant performance gains over current operations through the use of distributed generation in place of baseload energy production. Therefore, the Authority does not believe that holding these historical numbers as a paragon for existing performance is relevant to the degree GCG posits.

In conclusion, the Authority believes that there is still room to find common ground and would like an extension in order to stipulate.

Respectfully,



JOAQUIN C. FLORES, P.E.

GENERAL MANAGER

GUAM POWER AUTHORITY

EXHIBIT A

GCG Latest Position

—Discussion Outline—
GPA Line Loss and Unaccounted For Energy
Performance and Monitoring Principles

1. Establishing minimum line loss and unaccounted for energy performance benchmarks will protect GPA ratepayers from LEAC rates containing fuel costs associated with line loss and unaccounted for energy levels above prudent levels.
2. Reducing line loss and unaccounted for energy levels is in best interest of GPA and ratepayers and will result in a lowering of the LEAC rate charged ratepayers. Reducing line loss and unaccounted for energy to the levels previously exhibited by GPA is consistent with prudent electric power industry practices.
3. In recent years, GPA's line loss and unaccounted for energy performance has deteriorated, peaking at 10.2 percent when measured as a percentage of net power production. GPA has responded by initiating implementation of a comprehensive program in 2004 for managing excessive losses and unaccounted for energy. This program has improved line loss and unaccounted for energy performance; however, GPA line loss performance remains above GPA's historical performance and there is considerably more that can be done to improve performance.
4. At current fuel oil prices the LEAC rate impact of each percent of GPA line losses is estimated to cost ratepayers an additional \$1.5 million per year. Changes in fuel oil prices will have a corresponding impact on the LEAC rates charged ratepayers.
5. In its November 30, 2006 report entitled "Projected Target for the Reduction of Unaccounted for Energy (System Losses)" GPA identified a preliminary line loss and unaccounted for energy performance target of less than six (6) percent by FY 2008; however, GPA believes it prudent to conduct a study of its system characteristics prior to establishing definitive long-term line loss and unaccounted for energy performance benchmark for use in setting future LEAC rates. This study will be initiated no later than September 1, 2007 and is expected to be completed no later than June 30, 2008.
6. Prior to establishing a definitive long-term line loss and unaccounted for energy performance standard GPA shall be provided an extra year beyond the FY 2008 target identified in its earlier November 30, 2006 report on system losses for the purpose of completing previously identified line loss mitigation measures. Until July 2009, a 24-month line loss performance phase-in period will be used by the PUC to monitor actual GPA line loss performance and to hold GPA accountable.
7. Interim line loss and unaccounted for energy performance standards shall be effective starting with the August 2007-January 2008 LEAC rate period. These interim performance standards shall be calculated on a (i) net power generation basis, (ii) 24-month trailing average basis, and (iii) shall be phased-in over a 24-month period enabling GPA to make the any system modifications in accordance with its

November 2004 report. The interim phase-in performance standards for the periods identified below are as follows:

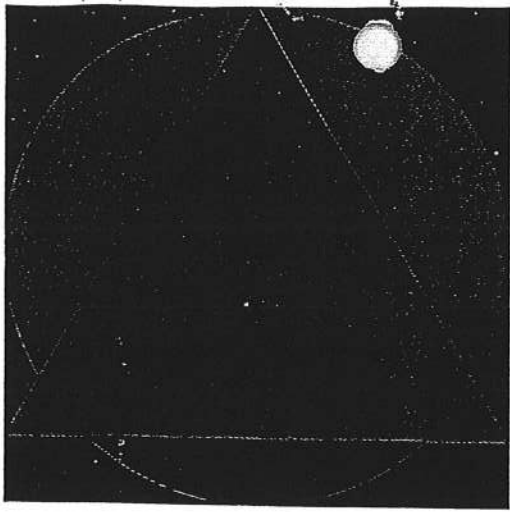
- a. Six-month period ending January 2008—7.6 percent
- b. Six-month period ending July 2008—7.3 percent
- c. Six-month period ending January 2009—7.0 percent
- d. Six-month period ending July 2009—6.5 percent*

The interim standard for the six-month period ending July 2009 is subject to review of the line loss reduction study to be completed and provided to the PUC no later than June 2008. The review of the February-July 2009 interim performance standard and the establishment of a definitive long-term line losses and unaccounted for energy performance standard for all future LEAC rate proceedings shall then be completed collaboratively by GPA and GCG and reported to the PUC for final action no later than October 31, 2008.

8. In the event GPA's line loss and unaccounted for energy performance does not meet the performance standards set under item 7, the PUC during subsequent LEAC rate proceedings shall consider the specific circumstances surrounding GPA's failure to meet the performance standard and determine what action, if any, it may pursue including the potential to disallow from recovery any of the excess fuel costs included in any LEAC rate proposed to be charged consumers. Any disallowance would be a penalty for poor performance.
9. It is recognized that that a disallowance of excess fuel costs may have a detrimental impact on cash flow potentially resulting in GPA making adjustments to its operations. Any such operational adjustments made by GPA adversely impacting ratepayers due to cuts in areas such as delivery system or power plant maintenance shall be deemed by the PUC to be imprudent action on behalf of GPA and may result in additional penalties including further disallowances.
10. GPA currently does not have the cash resources necessary for continued implementation of its line loss mitigation program. The key line loss mitigation activities identified by GPA as requiring additional funding include:
 - a. Computer modeling of the GPA delivery system network.
 - b. Simulation analysis and studies optimizing improvements to the delivery system.
 - c. Consulting assistance and temporary staff augmentation to conduct modeling, analysis, and capital improvement studies.
 - d. Capital improvements to the GPA delivery system including but not limited to the addition of capacitors, transformer replacements, circuit phase balancing and economic conductor sizing.
11. GPA in its upcoming base rate proceeding shall include in its revenue requirement filing adequate human and capital resources necessary to provide the funding to support all required line loss mitigation activities (computer modeling, simulation, studies, operation, maintenance, and construction activities) prudently performed by

an electric utility in the course of its day-to-day business. Upon PUC approval of new base rates GPA's line loss mitigation program shall be fully implemented and continue to produce ongoing ratepayer benefits.

12. At any time in the future GPA determines it cannot adequately provide the human or financial capital or other resources necessary to meet the performance standards set under this stipulation, it has the obligation to notify the PUC and seek rate relief. Failure to do so may result in the disallowance of fuel expenses determined not to be prudently incurred.
13. Until final action is taken by the PUC on GPA's upcoming base rate case filing, GPA in its LEAC rate filings may include a cumulative allowance of up to \$1.5 million (\$500k in any single LEAC rate period) which shall be collected from ratepayers and used by GPA exclusively for the line loss mitigation activities contained in its "Quality Management Plan for the Cost-Effective Reduction of Unaccounted for Energy." All line loss related LEAC revenues collected and expended by GPA to control line losses shall be repaid (credited back to ratepayers through the LEAC rate) by GPA within a 2-year period beginning February 1, 2009. GPA may use future bond funds, lines of credit, internally generated capital, or other unencumbered sources available for repayment of this obligation.
14. Until that time GPA meets the performance standards outlined in item 7 GPA shall provide the PUC for monitoring purposes a quarterly loss reduction compliance report. The report should be (i) in a format approved by the PUC, (ii) present relevant information concerning production, sales, and losses and unaccounted for energy, (iii) present line loss performance data in a manner that provides for each of the three months covered by the quarterly report the actual trailing 24-month average, 12-month average, and current month line loss performance, (iv) status update of its "Quality Management Plan for the Cost-Effective Reduction of Unaccounted For Energy", and (v) address actions being taken to bring it into compliance with the performance standards. The quarterly loss reduction compliance report may also be posted on the GPA website no later than 21 days after the end of the quarter.



An Introduction To

Integrated Resource Planning

by Eric Hirst

supply resources to meet customer energy-service needs at the lowest economic and social costs. Typically, a utility begins its IRP process by identifying its goals and the key issues that the resource plan must address (Fig. 1). Goals often concern customer service, returns to the community, maintenance of low electricity prices, and protection of the physical environment. Specific issues might involve forthcoming decisions on an aging power plant that could be retired, repowered, or restored to full service; new DSM programs that might be expanded or modified; efforts to restore the utility's bond rating to a higher level; and so on.

Next, the utility develops alternative load forecasts. Then, the utility assesses the costs and remaining lifetimes of its existing resources and identifies the need for additional resources. (Resources refer to any method used to meet customer energy service needs, including power plants, contracts to buy electricity from other organizations and programs that improve the efficiency or timing of customer electricity use.)

The utility then assesses a broad array of alternatives that could satisfy the need for more electric energy services; including supply, demand, transmission and distribution and pricing options. Supply resources include modifications to existing power plants that extend their lifetimes or increase their output, purchase of power from other utilities and from nonutility companies, as well as the construction of new power plants. Utility DSM programs might include: (1) promotion of new lighting systems, motors, and other equipment to improve energy efficiency; or (2) direct control of customer loads at critical times. These DSM programs constitute resources that can substitute for power plants, transmission lines and distribution systems.

Different combinations of these supply and demand resources are then analyzed to see how well they meet future electricity needs and how expensive they are. These analyses are repeated to test various resource portfolios for their resilience against different uncertain-

ties. Such uncertainty analysis helps to identify a mix of resource options that meets the growing demand for electricity, is consistent with the utility's long-range goals, avoids exposure to undue risks and satisfies other environmental and social criteria.

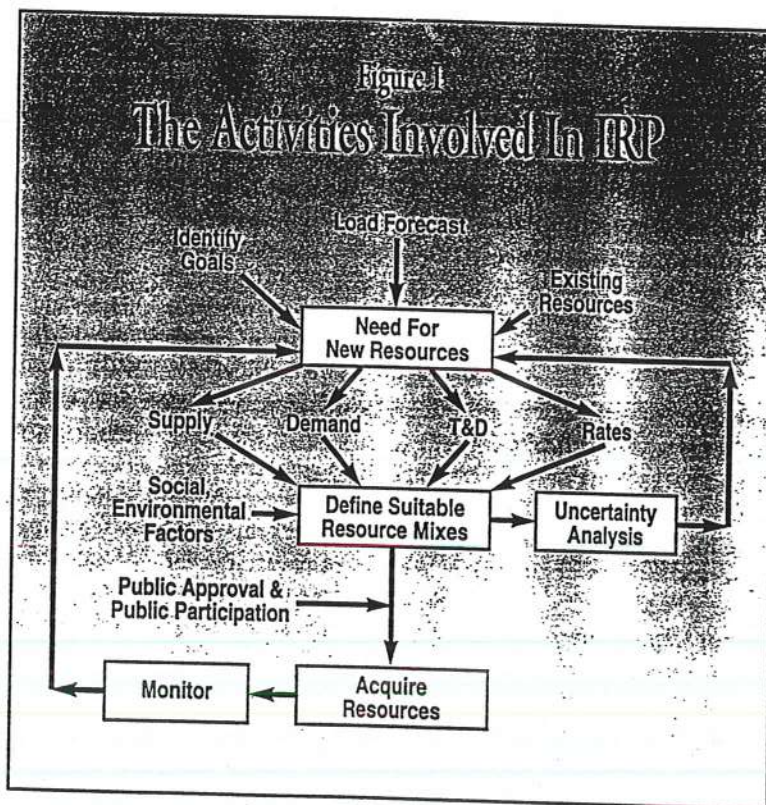
Then the utility prepares a formal report based on the preceding analyses and on public involvement. That report presents the preferred resource plan and the reasons why, in the utility's view, this plan represents the best mix of resources. After acceptance or approval by the governing body, the plan is implemented and resources are acquired. Although a PUC may review the

plan and various nonutility parties may participate in its preparation, the utility has ultimate responsibility for its issuance and implementation.

While the plan is in force, the utility monitors changes in its environment and its implementation of the resource plan, and the plan is modified as events and opportunities change. Although resource planning is an ongoing process, only once every two or three years does the utility issue a formal plan along the lines discussed here.

The utility's action plan is, in many ways, the bottom line of the resource plan. Because it reflects the utility's commitment to specific actions, it may be the most important part of the plan. The action plan must be consistent with the long-term resource plan to assure that what is presented as appropriate for the long haul is actually implemented, and in an efficient manner. If, for example, the long-term plan calls for acquisition of baseload power in 10 years, the short-term plan should call for initial site selection, environmental assessment, and facility design. Alternatively, a short-term plan that includes marketing programs to boost off-peak sales might be inconsistent with a long-term need for additional baseload power.

The action plan should be specific and detailed. The reader should be able to judge the utility's commitment to different actions from this short-term plan. Specific





cially for issues related to the planning and assessment of DSM programs. These collaboratives typically involve, in addition to the utility, environmental groups, the state's consumer advocate, the state energy office and representatives of different customer groups (typically large industrial and low-income residential). These groups study and agree on appropriate approaches to different program-design and policy issues, including those shown in Table 1. For example, utilities in New England are working closely with the Conservation Law Foundation to design, implement and evaluate DSM programs. Such public involvement might cause short-term delays for the utility, but is likely to serve long-range utility and societal interests.

TABLE 1. Spectrum of issues addressed by DSM collaboratives

LEAST DIFFICULT

- Identify potential DSM technologies
- Package DSM measures into programs
- Screen measures and programs for cost-effectiveness
- Design evaluation plans
- Select cost-effectiveness tests for screening
- Select annual budgets for DSM programs
- Design incentives to encourage utilities to run DSM programs
- Decide how to treat environmental externalities
- Decide whether and how to examine fuel switching

MOST DIFFICULT

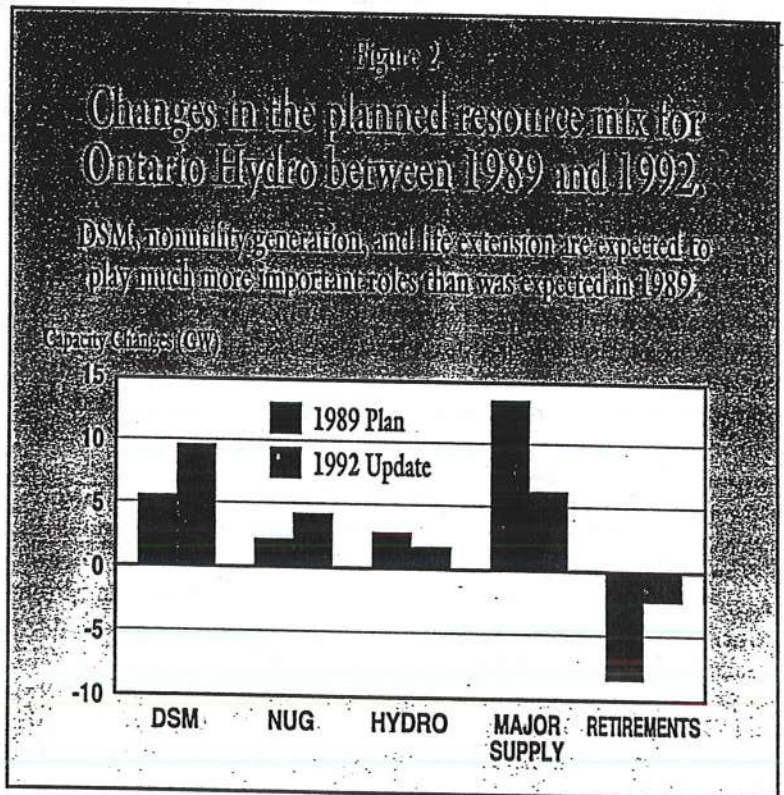
As a counter example to the preceding efforts to gain new insights and perspectives, one utility, apparently not very interested in public participation, created an advisory panel, none of whose members had any knowledge of utility planning. As a consequence, the three meetings that the utility held with this group were devoted primarily to lectures from utility staff on the components of IRP. The relative inexperience of the panel members made it virtually impossible for them to review or offer any guidance on the company's resource plan.

Individual groups will judge the acceptability of impacts resulting from a given plan themselves. The plan must provide sufficient information so that different groups can assess the costs and benefits to them of the utility's preferred plan and its alternatives. The report should provide the information different groups need to assess roughly the benefits and costs of different resource-acquisition strategies. Thus, the economic and other criteria used to assess specific resources must be clearly specified; the effects of these

criteria on the selection of individual resource options must also be stated.

It is unlikely that utility attention to the interests and concerns of different groups will eliminate controversy about utility actions. However, such attention will yield some areas of consensus (which should be presented in the planning report) and will more sharply define the areas where disagreements still exist.

Finally, the utility should document its responses to the comments offered by nonutility parties. One utility, which ran a comprehensive and extensive public-involvement process, nevertheless angered some of the



participants. Because the utility provided no feedback on their comments, particularly the reasons why some were rejected, these participants felt that their inputs were largely ignored.

Although resource planning is an ongoing process, utilities should periodically publish formal reports on their plans. Depending on the need for resources and the speed with which the external environment is changing, once every two or three years seems appropriate.

The primary purpose of an IRP report is to help utility executives decide which resources to acquire, what amounts to acquire, and when to acquire those resources. The planning report documents the utility's decisions and helps the public understand the utility's decisions. The report provides a forum for the utility to present its vision of the future and how it plans to meet that future. The report provides utility data,



should also briefly describe the methods used to develop the plan, including uncertainty-analysis techniques. Finally, the plan should point the reader to more detailed documentation on each of the above topics. Placing this documentation in a technical appendix makes this information available to technical specialists without cluttering the utility's resource plan.

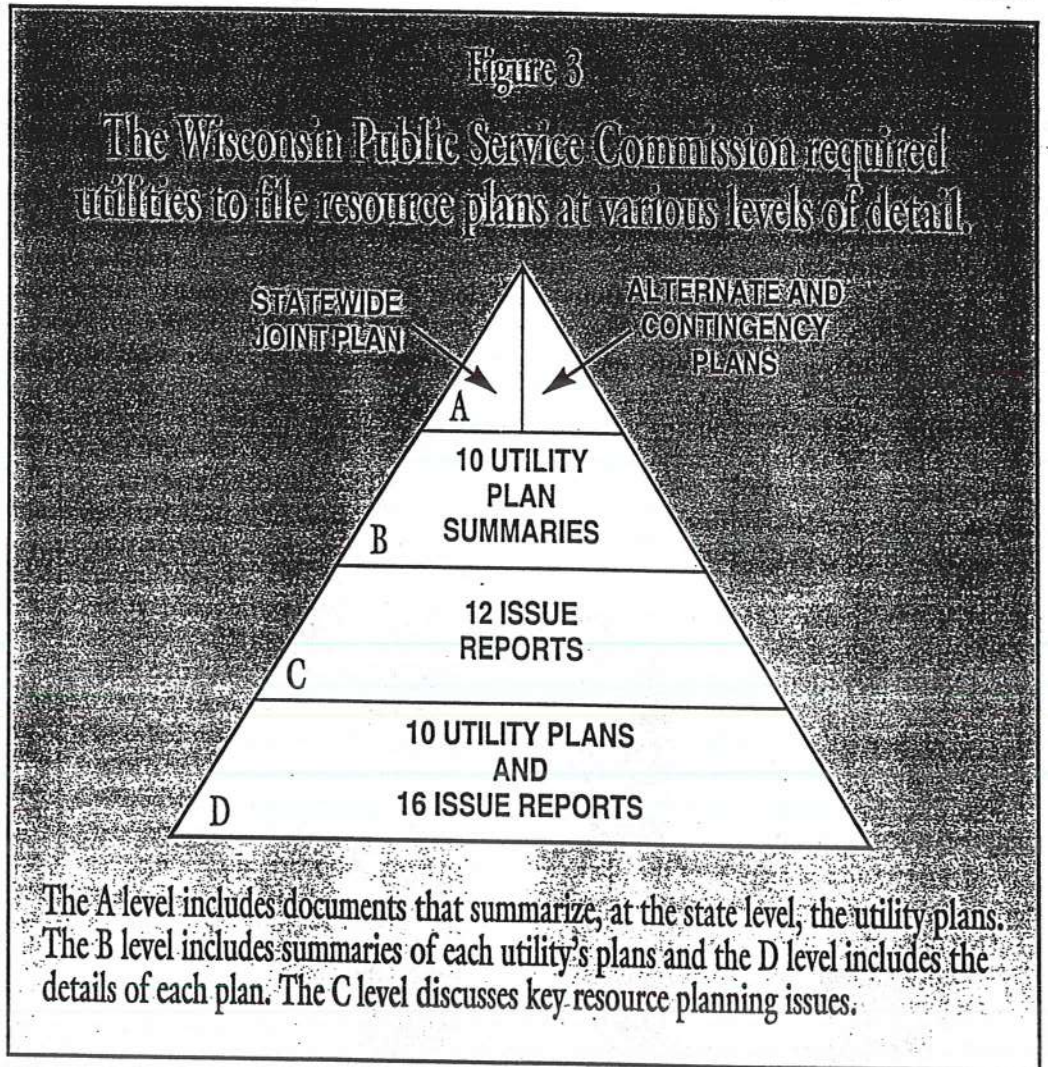
The Wisconsin Public Service Commission, in an effort to make the results of the utilities' plans more accessible to the public, adopted an innovative approach to inter-utility coordination and publications. In Advance Plan 6, the utilities filed a joint state plan that met the requirements of the commission. They also filed alternative plans to test commission-specified uncertainties, as well as other plans the utilities wanted to file. These summary documents represent the top of the pyramid in Fig. 5, the A level.

Supporting these two summary, statewide documents are three more levels. The ten B documents briefly present each utility's plan (essentially an executive summary of 10 to 20 pages of the D documents). The C documents cover 12 different issues, including: how the utilities developed their plans, forecasts, conservation and load management, nonutility generation, cogeneration, renewables, power plants, transmission, use and cost sharing, transmission interface study, environmental issues, and research and development. The D (most detailed) documents include the 10 individual utility plans plus 16 studies on individual issues. Except for the D documents, these reports are aimed at the general public.

Integrated resource planning is a powerful and flexible way for utilities to plan for and manage the resources needed to provide their customers with desired energy services at a reasonable cost. IRP includes a broad array of supply and demand resources,

explicit treatment of uncertainty, consideration of environmental costs as well as direct economic costs and public involvement. Because of these features, IRP is likely to yield a better mix of resources and fewer controversies among the utility, its regulators and the public than would traditional planning approaches.

The action plan must be consistent with the long-term resource plan to assure that what is appropriate for the long haul is actually implemented. The action plan should be specific and detailed, showing the utility's commitment to different actions. Specific tasks should be identified, along with organizational



assignments, milestones and budgets.

The utility should involve interested stakeholders (e.g., state agencies, environmental groups and customers) in developing its plan as well as in reviewing the draft and final plans. In addition, the utility should develop and present alternative resource portfolios that reflect the preferences of different groups (e.g., plans that minimize total costs; electricity prices; or total societal costs, including environmental externalities). Although the utility bears the ultimate responsibility for

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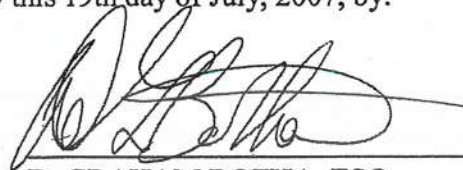
8
9 *Attorney for the Guam Power Authority*

10
11 **BEFORE THE PUBLIC UTILITIES COMMISSION**

12
13 IN THE MATTER OF) DOCKET NO.94-04
14)
15 The Guam Power Authority's Integrated)
16 Resource Plan (IRP))
17)
18 _____)
19)

20 **COMES NOW**, GUAM POWER AUTHORITY and hereby files GPA's Integrated
21 Resource Plan Approach dated July 18, 2007. The primary goal of the IRP analysis is to create
22 the most cost-effective resource plan that will result in the lowest electric rates to
23 customers. The draft IRP process started in 2006 and a final draft IRP is expected to be
24 completed in summer 2008, with completion expected before the Commission's goal of
25 December 2008. GPA also expects to conduct additional studies during this period regarding
26 cost of service, rate design, and fuel diversity.

27 **RESPECTFULLY SUBMITTED** this 19th day of July, 2007, by:

28
29 

30 D. GRAHAM BOTHA, ESQ.
31 Legal Counsel for the Guam Power Authority

Guam Power Authority Integrated Resource Plan Approach

1. Purpose and Goal

The overall objective of Guam Power Authority's (GPA's) 2008 Integrated Resource Plan (IRP) is to determine strategies for the type, amount and timing of new resource acquisitions to meet the electrical loads of GPA over the next 20 years – 2009 to 2028. The new resources considered should include both supply-side and demand-side options. In undertaking an IRP analysis, the primary goal is to create the most cost-effective resource plan that will result in the lowest electric rates to customers in the future. In addition to cost goals there are many other equally important goals to be considered. A number of these were articulated in GPA's recent strategic planning activities and include:

- Recognition that reliable electric service continues to be a key issue with GPA customers and while significant gains have been made, it is important that future resources not diminish this progress.
- Recognition that GPA's power plants have a significant environmental footprint and future resource selections must be in line with evolving renewable resource goals.
- It is clear that the current generating fleet is dependent on oil-based fuels. GPA has articulated its goal of diversifying its generation resources, which will include options for different types of generation or substitution of different types of fuels, such as biodiesel.
- In its recent strategic planning activities, GPA identified a greater need to include its customers in meaningful communications on issues that affect both GPA and its customers. To that end, the IRP process will include a stakeholder process as an integral part of the plan's development. It is anticipated that there will be a number of meetings with the goal of collaborative development of the IRP.
- Recognizing the impact the Department of Defense's (DOD) expansion will have on the island and the resultant impact on electrical needs, it is expected that the DOD will be a part of the stakeholder process. In addition, it would be reasonable to assume that the GPA IRP would be a part of the DOD's Environmental Impact Statement (EIS) process. The two activities are linked, particularly from an environmental standpoint.

2. Timeframe for Integrated Resource Plan

Preliminary activities for the current IRP started in late 2006. These activities included:

- Assembling the baseline load forecast.
- Developing the initial set of supply-side options.
- Constructing the initial data for the IRP computer models.

It is anticipated that the start of the stakeholder process will begin in August or September 2007. It is likely the meetings discussed below will occur over the following four to six months. A preliminary goal would be to have the initial draft IRP available in March 2008. It is also anticipated that final reviews by the Stakeholder Group, CCU, Guam Public Utilities Commission (PUC), the DOD EIS team and others would occur over the following three months. As such, this schedule assumes the final draft IRP would be available about July 2008. It is entirely possible that the process may take longer than anticipated. However, meeting the Commission's goal of a December 2008 completion date seems reasonable at this point.

3. Significant Tools and Methods to be used in the IRP

Key Analytical and Modeling Objectives

The main analytical objective of the IRP is to determine the preferred resource portfolio (supply side and demand side) for the next 20 years (2009-2028) based on a finding of need and a comparative assessment of available resource opportunities. The preferred portfolio represents the resource plan that has the best balance of cost and risk. A key analytical objective for this IRP is to treat all resource options on a comparable basis when developing alternative portfolios. To that end, GPA has licensed a resource expansion optimization tool (STRATEGIST) for use in its modeling framework. This model performs automated economic screening of resources and determines the optimal resource expansion plan based on planning scenarios. This tool enables thermal generation, renewable generation and demand-side management to compete against each other on the basis of their impact on Present Value of Revenue Requirements (PVRR), the key measure of a portfolio's performance. An important caveat associated with STRATEGIST is that it does not capture stochastic risks in its optimization algorithm. STRATEGIST cannot incorporate stochastic variables in its solution algorithm and instead addresses this type of uncertainty by running a multitude of sensitivities and scenario analyses. To the extent it is reasonable to do so, the approach will account for least six sources of uncertainty including: market conditions, fuel prices, regulatory policies, modeling and forecasting.

Integrated Resource Planning Approach Overview

The 2008 IRP approach will consist of both analytical and stakeholder processes. The analytical process is described below. The stakeholder process is discussed in Section 4.

Analytical Process

The analytical process is comprised of the eight major steps shown below.

Integrated Resource Planning Analytical Process Steps

1. Review planning environment.
2. Develop inputs and assumptions.
3. Develop load and resource balance to identify annual capacity/energy positions.

4. Define candidate resource list, including demand-side management and supply resources.
5. Use the capacity expansion optimization tool STRATEGIST to determine the optimal portfolio that eliminates annual capacity deficits according to capacity reserve margin requirements.
6. Use planning scenario results to help determine a diversified resource mix that is robust across the range of alternative futures.
7. Create risk analysis portfolios based on alternative strategies for managing portfolio risks that can be differentiated.
8. Select a preferred portfolio using evaluation criteria: *Cost, risk, system reliability, ratepayer impact, emissions.*

The outcome of the analytical process is a preferred portfolio that represents the lowest-cost diversified resource plan that accounts for the evaluation criteria discussed above. The following is a brief description of some of the important steps in the analytical process.

Develop Model Inputs and Assumptions

In general, the inputs to the model comprise both the expected future value of a variable of interest and a characterization of the uncertainty about that expected value. The purpose of this task is to develop the following inputs and assumptions that are required by the model:

- **Loads** – The model requires equations that describe the expected average (i.e., across the hours of the month) load in each month of the analysis period as well as hourly load shapes. Finally, given that a significant share of the load is represented by a small number of large customers, the loads of each of these large customers will be modeled specifically. That will allow for the development of load sensitivity cases. The required inputs will then be developed in the following manner:
 - Forecasts of annual load growth produced by GPA will be used to generate the expected values of annual loads for the Island of Guam.
 - Collect historical data on monthly average loads by customer class, hourly system loads and weather.
 - As required, adjust both the monthly and hourly data so that it reflects loads by customers other than the largest customers, which will be modeled separately.
 - Analyze the historical data on loads (by all but the largest customers) and weather to develop the expected value and variability of monthly average and hourly loads as functions of the expected forecasted values and variability of weather.
 - Determine qualitatively the probability of each large customer and its likely future loads. In addition, determine the probability of additional new loads being added to the system, and the size and shape of any such loads.

- **Transmission Adequacy** – The model requires definition of each of the transmission areas considered in the model (if any), as well as estimates of transfer limits between the areas. Defining areas will also involve assignment of generating resources to the areas. To do this, and to estimate the transfer limits between areas, GPA will review available data and studies on the transmission system. If necessary, GPA will also run a load flow model to determine the transfer limits.
- **Fuel Availability and Prices** – For each fuel that is either currently used or potentially could be used to generate electricity, the model requires the expected price in each month of the analysis period. To the extent possible, available forecasts of fuel availability and prices will be used. Alternatively, and if such forecasts are not available, they will be developed. A key issue concerns the future availability of oil and liquefied natural gas.
- **Characteristics of Existing and Potential Supply-Side Options** – The model requires detailed characterizations of all existing power supply resources on Guam, as well as new resources or plant changes that have been committed to. The capacity, dispatch characteristics, cost parameters, forced outage rates and maintenance schedules of each resource are required. Expected values of these parameters are required; if there is significant uncertainty about one or more parameters, descriptions of the uncertainty are also required.

In addition, the model requires detailed characterizations of potential new supply-side options. The process will identify the types of options to be included. Estimates will then be developed of the cost of:

- Construction and commissioning
- Fixed operating and variable operating costs
- Fuel costs
- Performance parameters including heat rates, forced outage rate, maintenance rate, etc.

Additional considerations will include:

- Load-service function
- Time to construct
- Cost to construct
- Operational life
- Fuel costs
- Fuel dependability
- Plant dependability
- Maturity of the technology
- Externalities.

For cost or performance characteristics for which there is substantial uncertainty, such as the capital cost of a new unit, the estimate may include both the expected value and its probability distribution.

For new resources, the characteristics to be estimated will include parameters representing how GPA would likely finance construction or purchase from the private sector. These parameters include debt term and interest rate, and debt-service coverage ratio requirements.

- **Characteristics of Potential Demand-Side Options** – In this step, GPA will characterize potential demand-side management (DSM) options for certain options GPA has previously identified, developed forecasts of and that have been evaluated. Estimates of the expected costs and impacts of additional options will be developed. For options with expected characteristics that are highly uncertain, the probability distributions of the parameters will also be developed. Typical parameters to be examined:
 - Expected load reduction or load shifting response
 - Time to implement
 - Cost to implement including incentives
 - Operational life
 - Ongoing costs
 - Load reduction dependability
 - Customer acceptance and penetration
 - Maturity of the technology
 - Externalities that could impact the program

4. Stakeholder Process for the IRP

The IRP stakeholder process is a necessary part of a good plan. Development of new resources (supply side or demand side) will have an impact on customers. Correspondingly it is important to create a process that encourages meaningful dialog on issues and goals of the IRP. It is important that the process be collaborative in nature so that opinions and views are solicited and taken into consideration in development of the plan.

Communication is the cornerstone of a successful IRP process. Some steps that will enhance this include:

- GPA will maintain a website where background information will be accessible by the general public. The types of materials will include:
 - Information presented at stakeholder meetings.
 - Key comments, questions or direction provided by the Stakeholder Group (as defined below).
 - Notice of future meetings.
 - Preliminary findings or separate studies addressing issues raised by stakeholders.
- GPA will provide public notice of upcoming IRP meetings so that those interested have an opportunity to attend and participate.

White Paper Integrated Resource Plan Approach

The creation of a Stakeholder Group is a necessary condition for a successful IRP. The Stakeholder Group is a group of people that have volunteered to attend the series of stakeholder meetings (four, at a minimum, but will likely be more) and to review various GPA work products as they are produced. It is important that the members of the group reflect the diverse interests on Guam and that the individuals be open minded in their views of the direction of the 2008 IRP. Potential stakeholder segments might include:

- Retail customers
- Commercial customers
- Tourism
- Department of Defense
- Joint Guam Program Office (JGPO) and Japan Bank of International Cooperation
- CCU
- Environmental Community
- GovGuam (Governor's office and Guam EPA)
- Private Developers (supply side and demand side)
- GPA.

It is expected that a representative of the PUC will participate in the stakeholder meetings. Given the regulatory responsibilities, it is expected the PUC representative would be an ex officio member and that the PUC representative will participate in the process, and be privy to and assist in information shared with the Stakeholder Group and direction of the analysis.

GPA in consultation with the CCU and PUC will identify and invite individuals to be members of the Stakeholder Group. It is anticipated that the Stakeholder Group may have up to 15 members.

Mirroring its Strategic Planning and the Guam Sea Water Air Conditioning stakeholder processes, the Authority may invite representatives from the following organizations to participate:

- Chamber of Commerce
- Anderson Air Force Base
- United States Navy
- Guam Environmental Protection Agency
- Guam Hotel and Restaurant Association
- The Government of Guam Executive and Legislative Branches
- US Environmental Protection Agency
- Army Corp of Engineers

As previously mentioned there will be a minimum of four stakeholder meetings with the possibility of more if warranted. The general flow of the meetings will be as follows:

Proposed Meetings and Agendas

Meeting 1	
	<ul style="list-style-type: none"> • What are the goals of the IRP? • How are IRPs undertaken? • What is the role of the Stakeholder Group? • The general analytical framework • Discussion of forecasted electric demand on Guam (including the impacts of the DOD expansion) • General discussion on how new resources or new loads impact customers
Meeting 2	
	<ul style="list-style-type: none"> • Overview of possible supply-side options <ul style="list-style-type: none"> ○ Technology ○ Fuels ○ Environmental impacts ○ Transmission system impact ○ Private development • Overview of possible demand-side options <ul style="list-style-type: none"> ○ History on Guam ○ Possible programs ○ Possible new technologies ○ Current and potential market penetration of programs • External issues or trends that may impact the IRP process or results <ul style="list-style-type: none"> ○ EPA of 2005 – Section 1250 <ul style="list-style-type: none"> – Net metering – Time of Use rates – Energy efficiency – Need to start the public process for Section 1250 items ○ Trend in the fuel markets and long term impacts ○ Trends in environmental policy – CO₂ impacts ○ Other trends
Meeting 3	
	<ul style="list-style-type: none"> • Initial screening results <ul style="list-style-type: none"> ○ Preliminary supply-side resources candidates <ul style="list-style-type: none"> – Technology – Timing – Siting – Environmental issues – Transmission network issues

Meeting 3, continued	
	<ul style="list-style-type: none">• Initial screening results, continued<ul style="list-style-type: none">○ Preliminary demand-side resource candidates<ul style="list-style-type: none">– Current or past programs– New programs– Proposed approaches and timing– Proposed implementation options– Current and expected saturation• Discussion of Key Risk Factors in execution• Discussion of possible financial impacts on GPA and financial requirements• Discussion of Third Party participation• Discussion of proposed RFP process
Meeting 4	
	<ul style="list-style-type: none">• Presentation of preliminary IRP results<ul style="list-style-type: none">○ Timing and type of supply-side resources○ Fuel supply strategy and risk management○ Timing and type of demand-side resources• Discussion of impacts on customers, future rate making and fiscal soundness of GPA• Next steps for the Stakeholder Group• Next steps for the regulatory review of the IRP• Next steps for the IRP and the DOD EIS

The meeting agendas described above may change based on feedback and comments from the Stakeholder Group. Depending on the issues brought up or the need for additional research or explanations, one or more additional meetings may be required in order to achieve the goals of a comprehensive analysis that has been vetted with stakeholders.

The IRP analysis will be undertaken by GPA staff in coordination with the Stakeholder meeting schedule and contents. It is expected there will be information or scenarios requested by the Stakeholder Group that will result in analysis to be developed by the GPA staff.

5. Final Draft 2008 IRP

GPA will prepare and submit for comment a final draft report, which will summarize the activities and findings of all of the IRP activities. This final draft will be submitted to the Stakeholder Group and the PUC representative for comment.

The conclusions and recommendations of the final draft will include:

- An evaluation of options for meeting and shaping projected future demand for electricity, with the goal of determining the best combination of demand-side and supply-side resources.
- Recommended DSM programs.
- Recommended renewable and nonrenewable supply options.

- Achievable renewable goals.
- Fuel diversity goals and expectations.
- Expected impacts on customer costs.
- Expected capital requirements funding for GPA.
- Expected participation by the private sector in resource development.

The 2008 IRP will also lay the foundation for:

- Future analysis and discussion of the terms and conditions of utility generation service performance.
- An evaluation of GPA's resource adequacy in light of its 1) obligation to serve the public and 2) the uncertainty in future loads, and establishment of generation reserve margin planning criteria.
- Establishment of Renewable Portfolio Standards requiring GPA to procure a given percentage of power from renewable sources by a given target date.

Following a review period and possible overview meetings, comments on the final draft report will be requested. It is expected that comments will be provided by the Stakeholder Group, the CCU, GPA management and other interested parties. GPA will revise the draft report to incorporate the comments and produce the Final Draft 2008 IRP.

6. IRP Submission to PUC

Subsequent to the production of the Final Draft 2008 IRP, the document will be submitted for filing with the PUC. It is anticipated that the PUC and its staff resources will then undertake a review of the Final Draft 2008 IRP. It is also anticipated that hearings will be held on the IRP. Assuming a satisfactory review and hearing process, it is anticipated that the PUC will:

- Accept the Final Draft 2008 IRP (and related resource plans) for adoption.
- Accept the Renewable Resource Portfolio Standard as recommended in the IRP.
- Accept the recommended process for undertaking appropriate Requests for Proposals for new supply-side and demand-side needs.

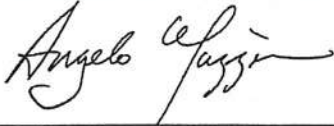
It is anticipated that a separate public process and regulatory filing will be made regarding the Energy Act of 2005 requirements pertaining to:

- Net metering,
- Time of use rates,
- Energy efficiency and
- Other issues

Items discussed above are considered cost, regulatory and public policy issues. While some of these issues will have an impact on the IRP process, the IRP process does not provide the complete analysis for cost of service, rate design, financial and operations

White Paper
Integrated Resource Plan Approach

impacts of these EPA 2005 issues. Similar to the current IRP process, the PUC's consideration of GPA's additional resources needed to undertake the required efforts is requested.



Angelo Muzzin
Principal
R. W. Beck, Inc.
July 18, 2007



Guam Power Authority
July 18, 2007

ID	Task Name	Duration	Start	Finish	Quarte			
					4th Quarter Aug/Se	1st Quarter Dec/Jan/F	2nd Quarter Mar/Apr	3rd Quarter Jun/Jul/Aug/Se
1	GPA IRP (2007 - 2008)	329 days	Mon 8/6/07	Mon 6/30/08	[Gantt bar from 8/6/07 to 6/30/08]			
2	Analytic Process & Stakeholder Meetings	194 days	Mon 8/6/07	Fri 2/15/08	[Gantt bar from 8/6/07 to 2/15/08]			
3	SH Mtg 1 (Demand Forecast / Customer Impact)	5 days	Mon 8/27/07	Fri 8/31/07	[Gantt bar from 8/27/07 to 8/31/07]			
4								
5	Review planning environment	103 days	Mon 8/6/07	Fri 11/16/07	[Gantt bar from 8/6/07 to 11/16/07]			
6	Develop inputs and assumptions	103 days	Mon 8/6/07	Fri 11/16/07	[Gantt bar from 8/6/07 to 11/16/07]			
7	Develop load and resource balance	103 days	Mon 8/6/07	Fri 11/16/07	[Gantt bar from 8/6/07 to 11/16/07]			
8	Define candidate resource list	110 days	Mon 8/6/07	Fri 11/23/07	[Gantt bar from 8/6/07 to 11/23/07]			
9	SH Mtg 2 (Supply/Demand Side Options & Issues/Trends Review)	5 days	Mon 11/26/07	Fri 11/30/07	[Gantt bar from 11/26/07 to 11/30/07]			
10								
11	Determine the optimal portfolio (STRATEGIST)	19 days	Mon 12/3/07	Fri 12/21/07	[Gantt bar from 12/3/07 to 12/21/07]			
12	Determine a diversified resource mix	5 days	Mon 1/7/08	Fri 1/11/08	[Gantt bar from 1/7/08 to 1/11/08]			
13	SH Mtg 3 (Initial Screening Results/ Risk & Finance Discussions)	5 days	Mon 1/14/08	Fri 1/18/08	[Gantt bar from 1/14/08 to 1/18/08]			
14								
15	Create risk analysis portfolios	12 days	Mon 1/21/08	Fri 2/1/08	[Gantt bar from 1/21/08 to 2/1/08]			
16	Select a preferred portfolio using evaluation criteria	5 days	Mon 2/4/08	Fri 2/8/08	[Gantt bar from 2/4/08 to 2/8/08]			
17	SH Mtg 4 (Preliminary results / Next Steps)	5 days	Mon 2/11/08	Fri 2/15/08	[Gantt bar from 2/11/08 to 2/15/08]			
18								
19	Complete Draft Document	0 days	Fri 3/28/08	Fri 3/28/08	[Gantt bar from 3/28/08 to 3/28/08]			
20	Draft Review and Editing	89 days	Mon 3/31/08	Fri 6/27/08	[Gantt bar from 3/31/08 to 6/27/08]			
21	Final Document	0 days	Mon 6/30/08	Mon 6/30/08	[Gantt bar from 6/30/08 to 6/30/08]			

Task
 Split
 Progress
 Milestone

Summary
 Rolled Up Task
 Rolled Up Split
 Rolled Up Milestone

Rolled Up Progress
 External Tasks
 Project Summary

Project: GPA IRP (2007 - 2008)
 Date: Thu 7/19/07

Page 1

Staff Update on GPA Integrated Resource Planning Activities

The Guam Power Authority ("GPA") has advised the Public Utilities Commission ("PUC or Commission") that it is in the process of completing an Integrated Resource Plan ("IRP"). In December 2006, GPA provided the Commission a November 15, 2006 "draft" of its long planned IRP. However, upon review it can be seen that for all practical purposes the IRP draft report is not a report, but an incomplete outline of a report. While incomplete, it does in Sections 3—Strategic Vision, Section 4—Scope of Work, and Section 5—Key Assumptions, indicate that when the IRP is completed GPA will have evaluated a full range of energy resource alternatives, including new generating capacity, energy conservation and efficiency, cogeneration, and renewable energy resources. GPA indicates in the November 15, 2006 IRP document that its decision criteria will objectively examine a full range of energy alternatives and select those resource alternatives which provide adequate and reliable electric service to customers at the lowest overall system cost.

As was previously reported by us in January 2007, it is expected that the centerpiece of the IRP process being undertaken by GPA will be a fuel diversification program consistent with reliability, dispatchability, and other factors of risk. From the Commission's perspective the primary objective of an IRP is to provide the Commission, GPA, ratepayers, and other stakeholders with a detailed and transparent plan or road map demonstrating how GPA over the course of the next five to ten years will move to a more fuel diversified and efficient power generation resource base.

In his March 29, 2007 regulatory memo concerning the May 2007 regulatory session the administrative law judge (ALJ) in establishing a guide for the upcoming regulatory session acknowledged that GPA filed certain IRP materials with the Commission shortly before the January 2007 session. The ALJ requested that GCG on or before April 20, 2007 file a position paper regarding this latest IRP filing by GPA and make recommendations regarding how regulatory consideration on this subject should proceed.

Current Situation—April 2007

As was reported earlier, GPA's timing of its IRP process is in response to increasing LEAC rates resulting from its lack of fuel diversified resources and continued dependence on fuel oil, the cost of which has risen sharply over the course of the past 24 months. As we understand, the IRP process has been ongoing for well over a year and GPA was scheduled to provide the Commission with a copy of its draft IRP in November 2006¹. GPA failed to meet this requirement.

¹ In a PUC order dated September 28, 2006, GPA was directed to file a draft report of the IRP by November 2006.

Demonstrated progress to date by GPA on completing an IRP "draft" report has been somewhat sparse. Prior to the January 2007 regulatory session GPA provided the Commission and Georgetown Consulting Group, Inc. (GCG) on December 18, 2006 with a "draft" of its anticipated IRP report. However, this document is only a very rough outline of what is expected to exist in the eventual IRP draft report. The submittal falls far short of being an IRP draft report or for that matter even an "outline" of an IRP draft report. As an example, the table of contents in the December 18 submittal indicates that when completed the IRP "draft" report will consist of 25 individual sections and will conclude with definitive resource conclusions and recommendations. While a number of sections of the earlier IRP submittal (sections 1 through 7)—those dealing with historical facts, study goals, and key assumptions for the study—are in various stages of completion, no information or even an outline is provided for the remainder of the proposed IRP draft report (sections 8 through 25). The remainder of the proposed IRP draft report, as identified in the table of contents, would consist of matters such as environmental constraints, fuel supply alternatives and costs, military and civilian impacts on future demand, planning and operating reserve criteria, and energy resource alternatives including energy conservation, demand-side management, renewable energy alternatives, supply-side alternatives, and efficiency improvements consistent with GPA's stated fuel diversification, reliability, and dispatchability goals and factors of risk. These sections comprise what would be considered the very heart of an IRP process and study.

Clearly, the IRP draft report filed with the Commission on December 18, 2006 is not even a completed outline of an IRP "draft" report and as we stated in January 2007 provides little insight and certainly falls far short of being the road map GPA would be pursuing over the course of the next five to ten years in its implementation of a more efficient and fuel diversified power generation resource base.

On or about January 18, 2007, GPA filed three IRP related documents with the Commission and GCG as an update to its December 18, 2006 filing. The ALJ in his March 29, 2007 regulatory memo requested that GCG review this new material and make recommendations regarding how regulatory consideration on this subject should proceed. The first document titled "Integrated Resource Plan" is dated November 15, 2006 and is simply the "exact" same document that was filed with the Commission on December 18, 2006. No changes or new information are contained in this document. Accordingly, as stated above this document provides little insight and does not even provide a good outline of an long anticipated IRP "draft" report

The two other documents are related. The main document is an October 17, 2006 report prepared by RW Beck and the other document is graph of the life-cycle cost of certain potential supply side generating resources available to GPA and more fully outlined in the main RW Beck report. The October 17, 2006 Beck report indicates that Beck was retained to provide limited, but key, input to GPA's overall IRP process. In the October 17, 2006 report information is provided concerning several supply-side generation resource alternatives. The information provided includes the physical, operating, and financial characteristics of certain potential generation resources available to GPA. Specifically, six (6) supply-side generation resource alternatives were included in the Beck review. They were:

- Small Coal-Fueled Power Plant—60 mW
- Small Combined-Cycle Power Plant With a Liquefied Natural Gas (LNG) Facility—60 mW
- Wind Farm—20 mW
- Repowering Piti 7 CT to a Combined-Cycle Power Plant—60 mW
- Biomass Power Plant—10 mW
- Reciprocating Engine Power Plant—40 mW

The information contained in the October 17, 2006 Beck report characterizing generation resource options available to GPA is the type of baseline information required for further analysis to determine which potential supply-side resource options should be considered in the IRP. The Beck report does an excellent job in presenting relevant supply-side information. However, while it is a good start GPA needs similar information concerning other energy resource alternatives including energy conservation, demand-side management, and efficiency improvements. When this information is combined with the information developed in the Beck report for supply-side energy resource alternatives GPA will be in a position to evaluate which resource alternatives best meet its future demand requirements, environmental constraints, planning and operating reserve criteria, and fuel diversification, reliability, and dispatchability goals at acceptable levels of risk.

It is unknown why the Beck report, which has been available since October 2006 and provides meaningful information concerning supply-side generation alternatives, was not provided with GPA's December 18 submittal.

Recommendations

It appears that no appreciable work has taken place on the IRP since mid-November 2006. While work on the identification of selected operating and financial characteristics for potential supply-side resource alternatives has been completed, GPA has not yet undertaken the required work activities to process the various conservation, energy efficiency, and supply-and demand-side resource alternatives available for detailed consideration as part of its IRP process. Neither has GPA presented the Commission with its plan to complete the long awaited IRP or even a completed outline of its proposed IRP process. Meanwhile, what is known is that GPA remains totally dependent on fuel oil and it does not currently have a plan by which it will diversify its power production facilities to other fuel sources. Absent even a plan for fuel-diversification GPA remains on a course virtually assuring ratepayers of high LEAC rates.

As stated in our January 2007 report, the Commission's role concerning GPA's lack of fuel diversification is unmistakable. It is charged with ensuring that ratepayers are furnished reliable electric service and GPA generation resources be prudently planned so as to mitigate undue ratepayer risks associated with fuel price volatility and a lack of fuel diversification. GPA is clearly behind in addressing fuel diversification. It is critical that the IRP move to an early completion and decisions implementing fuel diversification be

made; otherwise, left unchanged ratepayers will continue to carry the risk associated with GPA's total dependence on fuel oil.

The existing IRP process being undertaken by GPA does not appear to have any organizational structure as is demonstrated by the lack of any appreciable action since mid-November 2006. No one seems to be responsible for its completion and no completion benchmarks seem to exist. Accordingly, we reiterate our January 2007 recommendations that the development and implementation of the IRP be conducted in a collaborative manner with staff and other interested parties; be conducted in accordance with a defined timeframe; and, that it incorporate consideration of certain electricity standards contained in the Energy Policies Act of 2005 (EPA of 2005)². Specifically, this matter should be closely overseen by the PUC Administrative Law Judge (who would serve as a Hearing Examiner) pursuant to the protocols outlined in the Public Utilities Regulatory Policies Act (PURPA), as amended. This would allow for the completion of the detailed investigations necessary to bring the ongoing development of an updated IRP to a final resolution. It is recommended that the Commission enter an order which would include the following:

- Approve the scope of review the Commission desires to be undertaken by the ALJ (Hearing Examiner) during the course of both the IRP evaluation and implementation phases.
- Require the ALJ to set a procedural schedule, consistent with a completion date of December 1, 2008, for hearings, progress meetings and reporting, draft IRP completion date, discovery, depositions, submission of testimony, briefs, decision document, final orders hearing, and completion of the IRP consistent with any Commission orders resulting from the final orders hearing.
- Require the ALJ to set a date by which GPA shall file with the Commission a "detailed work plan" (DWP) for initiating and completing the IRP as well as outline for the final IRP report. The DWP shall be made available to GCG and other interested parties. In the DWP it will be incumbent on GPA to identify as a minimum the following:
 - The alternatives that GPA will consider in its IRP evaluations. Specifically, GPA should identify each alternative it will review including new generating capacity, power purchases, energy conservation and efficiency, cogeneration, renewable energy resources, and conservation measures.
 - System reliability, dispatchability and other operating standards for supply and demand-side resources.
 - Assumptions concerning planning horizon, unit retirements, fuel costs, fuel and other escalation rates, discount rate, project or program implementation lead times, demand forecast, and operational parameters such as availability rates, outage rates, fixed and variable O&M, and unit efficiency.
 - System efficiency objectives for new supply and demand-side resources.
 - System business planning objectives concerning the risk imposed by the current lack of fuel diversification.

² See Attachment 1 to our January 2007 report for a description of the Fuel Sources and Fossil Fuel Generation Efficiency standards and various other PURPA related electricity standards applicable to GPA, several of which are directly applicable to GPA's ongoing IRP process.

- Process proposed by GPA to be used to insure consideration and incorporation of Energy Policies Act of 2005 (EPA of 2005) new Fuel Sources and Fossil Fuel Generation Efficiency electricity standards.
 - Public policy objectives concerning environmental, greenhouse gas emissions, and other social costs of electricity production and use.
 - Evaluation tools to be used for the purpose of verifying energy savings achieved by conservation or efficiency measures.
 - Evaluation tools to be used for the purpose of insuring that supply and demand-side resources are treated on a consistent and integrated basis.
 - Economic evaluation methods, tools, and criteria to be used in determining the supply and demand-side programs and projects which minimize the economic, environmental and other social costs of electricity production and use.
 - Processes it proposes to implement to insure collaboration with GCG and any other interested parties.
-
- Require the ALJ, following notice to interested parties, to mandate GPA, GCG, and potential interested parties to identify and file a list of issues that will be the subject of ALJ review and determination. Upon ALJ determination a final list of IRP issues will be identified and be included in the IRP evaluation, implementation, and hearing process.
 - Require the ALJ to monitor GPA progress, address GPA's compliance with the DWP previously approved by the ALJ, and address all issues arising during the course of the IRP evaluation and implementation. Such monitoring shall be conducted to assess whether GPA's actions in undertaking and performing the IRP evaluation and in its implementation are prudent.
 - The ALJ shall be authorize to use the Commission's technical consultant, GCG, for the purpose of collaboration with GPA, participating in meetings, reviewing IRP progress, conducting depositions as required, attending hearings, preparing reports, making recommendations to the ALJ, completing any actions or omissions in the IRP evaluation, if any, required to address the parameters contained in the approved DWP.
 - ALJ's Report inclusive of findings, and recommendations identifying the specific supply and demand-side resource planning programs and projects resulting from the IRP evaluation and investigation shall be submitted to the Commission no later than December 1, 2008, or at an earlier date recommended by the ALJ. The ALJ's report shall also include recommendations for monitoring implementation.

—Staff Update—
GPA's Integrated Resource Planning (IRP) Process

The Guam Power Authority ("GPA") advised the Public Utilities Commission ("PUC or Commission") well over two years ago that it was in the process of developing and completing an Integrated Resource Plan ("IRP"). While it was to have completed the IRP late last year¹, GPA, in fact, is only after questions from the Commission starting to fully engage itself in the IRP process. This report presents an update of those limited activities that have taken place since our April 18, 2007 update and reiterates many of our recommendations contained in that update to the Commission.

BACKGROUND

In December 2006, GPA provided the Commission with a "draft" report of its IRP—a process that was to present GPA's plan for fuel diversification consistent with reliability, dispatchability, and other factors of risk. The draft was simply a rather incomplete outline of a report. The document as presented did explain that it was GPA's intent to objectively examine a full range of energy alternatives and select those resource alternatives that would provide reliable electric service to customers at the lowest overall system cost; however, the document provided little insight to an actual program of fuel diversification.

In January 2007, Georgetown Consulting Group, Inc. (GCG) reported that the "draft" document did not provide the Commission, GPA, ratepayers, and other stakeholders with a definitive and transparent plan demonstrating how GPA would over the near-term move to a more fuel diversified and efficient power generation resource base.

In March 2007, the administrative law judge's (ALJ) regulatory memo requested that GCG file a position paper regarding GPA's IRP process and make recommendations regarding how regulatory consideration of this subject should proceed. As we reported in April 2007, little progress to date had been undertaken by GPA in the development of its proposed IRP². GCG presented a series of recommendations that if implemented would put the IRP process on track for a December 2008 completion. These recommendations, which were consistent with the regulatory handling of IRP processes by mainland utility commissions, established a transparent and collaborative process for development and completion of the IRP. While no action was taken on this matter during the April regulatory session, GPA was asked to respond to the IRP recommendations at the Commission's next regulatory session (August 2007)

Current Situation—August 2007

¹ In a PUC order dated September 28, 2006, GPA was directed to file a draft report of the IRP by November 2006.

² See GCG's April 18, 2007 report on GPA's IRP process.

GPA on July 20, 2007 provided to the Commission a "white paper" prepared by RW Beck and Associates outlining the approach GPA would pursue in the development of its IRP. The "white paper" outlines the overall objective of the IRP, which is to determine strategies for the type, amount and timing of new resource acquisitions to meet future consumer demand for electricity considering both supply-side and demand-side resources. It further articulates the need for GPA to diversify its generation resources and the need for GPA to include its customers in meaningful communications on issues that affect both GPA and its customers—it proposes to include a stakeholder process as an integral part of the IRP's development.

The "white paper" proposes a number of stakeholder meetings and presents a general, but, somewhat vague outline of the timeframe for completion of the IRP. The development of the IRP as outlined would anticipate a stakeholder process in the August to September 2007 timeframe with meetings occurring over the following four to six months. As outlined in the "white paper" the schedule calls for an initial draft of the IRP to be available in March 2008. The schedule anticipates final reviews by the Commission and stakeholders over the following three months (Apr-Jun 2008) and assumes the final draft IRP would be available about July 2008. The information provided includes a general outline of the schedule GPA will incorporate into the process and use for the "stakeholder" process outlined in the document. Finally, it includes a more detailed description of the tools, analytical methods to be employed, appears to incorporate certain provisions of the Energy Policies Act of 2005 (excludes rate related and certain policy issues), and identifies GPA's proposal for review and approval by the Commission.

Recommendations

The "white paper" presented the Commission by GPA is a good step in the right direction. It provides a more detailed outline of the work scope that it will undertake in the development of its long-awaited IRP. It is clear that while some work on the identification of selected operating and financial characteristics for potential supply-side resource alternatives has been completed, GPA has not yet undertaken the key work activities to process the various conservation, energy efficiency, and supply-and demand-side resource alternatives available for detailed consideration as part of its IRP process.

The "white paper" takes a major step forward by providing more organizational structure to the IRP process itself. It outlines broad completion benchmarks, which need to be further defined. However, while it defines a number of meetings with stakeholders and speaks to the use of a collaborative process, it fails to define the overall collaborative process that it proposes between itself, GCG, and other interested parties. And, while it makes reference to consideration of certain electricity standards contained in the Energy Policies Act of 2005 (EPA of 2005) it does not appear to explicitly show how they will be included in the IRP process. Finally and more importantly, the entire process remains under the control of GPA instead of being closely overseen by the ALJ pursuant to the IRP protocols outlined in the Public Utilities Regulatory Policies Act (PURPA), as amended. The approach outline by GPA abandons

the regulatory process mostly commonly used by mainland commissions for the development of IRP's and leaves the completion of the IRP to GPA.

We believe that completion of the IRP is one of the most important exercises for both GPA and the PUC to bring rate moderation and stability to the ratepayer. Accordingly, we reiterate most of the recommendations included in our April 18, 2007 report and herein recommend that the Commission enter an order which would include the following:

- Approve the scope of review the Commission desires to be performed under the direction of the Commission's ALJ during the course of both the IRP evaluation and implementation phases.
- Require the Commission's ALJ to set a procedural schedule, consistent with a completion date of December 1, 2008, for hearings, progress meetings and reporting, draft IRP completion date, discovery, depositions, submission of testimony, briefs, decision document, final orders hearing, and completion of the IRP consistent with any Commission orders. The "white paper" presented by GPA can be used as a general guide for some of the purposes identified herein.
- Require the ALJ to set a date by which GPA shall file with the Commission a "detailed work plan" (DWP) for initiating and completing the IRP as well as outline for the final IRP report (it is recognized that the recent GPA filing provides much of the information required for the DWP, but it still falls short of what should be included in the DWP). The DWP shall be made available to GCG and other interested parties. In the DWP it will be incumbent on GPA to identify as a minimum the following:
 - The alternatives that GPA will consider in its IRP evaluations. Specifically, GPA should identify each alternative it will review including new generating capacity, power purchases, energy conservation and efficiency, cogeneration, renewable energy resources, and conservation measures.
 - System reliability, dispatchability and other operating standards for supply and demand-side resources.
 - Assumptions concerning planning horizon, unit retirements, fuel costs, fuel and other escalation rates, discount rate, project or program implementation lead times, demand forecast, and operational parameters such as availability rates, outage rates, fixed and variable O&M, and unit efficiency.
 - System efficiency objectives for new supply and demand-side resources.
 - System business planning objectives concerning the risk imposed by the current lack of fuel diversification.
 - Process proposed by GPA to be used to insure consideration and incorporation of Energy Policies Act of 2005 (EPA of 2005) new Fuel Sources and Fossil Fuel Generation Efficiency electricity standards.
 - Public policy objectives concerning environmental, greenhouse gas emissions, and other social costs of electricity production and use.
 - Evaluation tools to be used for the purpose of verifying energy savings achieved by conservation or efficiency measures.
 - Evaluation tools to be used for the purpose of insuring that supply and demand-side resources are treated on a consistent and integrated basis.

- Economic evaluation methods, tools, and criteria to be used in determining the supply and demand-side programs and projects which minimize the economic, environmental and other social costs of electricity production and use.
 - Processes it proposes to implement to insure collaboration with GCG and any other interested parties.
-
- Require the ALJ, following notice to interested parties, to mandate GPA, GCG, and potential interested parties to identify and file a list of issues that will be the subject of ALJ review and determination. Upon ALJ determination a final list of IRP issues will be identified and be included in the IRP evaluation, implementation, and hearing process.
 - Require the ALJ to monitor GPA progress, address GPA's compliance with the DWP previously approved by the ALJ, and address all issues arising during the course of the IRP evaluation and implementation. Such monitoring shall be conducted to assess whether GPA's actions in undertaking and performing the IRP evaluation and in its implementation are prudent.
 - The ALJ shall be authorized to use the Commission's technical consultant, GCG, for the purpose of collaboration with GPA, participating in meetings, reviewing IRP progress, conducting depositions as required, attending hearings, preparing reports, making recommendations to the ALJ, completing any actions or omissions in the IRP evaluation, if any, required to address the parameters contained in the approved DWP.
 - ALJ's report inclusive of findings, and recommendations identifying the specific supply and demand-side resource planning programs and projects resulting from the IRP evaluation and investigation shall be submitted to the Commission no later than December 1, 2008, or at an earlier date recommended by the ALJ. The ALJ's report shall also include recommendations for monitoring implementation.

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

GUAM WATERWORKS AUTHORITY
PETITION FOR RATE RELIEF

DOCKET 07-4



ADMINISTRATIVE LAW JUDGE REPORT

This report is intended to supplement the proposed Rate Order, which accompanies it. The background and determination sections of the proposed order summarize the regulatory record and key determinations, which PUC must consider in ruling on the GWA rate petition. As in earlier rate proceedings, your examination and ruling on each of the eleven proposed determinations, will control the ordering provisions you make in your rate decision. The undersigned recommends PUC's adoption of the determinations, which are supported by the evidentiary record.

Public comments during PUC's three public hearings emphasized the substantial financial pressure under which Guam residents suffer with increased GovGuam fees and charges, increased gasoline prices and increased utility rates. In the case of Guam Power Authority, LEAC increases are driven by increasing fuel costs. GWA rate increases are necessary in order to fund the consequences of the utility's mismanagement during the past several decades. This mismanagement resulted in the Stipulated Order in Federal District Court Civil Case 02-35 *USA v. Guam Waterworks Authority and Government of Guam*].

The economic pressure, under which residents now live, emphasizes the importance of PUC's responsibility to assure that utility rates are just and reasonable. The rate award, which is recommended by the Georgetown - GWA stipulation, reflects this sensitivity, as it would not even cover the recent increased principal and interest payments, which GWA is now required to make under its revenue bonds.

In public comments, ratepayers questioned whether the proposed rate increase was driven by and in anticipation of costs associated with a military buildup on the island. The record is clear that the requested rate relief is entirely driven by expenses, bond requirements and Federal mandates associated with correcting several decades of system mismanagement.

As is reviewed in determinations 8 and 11 of the proposed rate order, public comments correctly focused on management opportunities to increase revenues, other than through rate increases and on opportunities to reduce expenses. A

copy of written public comments filed with PUC in this proceeding are attached to this report. Under the proposed order, PUC staff would be directed to examine and report on six issues raised by public comments:

1. GWA's plan to remediate the revenue loss and expenses associated with its system water losses. It is understood that there is no short term solution to this problem.
2. The importance of establishing a system development charge to assess new development [both private and military] rather than existing ratepayers for the economic impact this development will cause to GWA's system.
3. The status of GWA's new water meter program, including its business practices regarding the installation of new water meters.
4. GWA's compliance with 12 GCA § 12026 [estimated billing].
5. GWA efforts to access Federal grants.
6. The reasonableness of Navy's charge of over \$2.00 per thousand gallons for the water it sells to GWA.

The GCG report on these issues would be considered by PUC at its October 2007 regulatory session.

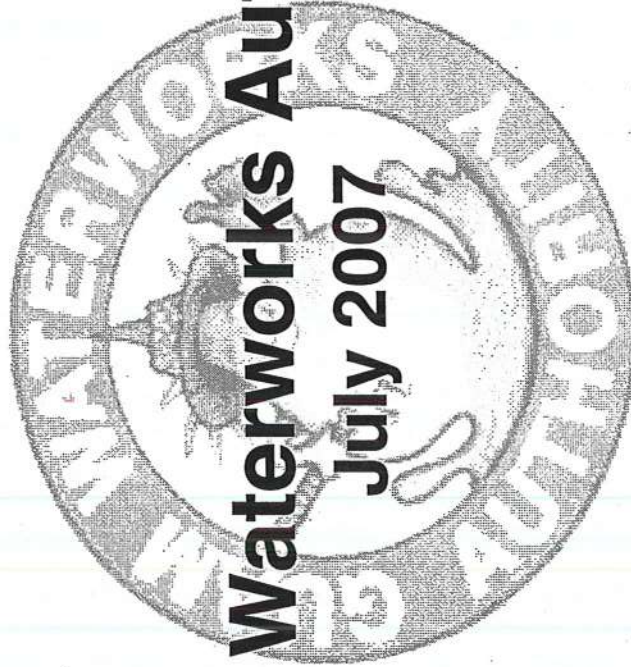
In summary, the undersigned recommends PUC's adoption of the attached rate order.

Respectfully submitted this 9th day of August 2007.



Harry M. Boertzel
Administrative law judge

Presentation to Public Utilities Commission



Guam Waterworks Authority

Summary of FY07 Rate Petition



GWA has petitioned the Public Utilities Commission for a 14.24% increase in base rate revenues. GWA's petition requested there be no change to lifeline rates for customers who use less than 5,000 gallons of water per month. Those customers will only be impacted by a change to the Customer Charge.



All of the revenues requested in this petition will be used to pay debt service on GWA's \$101.12 million bond issuance in December 2005. The vast majority of bond funds are being used to address requirements of the Stipulated Order which GWA is currently operating under.



GWA Revenue Requirement

	Fiscal Year 2006	Fiscal Year 2007	Fiscal Year 2008
Revenues	44,731,060	48,075,908	48,075,908
O&M Expenses	(48,970,086)	(48,775,933)	(48,775,933)
Other I&E	5,380,587	6,593,475	6,593,475
Debt Service	-	(1,926,199)	(7,704,794)
Adjustments	(2,039,629)	(5,973,974)	(4,103,974)
Rev Requirement	(898,068)	(2,006,723)	(5,915,318)

Debt Service is the Driver of the Revenue Shortfall



Why the Stipulated Order?

- **2001: GWA is the worst run water and wastewater utility in the country – USEPA**
- **2001: GWA is sued by USEPA for failure to protect the people of Guam**
- **2002: 6 million gallons of sewage spills**
- **No treatment of sewage going through the Hagatna Treatment Plant**
- **2000 – 2002: Nitrates and fecal coliform levels in the Aquifer are increasing**
- **2002: USEPA prepares to place GWA in receivership under federal control**

In effect, USEPA sued GWA for placing the lives of our residents at risk!!

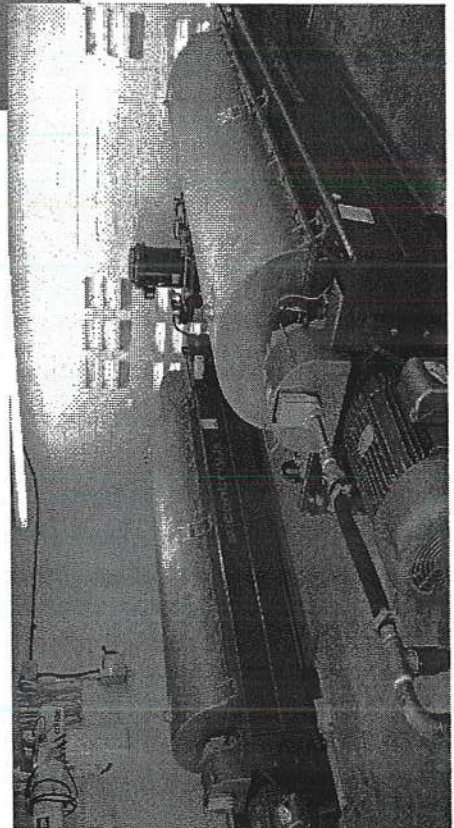
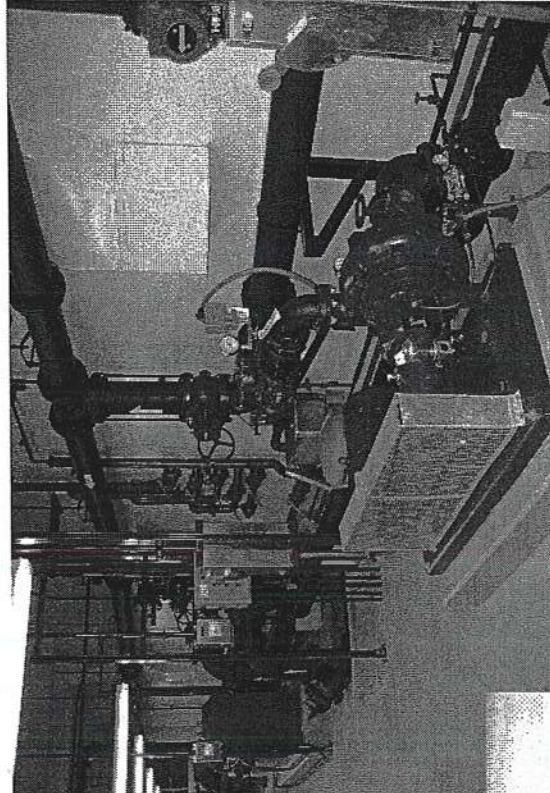


- **2003: CCU negotiates with USEPA to retain local control of utility and enters into Stipulated Order**
- **2005: GWA receives BB bond rating from Moody's and Fitch Ratings Service**
- **2005: GWA issues its first ever issuance of bonds**
- **2006: Construction projects began**



Major Project

Hagåtña Wastewater Treatment Plant Refurbishment



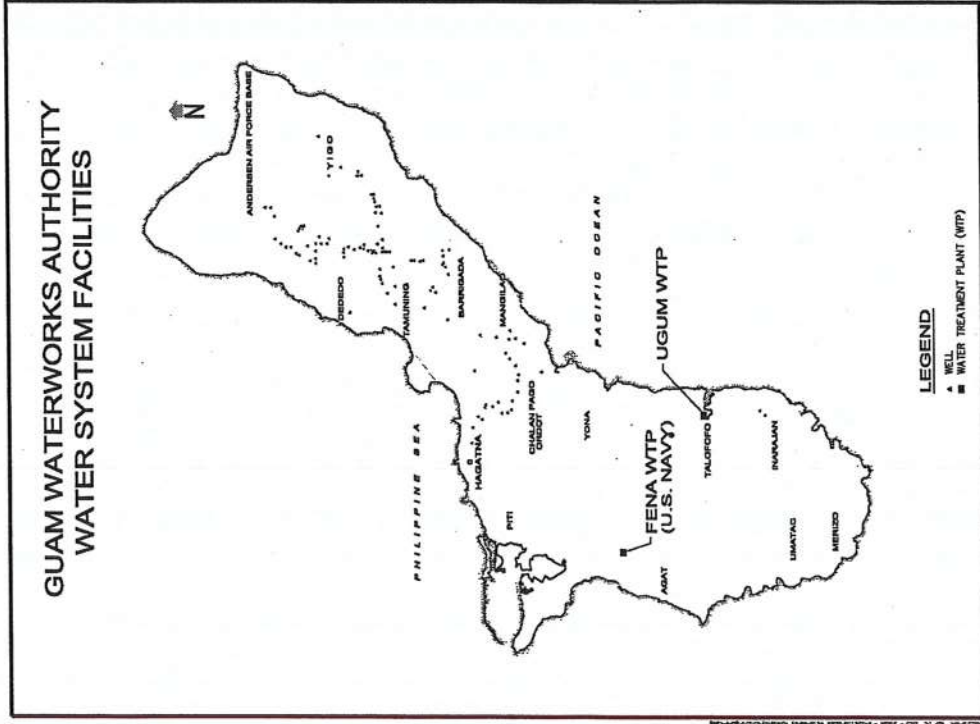
This plant was essentially non-operational for the last decade



The Authority's Water Supply System Consists of the Following Facilities:

- 120 wells
- 2 springs
- Surface water supply and water treatment plant
- 24 booster pump stations
- 750 miles of distribution pipelines
- 2,500 fire hydrants

- Average daily supply requirement is 32 MGD*
- Billed Demand: 19 MGD
- Minimum reliable water supply is 40-44 MGD
- Storage Capacity: 35 MG
- 31 Reservoirs and Tanks



* Will decrease as water losses are reduced due to implementation of CIP. Based on a 5-year average.



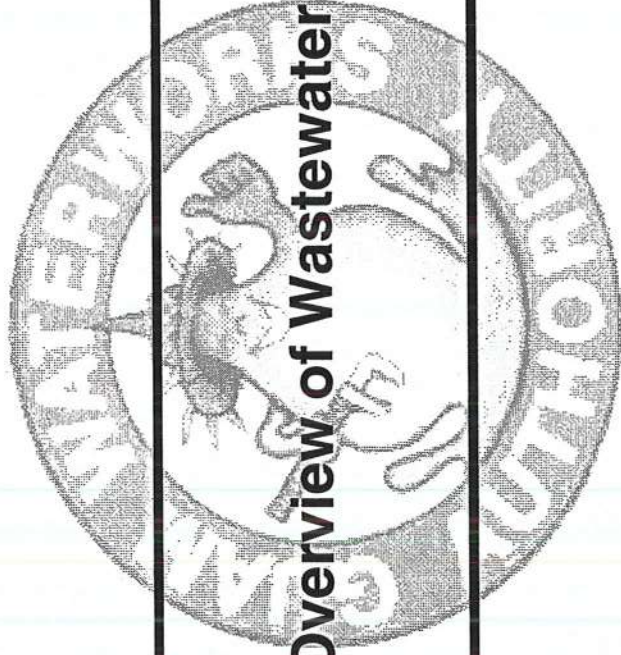
The Authority is Reducing its Dependence on the Navy and Producing More Water From its own Wells

	2001	2002	2003	2004	2005	2006
Purchases from:						
Navy	2.38 BG	2.20 BG	1.56 BG	1.57 BG	1.97 BG	1.77 BG
Earth Tech*	1.12 BG	1.18 BG	1.32 BG	1.30 BG	1.27 BG	.58 BG
Air Force	0.07 BG	0.07 BG	0.02 BG	0.06 BG	0.04 BG	.02 BG
Total Purchases	3.56 BG	3.45 BG	2.90 BG	2.93 BG	3.25 BG	2.37 BG
Authority Production	8.63 BG	7.69 BG	8.18 BG	8.06 BG	7.75 BG	13.66 BG
Total Sources	12.19 BG	11.14 BG	11.08 BG	10.99 BG	11.00 BG	16.03 BG
Less: Losses	(4.88) BG	(4.46) BG	(4.43) BG	(4.40) BG	(4.40) BG	(9.62) BG
Total Net Sales * Earthtech a Tyco International Ltd. Company hired to drill, construct and operate ten wells on the northern part of the island. Contract	7.31 BG	6.68 BG	6.65 BG	6.60 BG	6.60 BG	6.41 BG

was bought out in April 2006

Notes: BG stands for billions of gallons.

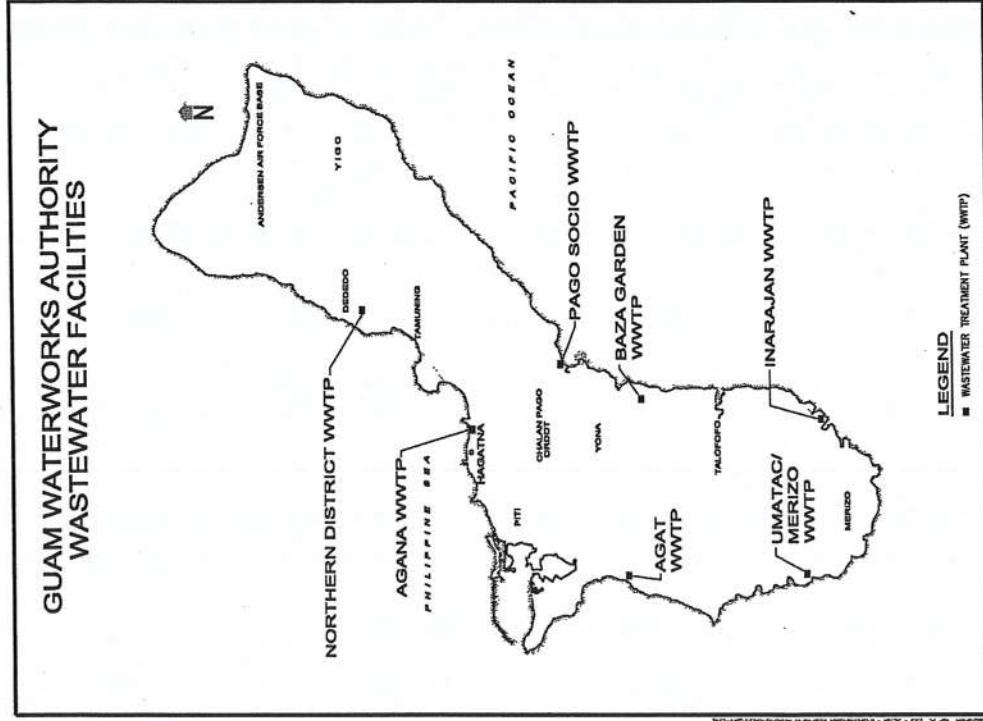




II. Overview of Wastewater System

Wastewater System Overview

- 145 miles of Sewer Lines
- 72 Pumping Stations
- 7 Treatment Plants
- 2 Ocean Outfalls
- Serves the Civilian Population, Andersen Air Force Base and a portion of Navy
- 58% of the customers are connected to the Wastewater System



Summary of Wastewater Treatment Facilities

Plant	Treatment Process	Effluent Disposal	Design Capacity (MGD)
Northern District	Primary	Ocean	12.0
Agana	Primary	Ocean	12.0
Agat	Secondary-extended aeration	Ocean	0.75
Baza Gardens	Secondary-contact stabilization	Tocha River	0.60
Inarajan	Secondary-aerated lagoon	Percolation	0.19
Umatac-Merizo	Secondary-aerated lagoon	Land Application	0.25
Pago Socio	Secondary-package plant	Seepage Pond	0.25
TOTAL			26.04



Major Initiatives Since 2005

- **Completed Projects**
 - Chaot Wastewater Pump Station and Line Upgrade
 - Leyang Sewer Installation Project
 - Hagåtña Wastewater Treatment Plant Refurbishment (Total Upgrade)
- **Purchased Earth Tech Wells - \$5.9 million**
- **Hired Wastewater Performance Management Contractor**
- **Purchased Standby Generators for all pump stations and treatment plants**



Ongoing Capital Improvement Projects

- **Electrical Protection Upgrades**
- **Ugum Water Treatment Plant Upgrade, including Water Tank Repair**
- **Santa Rita Service Improvement Projects**
 - Santa Rita Rt 5 Bypass Transmission Line
 - Santa Rita Springs Booster Station Rehabilitation and Transmission Line
- **Baza Gardens Wastewater Treatment Plant Design**
- **Sinajana Water Transmission Line Project**
- **Chlorination Upgrade Project**
- **Agat Wastewater Collection System Replacement Project**
- **Comprehensive Land Survey Project**
- **Hagåtña Wastewater Treatment Plant and Northern District Wastewater Treatment Plant Ocean Outfalls**



Performance Management Contract

- CCU determined GWA needed additional resources to learn new wastewater technologies, train staff, develop operation manuals, establish computerized maintenance management system.
- Veolia LLC - one of the largest wastewater service providers in the world was selected to manage GWA's collection system beginning January 2007
- Employees are GWA employees
- Facilities remain GWA facilities
- Term is 3 years with one option to renew for an additional 3 year period



GWA Master Plan

- **GWA's master plan completed and approved by CCU in February 2007**
- **The plan identified needed improvements totaling nearly \$900 million over the next 25 years.**
- **The plan included a revised fee structure as well as a System Development Charge**
- **The financial plan lays out a program for raising rates to cover the costs of the projects (annual 6-8% rate increases are required for the next 20 years)**
- **Pending PUC approval**



The Authority's Comprehensive Capital Plan to Meet the 2003 Stipulated Order is Nearing Completion

- The primary objectives of the Authority's Capital Improvement Program are to improve operations of the System and to meet the requirements of the Stipulated Order of the United States District Court, dated June 5, 2003.
 - CCU was proactive in negotiating a stipulated order with the EPA to modernize the system and comply with earlier requirements
 - The Order was intended to satisfy the requirements of federal Safe Drinking Water Act and federal Clean Water Act.
 - The Order was recently amended to reflect current circumstances.
- **Projects include:**
 - Wastewater treatment facilities, water treatment facilities, water production and disinfection, wastewater collection system, water distribution system, and efficiency upgrades.
- **GWA is currently in compliance with the SDWA**
- **USEPA has recently declared GWA's drinking water to be the safest in decades.**



Status of Compliance with Stipulated Order

Stipulated Order Items and Status
(as of May 31, 2007)

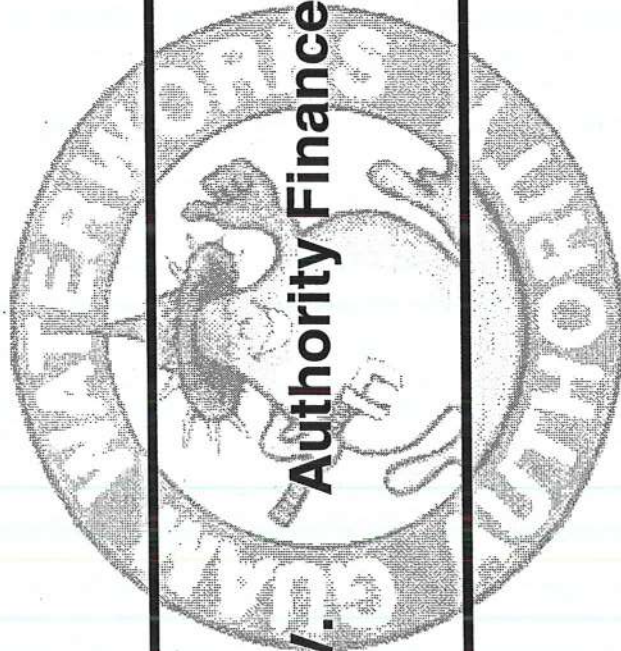
Completion Due Date (1)	Completed Activities
3/21/05	X
5/27/05	X
4/29/05	X
6/25/05	X
1/31/07 (2)	X
6/24/05	X
9/30/05	X
6/5/06	X
9/30/05	X
11/30/06	X
10/26/03 (2)	X
11/25/05	X
11/25/05	X
3/15/07	X
2/28/05	X
1/27/06	X
1/15/04	X
5/27/05 (2)	X
Ongoing	X
10/3/2003 (2)	X
10/8/04	X
Ongoing	X
11/14/03	X
2/08/06 (2)	X
1/1/08	X
8/1/06	X
6/30/08 (2)	X
6/5/06	X
4/30/04	X
1/5/08	X
3/29/07	X
9/5/04	X
7/01/07	X
4/29/05	X
10/28/05	X
10/28/05	X

- Management is making a concerted effort to accomplish the changes in a timely fashion.
- The Stipulated Order contains a comprehensive list of projects to be implemented as well as a strict schedule to be met over three years.
- The Authority must submit all of the deliverables to the EPA for approval and is required to provide quarterly progress reports.
- This schedule and objectives are going to be incorporated into the Water and Wastewater Master Plan.
- The CCU has entered into a PMC contract to increase reliability.

Management and Organization
 Appoint Compliance Specialist.
 Hire General Manager, Chief Engineer, and Chief Financial Officer.
 Train and/or hire certified operators.
 Reorganize the Authority.
 Operations
 Prepare Water and Wastewater Master Plan.
 Implement interim chlorine disinfection and monitoring program.
 Develop and implement leak detection and response program.
 Develop and implement water meter improvement program.
 Develop and maintain water/wastewater parts and tool inventories.
 Ensure emergency generators are available for critical water/wastewater facilities.
 Inventory and seal or remove all unused oil storage tanks.
 Prepare emergency response program.
 Develop preventive maintenance program.
 Develop operation and maintenance manuals.
 Prepare proposed legislation to clarify authority.
 Develop standard operating procedures.
 Complete vulnerability assessment.
 Financial Administration
 Develop standard financial procedures.
 Prepare annual budget.
 Develop interim and final financial plans.
 Prepare five-year operation and maintenance plan.
 Build financial reserves.
 Establish procedures for addressing late payments.
 Establish revolving funds for helping new customers connect to the sewer system.
 Facility Construction and Rehabilitation.
 Repair and/or extend Agana and Northern District sewer outfalls.
 Assess Chat sewer system and pump station and take corrective action.
 Develop water transmission line.
 Renovate Northern District wastewater treatment plant.
 Repair Agana pump station diversion box.
 Rehabilitate Ugun wastewater treatment plant.
 Renovate Agana wastewater treatment plant.
 Evaluate Agat, Baza Gardens, and Umatac - Merizo wastewater treatment plants.
 Rehabilitate Santa Rita Spring booster pump station.
 Schedule to rehabilitate/replace drinking water wells.
 Training
 Develop and implement operator training program.
 Develop continuing training program for utility operation and management.

1) The dates shown are planned completion dates by the Authority for the activities shown, many of which are modified to reflect changes agreed to with the EPA and are beyond the Stipulated Order completion date. In addition there are a number of interim dates that are not included in the table above and in some cases dates will change as a result of changing circumstances. Dates in bold are those that correspond to when the Authority expects lines to begin for that activity if not completed or extended by EPA.
 2) Date shown is original Stipulated Order date, which is under review with EPA.
 3) Finished, but awaiting final USEPA approval



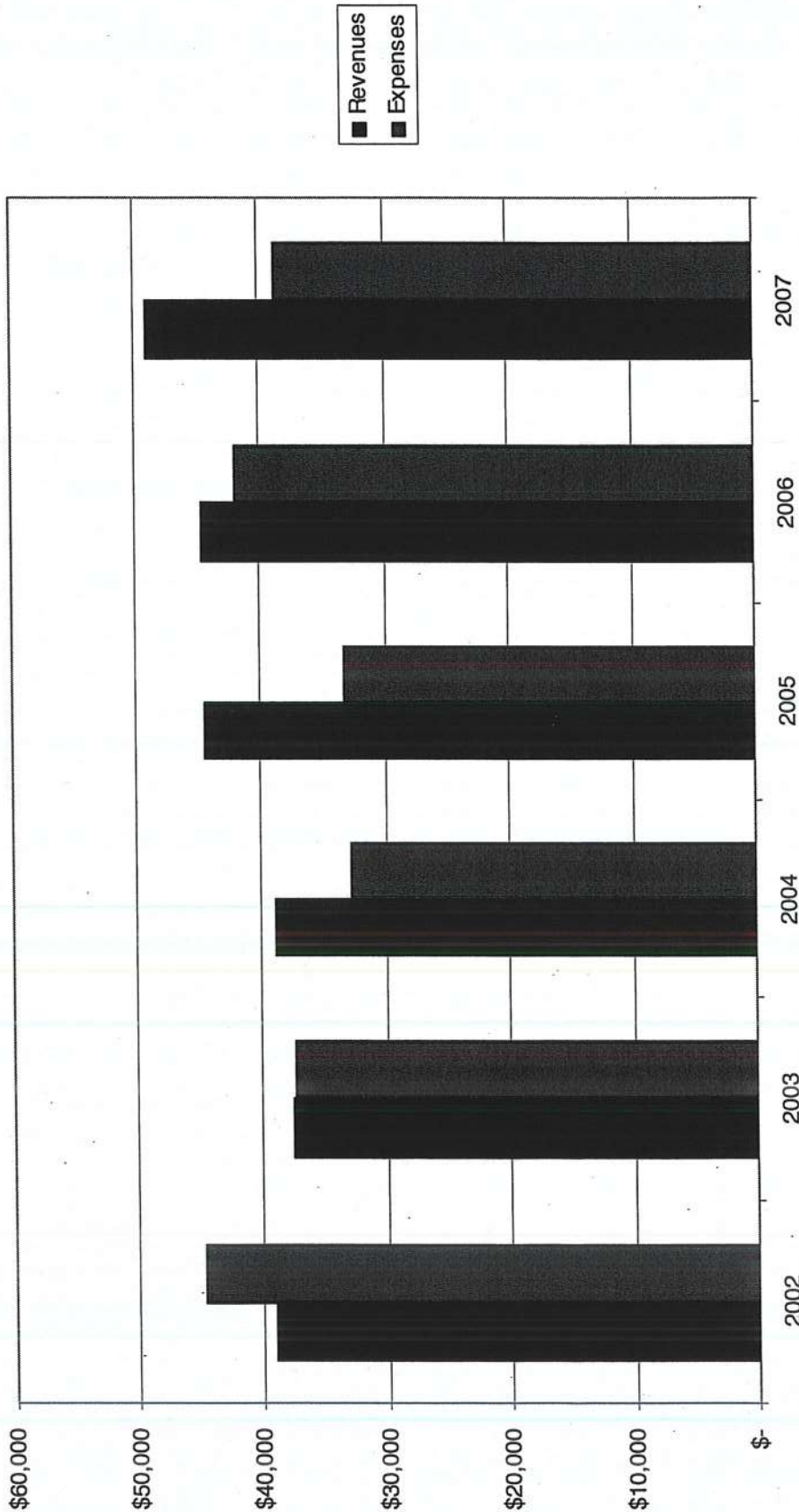


IV. Authority Finances

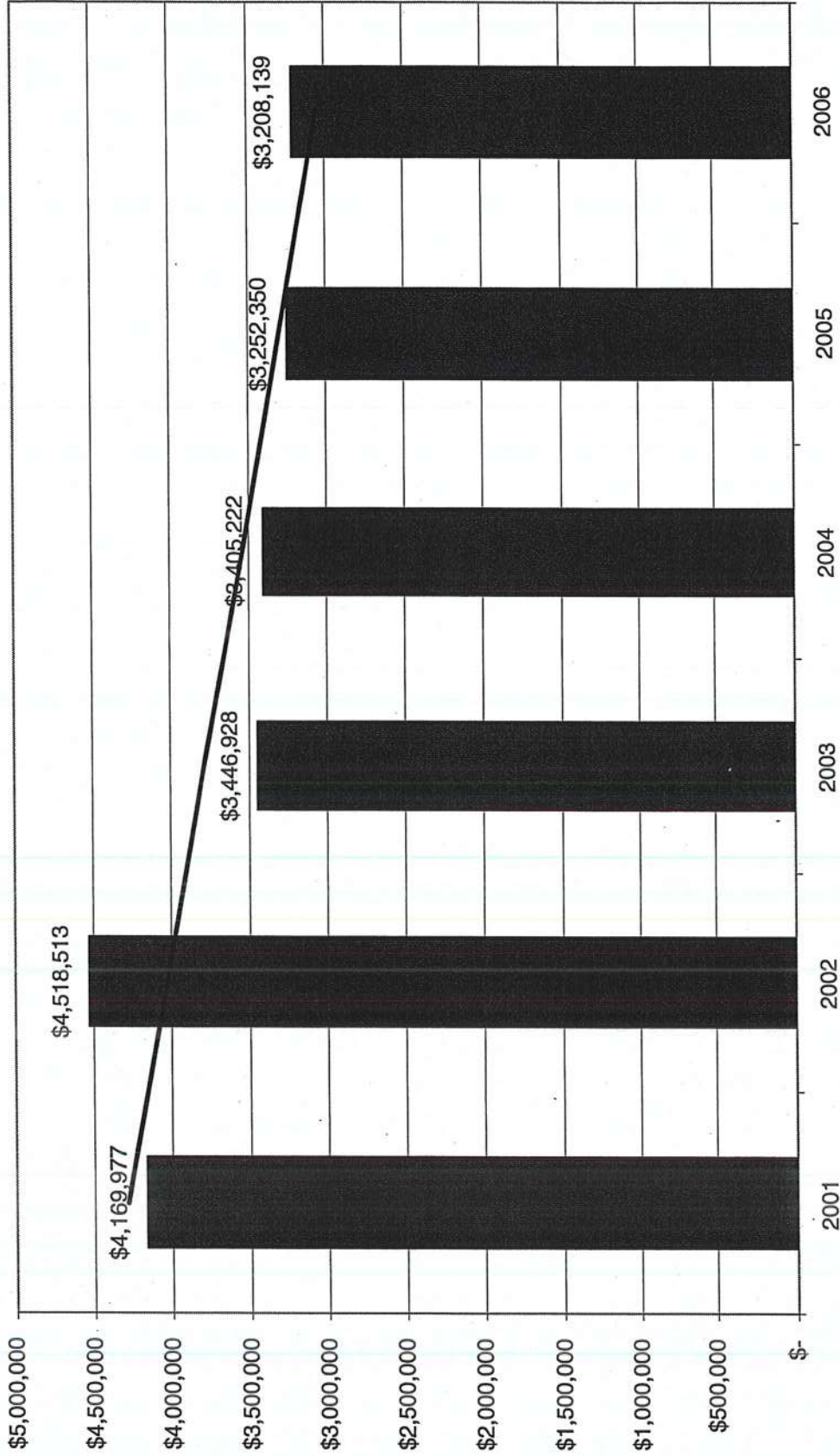
Debt Service Ratio

GWA's Debt Service Coverage Ratio will be 1.64x after the rate increase is implemented. GWA's rate filing requested that the Authority reach the PUC's minimum target of 1.75x over a two year period as a phased in approach. The Authority's rate increase plan will assure that GWA meets or exceeds the target on a going forward basis.

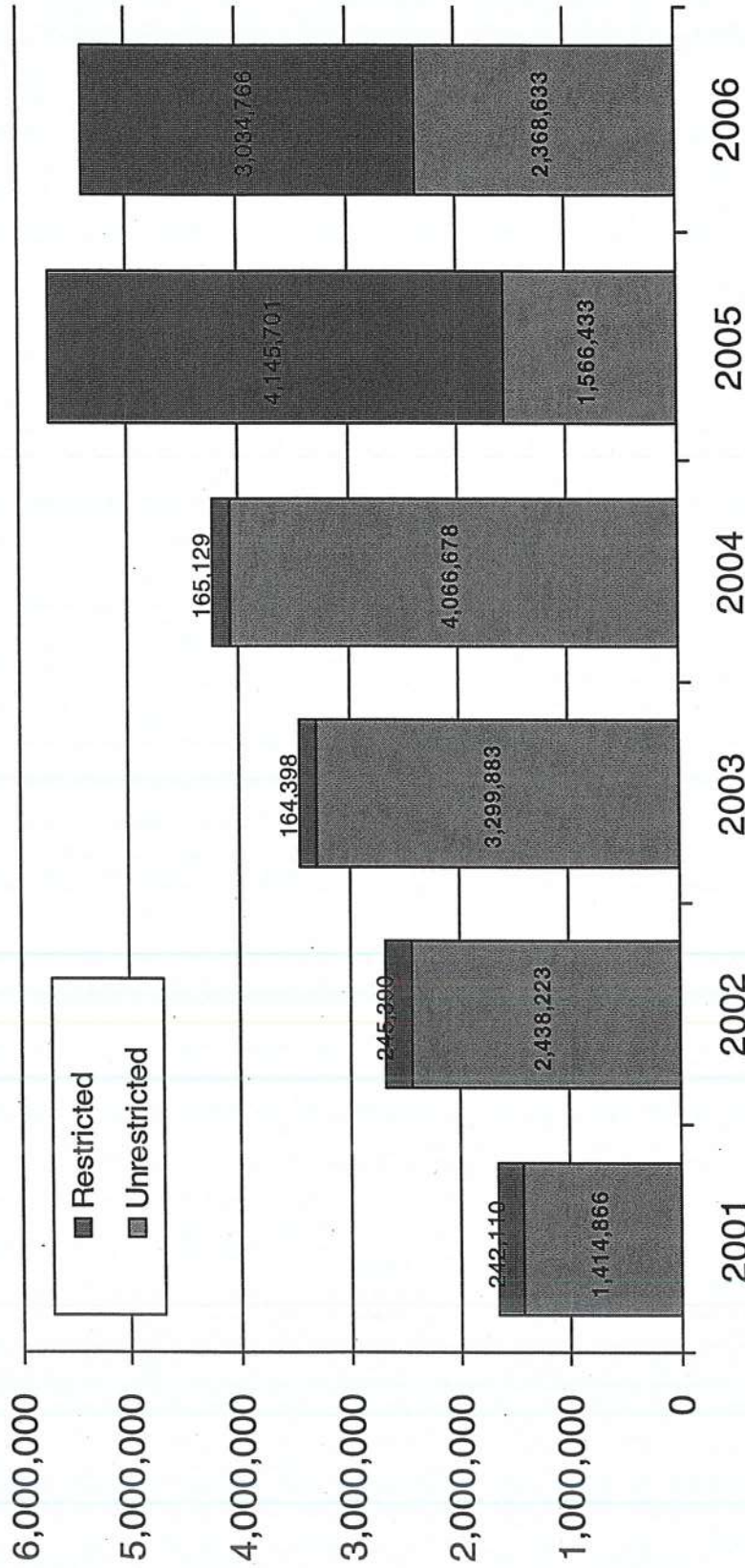
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Non-Hydrant Gov't Rec'bles



Cash Balances are Improving

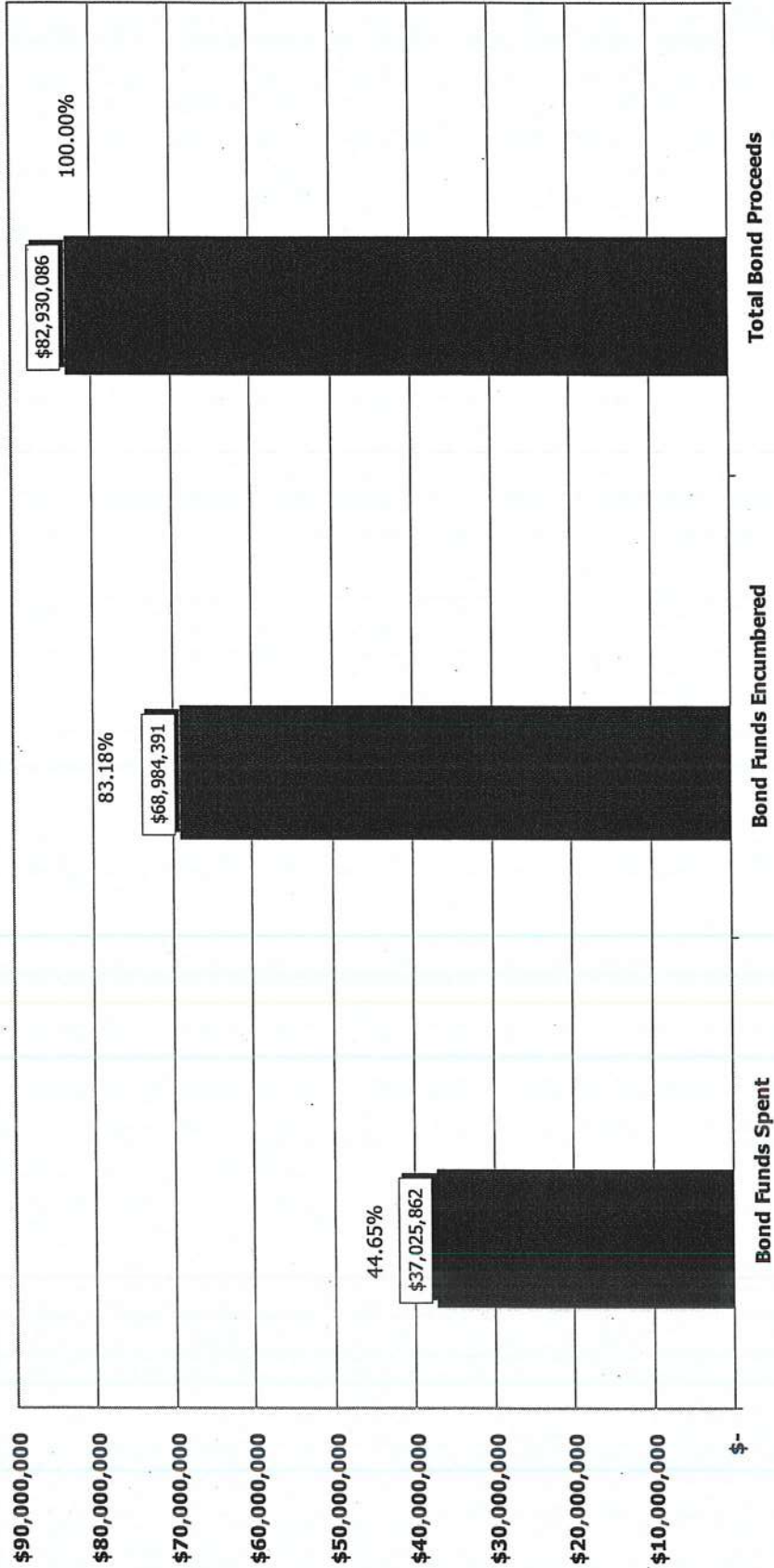


Source: Guam Waterworks Authority



Status of 2005 Bond Proceeds

Thru 6/30/07



Much More Work Needs To Be Done!!!!

- The level of service and reliability of the system has to be improved
- GWA has to be prepared for the anticipated Military Growth's impact on the local community.
- The current systemic problems have to be corrected to provide adequate service to the entire community. There are many customers that do not have adequate service.
- Water Leaks have to be corrected to reduce system demand and reduce cost.
- At Large Low Water Pressure Areas Need to Be Corrected
- Replacement of 2" Lines and upgrades to 6" lines need to be a priority.
- Manpower Recruitment, Training and Retention a serious concern.



Priority Projects and Programs!

- Refurbishment of Hard Down Water Wells
- Refurbish and Adding Reservoirs
- Install a SCADA (Supervisory Control and Data Acquisition) System
- Establish a Leak Detection Group
- Establish Construction Crews
- Increase Leak Repair Staffing
- Outsource Partial Leak Detection Work
- Outsource Partial 2" upgrade Construction Work
- Continually Calibrate Hydraulic Model. Utilize Model to solve Low Water Pressure Areas Problems
- Continue Reducing Dependency on Purchase Water
- Reduce Well and other Pumping Systems Energy Usage through Pump Change-outs and Economic Dispatching of Wells
- Pursue Grants for Upgrades and Well Protection Projects
- Improve Collection, Increase Disconnection Efforts



May 19, 2007

To: Public Utilities Commission

Subject: GWA's Petition To For Rate Increase, and Authority To Transfer Funds



We are providing our input for your consideration under the Ratepayers' Bill of Rights (12 GCA Chapter 12).

We recommend you disapprove the rate increase petition for lack of specific justification. Also, we recommend you disapprove the petition for authority to transfer funds since the Consolidated Commission on Utilities (CCU) has not authorized Mr Wiegand to seek approval for authority and transfer of funds. We ask you pay close attention to the addendum to testimony of Mr Wiegand regarding the Professional Management Contractor. This GWA mistake could be very expensive.

In addition, we recommend the PUC directs the Guam Waterworks Authority to discontinue spending funds unnecessarily as mandated in 12 GCA Chapter 12. It appears that some of the previous rate increase revenues were not spent on the projects listed as justification for the previous rate increases. For example, the CCU authorized the reimbursement of customers who installed turn off valves on their side of the meter. PUC must direct GWA not to reimburse any ratepayer for the costs of installing private turn off valves. The PUC did not approve any previous rate increases to pay for the installation of private turn off valves. These valves are the private property of the ratepayers; therefore, reimbursement with public funds is improper. The Government Claims procedures are available for any person who believes has a legal claim against GWA.

The GWA's petition for rate increase and authority to transfer funds failed to show that every cost-cutting effort has been made and that every other available option (example: federal grants) has been exhausted.

Please examine our comments and analysis in the attachments to this letter. The CCU has managed GWA since January 2003 or more than four years. It is time to discontinue the use of the "blame game" as justification for rate increase. Instead, the petition must include the specific justification for the rate increase.

The Guam Power Authority and Guam Waterworks Authority are considered small utility companies when compared to those in the 50 states. Similar functions in GWA and GPA should be merged. Excess employees should be terminated unless they secure employment with other GovGuam agencies. Here are examples of unnecessary use of GWA revenues: GWA ratepayers should no longer pay the salaries of (a) the Mr Benavente, Consolidated Utilities General Manager at \$102,245.00; Mr Joaquin Santos, Consolidated Utilities Assistant General Manager at \$112,377.40 (salary and benefit costs), Mrs Sablan, CCU Secretary at \$45,500.00 (unsure if this amount only includes GWA's share of the salary); The Public Information Officer at \$55,552.85 (salary and benefits); Elaine Cruz, Personnel Administrator at \$85,836.00 (salary and benefits), and the costs of salaries and benefits for three employees in the Human Resources (Personnel) Office at \$166,711.00. The Guam Power Authority's Human Resources Office can provide HR support to GWA without hiring additional staff. These are few examples where expenses can be cut, and should reduce unnecessary expenses by over a half million dollars. The merger of other similar functions should reduce expenditures for salaries and

benefits by over 1.5 million dollars. Our cost estimates are based on the staffing data provided by GWA in the petition for rate increase and authority to transfer funds. The use of Professional Management Contracts (PMC) by GWA at a cost of around 1 million dollars, and GPA at a much higher cost have reduced the responsibilities of the General Managers. The management of the PMC firms have taken over the management and procurement responsibilities. We have provided other cost-reduction ideas in the attachments to this letter.

We also offer the following as alternative options to the 14.24% rate increase:

1. GWA should implement the System Development Charges.
2. GWA should aggressively connect customers to the island sewer system. Guam law requires all structures (residences, businesses, churches, etc) that are located on land adjacent to a public sewer line be connected. The connection to the island sewer system will increase revenues and protect the island's water sources. The GWA data showed significantly less sewer customers than water customers.
3. GWA should immediately suspend the meter replacement program. GWA's data showed that the new meters are not generating revenue increases as projected.
4. GWA should apply for more federal grants. U.S. EPA and other agencies (Department of the Interior, Rural Utility Service-RUS, etc) have untapped grant dollars.
5. GWA should collect fees from sewage collection private companies (Todo Mauleg, Detry, Lucky One, etc) when disposing sewage into the island sewer system.
6. Garnish the tax returns, retirement pay including cola, and public assistance stipends for unpaid and overdue bills of GWA customers who are (a) employees of the Government of Guam, (b) retiree of the GovGuam, (c) elected officials. (d) members of Boards or Commissions, (e) persons who are on public assistance and are given monies to pay their rent and utility bills. If new legislation is required, GWA should take advantage of GovGuam FY2008 budget process/public hearings.
7. GWA should not issue construction permits unless the new structures will be connected to the public sewer system in areas where the sewer system exist.
8. Reduce the salaries of employees earning more than \$55,000.00. It will further reduce the costs of these employees' benefits.
9. Discontinue paying GWA retirees' cola and supplemental annuities.
10. Seek donations from private companies.
11. Install meters at all buildings (residences and Government offices, etc) in Tiyan, including rental units owned by Mr and Mrs Simeon Sanchez.
12. Ensure that construction companies are charged the commercial rates (not residential rates during the duration of the construction project. This can be done before building permits are approved by GWA. Currently, construction companies utilized water from a nearby residence.
13. GWA is still charging residential rates for many multiple dwellings. Implement an amnesty program for owners to voluntarily report to GWA such dwellings.
14. Charge fee for residences and businesses to install large water tanks. There are many such tanks connected to the water system without any safeguard to prevent contamination of the public water system.

In closing the PUC should explain to the public why GWA was authorized to issue the \$104 (or \$101,175) million dollar bond in 2005 if GWA did not have sufficient net revenues to pay the debt service of \$7.7 million dollars annually. The petition did not include inputs from the Guam Economic and Development Authority regarding the appropriate debt ratio


Jose & Teresita L. Mafnas

Copy sent to:

1. media
2. Speaker Forbes
3. Public Auditor Brooks
4. Mayor's Council
5. Attorney General

CCU RESOLUTION NO. 06-FY2007

1.

1. First whereas statement. It does not provide clear cost justification for the proposed 14.24% rate increase.

2. Second whereas. The \$101.175 million amount differs from the amount (\$104 million) shown on Part I. Introduction statement of Samuel J. Taylor, GWA Lawyer. Which is the correct amount. Also, the fact that million in bonds were issued in December 2005 and that GWA is required to begin payment of the annual debt service should not be accepted by the Utilities Commission as justification for the current rate increase petition. These justifications were used by GWA when the Public Utilities Commission approved the bond borrowing.

3. Third whereas. The financial condition of GWA before CCU control does not justify the current rate increase petition. GWA (through former public information officer Patrick Lujan and current PIO) officials continually made public announcements that GWA made profits. GWA does not have cash reserves because the agency spent monies unnecessarily on personnel costs, etc. GWA and GPA should consolidate many functions and lay off all excess personnel and reduced the number of vehicles, telephones, etc..

4. Fourth whereas. The 2005 review by the Utilities Commission is not a valid justification for the current rate increase petition. The rate increase petition did not include a copy of GWA's five year forecasts of revenue and expenses that was reviewed by the CCU during the 2005 budget review process. This information must now be made available for public and PUC review. Did the CCU re-examine the same information during the 2006 and 2006 budget review process, and were the findings and conclusions remain unchanged? The PUC must demand this information and should be made available to the public. What were the cost-reduction programs after each budget review processes? Were pay raises and other unnecessary expenditures placed on hold?

5. Fifth whereas. GWA's failure to secure the full 8% rate increase from the Public Utilities Commission in January 2006 should not be accepted as a valid reason. The statement that GWA's cash flow problem was exacerbated because only 3% rate increase was approved in 2006 should be examined for accuracy by the PUC consultant and the public auditor. We suspect that GWA went ahead and spent monies as if the 8% rate increase was approved by the PUC. How many pay increments, hirings and promotions took place after PUC approved the 3% rate increase? The public must be provided this information as well as the PUC. Recently in the Pacific Daily News, GWA solicited several bids including one for catering service. PUC must ask for all bid announcements and determine which ones are unnecessary.

6. Sixth whereas. Another unsubstantiated statement. All government agencies (federal and Guam) and private business must deal with rising power and other operating costs. GWA should be required to provide the exact increases in power costs, shipping and manufacturing costs. Has GWA implemented an energy (power and fuel expenditures) reduction program? Ratepayers are faced with increased costs of power, etc. We simply find ways to cut other personal expenses to offset the increased costs.

7. Seventh whereas. The refurbishment of the Hagatna Treatment Plant is not an historical refurbishment and no one can guarantee that the ocean tide will not

also 1

return sewage back into the bay. The truth is that the Hagatna and Northern outfalls projects involved the extension of sewage disposal outfalls into significantly deeper ocean water for more efficient mixing and dilution of sewage. These projects were included in the GWA Financial Plan dated January 31, 2002 (refer to attachment 3 our letter). More importantly, these projects do not justify the current petition for a rate increase. GWA is already experiencing problems with the existing professional management contractor for its waste water system. The major problems with the wastewater PMC are described in Mr Wiegand's addendum to testimony (attached to the GWA petition). This matter should be examined closely by the PUC. If the bid supporting documents for the Performance Management Contract showed that 15 wastewater employees will remain under the control of the PM contractor, then the PUC should not approved any funding for the hiring of new employees for the wastewater systems. Also, the PUC should not approved any funding of any improper expenditure of any of the FY 2007 wastewater budget. The bid clearly showed that the PM Contractor is entitled to 75 per cent of FY 2007 wastewater budget. Again, Mr Wiegand, in the addendum of testimony, said that GWA has spent most of the FY 2007 wastewater budget. The GWA certifying officer must be placed under oath and be ask to explain the improper expenditure of the FY 2007 wastewater budget. The Public Utilities Commission should not approve any rate increase to fund these improper expenditures of funds.

8. Eighth whereas. Another stupid statement. The statement from a federal civil servant is not justification for any future rate increase. The water in Guam has always been safe. The best source of information is the Department of Public Health Epidemiology Office, and the doctors at University of Guam WERI. The fact is that the people of Guam drink water from the following sources and all are Guam waters: (1) U.S. Navy fena river, (2) Ugum River, (3) underground water wells at Andersen Air Force Base, and (4)GWA underground water wells mostly in Northern Guam.

9. Ninth whereas statement. The rehabilitation of the Ugum Treatment is an ongoing project. Funding for this project should already have been established; otherwise, the rehabilitation contract should not have been issued. The ribbon cutting ceremony for this project was shown recently in a KUAM news program. GWA failed to provide data that supports the need to increase the water supply for the southern villages. There is a surplus water now being produced at the Ugum Water Treatment Plant. PUC should compare the sales versus water produced and stored to determine the sufficiency of water for the southern villages.. GWA should not remove water from the Ugum River except the minimum amount needed to provide water to the customers in the southern villages. The University of Guam, WERI officials should be asked by the PUC to conduct an evaluation on the need to remove more water from the Ugum River and the impact on such additional removal of water on the river and the environment.

10. Tenth whereas statement. The media have publicized the repairs and other improvements of the Hagatna and Northern outfalls. Is GWA now claiming that that repairs/extension contracts were let out without the appropriate funding source? This statement is not justification for the current petition for a rate increase.

11. Eleventh whereas statement is a clear demonstration of this poorly prepared petition. Who cares that the CCU reduced the desired rate increase of 18.5%. It is obvious that the installation of new meters failed to generate GWA's revenue projection. The meter replacement program must be closely examined by the PUC and the public auditor. It is very possible that someone

at ch 1

mislead the PUC about this expensive program. Our water bills (we owned 3 homes) showed we are consuming less water (average daily use) with the new meters.

12. It must be noted that the CCU did not authorized GWA management to petition for approval from the PUC the authorization to transfer rate stabilization account funds. For that reason, the PUC should not act on Samuel J. Taylor's for authority and to transfer rate stabilization account funds. GWA failed to show in the petition (or exhibits) how much it cost to produce water (cost of service). It is possible that it would be cheaper to purchase water from the Navy and Air Force rather than for GWA to produce more water. Purchasing water from military will conserve water sources outside military property for future use. The University of Guam WERI should be asked to look into this matter. We heard that the Navy and Air Force produce more water than it needs for the military. Water is a valuable resource and must be conserve. PUC should not raise rates based on GWA's desire to extract more water from the aquifers, river and springs. In closing, Simeon Sanchez is doing an adequate job as the spokesperson for the utilities. We agree with the the Mayor's Council and the public (KUAM poll) to abolish the CCU.

atch 1

TESTIMONY OF RANDALL WIEGAND

The testimony of Randall Wiegand, Chief Financial Officer of GPA/GWA must be closely scrutinized. The testimony contains misleading, inaccurate and possibly false statements. The following comments about the testimony are provided:

1. Where is the GWA General Manager or the CU Manager (Benavente)? Mr Wiegand is not the GWA General Manager.
2. The fifth question and answer regarding the Stipulated Order. GWA management uses the court stipulated order as their reason for everything. The stipulated order (previously it was labeled USEPA Administrative Order on Consent (Order) until after the election of Gov Camacho in 2003. We are providing (attachment 4) a copy of USEPA letter page 1 to Herbert Johnston, former GWA manager, in 2001. We believe US Attorney General Black took advantage of the new administration and new CCU members and thus the birth of the court stipulated order. Prior to that time, all problems were identified in a specific USEPA Consent Order, ie.CIP projects in USEPA Consent Order GWA-4021-9-01-19, January 31, 2001. The deficiencies in the Hagatna Treatment Plant existed since Governor's Ada's time. Also, GWA always had master plans (refer to attachment 5, a copy of page 15 of the QualServe report dated November 21, 2002). The cost of the QualServe report was paid by USEPA. Dave Craddick was a member of the Qual Serve Review Group. The previous master plans were done by the firm of Duenas & Associates. There are no significant differences between the new and old master plans. Regarding the statement that USEPA approved GWA using the Stipulated Order reserve fund as being one and the same in terms of use as the reserve fund set forth in the Indenture of Trust for the 2005 series bonds. GWA failed to include the USEPA's approval or their request for approval as exhibits. PUC should require submission of those documents and must be made available to the public.
3. Thenswer to question #6. The answer made it obvious that GWA does not have all of the information needed by CCU, PUC, elected officials and the public to make informed decisions regarding the petition for another rate increase. The Public Utilities Commission should not act on the petition until GWA has submitted the CCU approved financial plan. The answer to question # 6 said that the Final Financial Plan calls for rate increase of approximately 8% per year for the foreseeable future. Yet, the current rate increase petition calls for 14.24%.
4. Question #8. The correctness and accuracy of the answer to question #8 must be closely examined. The answer said that GWA's annual interest payments are approximately \$5.84 million This amount (5.84 million) is different from the \$7.7 million annually listed in the CCU resolution No. 06-FY2007, second Whereas." Which is the correct amount? These statements must be clearly stated so that rate payers and public are able to understand these accounting choices/methods. It is interesting to note that the answer to question #8 showed that \$4.38 million dollars as the required revenue under the current rate petition. The \$4.8 amount is different from the 5.9 million dollars shown in the public hearing notice to all customers. Which is the correct figure? The ratepayers and public must be made aware of the correct amount..
5. Question #9. Exhibit A should be closely scrutinized by the PUC and maybe by the Public Auditor. The answer to question #9 said that the same financial statement was presented to the CCU and that the CCU determined that a 24% rate increase was unacceptable and that management should pursue other options for further reduction to revenue requirements. For that reason, the Public Utilities Commission should also reject Exhibit A as supporting document for the current rate increase petition.
6. Question #10. The answer stated that the bond interest payment is approximately \$650,000 and

at Ch 2

due July 2007. Yet the figure in "Whereas #2 showed the interest payment at \$642,000.00. Which is the correct amount? The PUC should instruct Mr Wiegand to exclude unnecessary information such as information he presented to the CCU which were disapproved. The unnecessary information should not serve as justification for any rate increase. His failure to convince the Consolidated Commission on Utilities (CCU) is of no interest to the PUC, rate payers and the public.

7. Question #11. The answer said that the largest single driver for the rate increase petition is the need to begin paying the debt service in the amount of \$7.8 million annually (note that the amount shown in Whereas #2 is \$7.7 million annually). PUC and GWA should now inform the public if in fact GWA issued bonds without specific revenue as payments of the interests. The answer also contains false and misleading information. The truth is that GWA failed to reduce personnel and other expenses to offset the hirings of additional engineering expertise and direct responsible charge operators. Examples: The unnecessary hiring of \$45K a year public information officer, human resources manager and staff, procurement staff, administrative personnel, hiring/retention of Mr Benavente, Mr Danny Santos, duplicate functions at GPA and GWA, lack of a good energy savings program (power and gasoline), etc would reduce expenses. The other truth is that the new meters did not generate the projected additional revenues. In our cases, our water usage has reduced since the new meters were installed. Customers find ways to reduce water consumption after each rate increases.
8. Question #12. The CCU and current GWA management have controlled GWA for over four years. It is ridiculous to blame previous GWA management for any existing problems. Blaming previous GWA management is not a valid justification for any rate increase. We believe that the statement that previous management instructed customers to leave their faucets on and they will know when water service is restored is a lie. Prior to 2003, customers were informed via a media release from Patrick Lujan, GWA Public Information Officer, regarding water outages. At no time did GWA management told rate payers to leave their faucets open. GWA should not have retained the services of the consulting engineers if in fact the needed data are not available. The answer to question #12 said that over 6000 meters for which payments were delinquent when the current GWA management took control of GWA. We believe that GWA has not been aggressive in collecting these delinquent accounts. Examples: no GWA/GPA employee should have a delinquent account, no Government of Guam employee should have a delinquent account, no CCU member should have a delinquent account, no customer on public assistance (they are provided funds for their utility bills) should have a delinquent account, no customer with a Guam income tax return should have a delinquent account, no Government of Guam retiree should have a delinquent account. These customers are paid with Government of Guam funds. GWA should work with the appropriate agencies to garnish/collect debts to GWA. Again, current GWA management has been in control for over four years. It is time to stop blaming the previous administration for problems that should have been corrected in four years. GWA only has around 38,000 customers. This is not a large number. In th US mainland, GWA is considered a small utility company. Here's a simple solution to their meter management problem. Pay each village mayor to conduct a complete inventory of residences/farms with water meters and those without water meters. We believe that the mayors would provide complete and accurate inventory of water users. The PUC should not accept the 1% annual sales growth without documented evidence. We suspect that by claiming a low annual sales growth, GWA expects a higher rate increase. The media continually reported many construction projects. Water is used in these projects. A 1% growth appears to be inaccurate. In addition, there many businesses and residences that are close to sewer lines that are not connected to the GWA sewer lines. Connecting these businesses and residence should increase revenues. There are other revenue enhancement programs. GWA must act instead of just

atch 2

blaming the past administration.

9. Question #13. The statement that the anticipated impact of additional meter revenues is not as significant should come as a surprise to GWA. GWA's projection was wrong. GWA should have known that rate payers will conserve water consumption after every rate increases. The PUC consultant should review this program. The table under question #13 showed that only "Government" revenues increased by 38.61%. It is not indicated in the table whether the 38.61% revenue increase was due to increased water usage or because GovGuam agencies made more payments on their delinquent accounts. It is interesting to note that "hotels" revenues only increased by 8.69%. This number does not equate to the increased number of hotel rooms and tourists in fiscal year 2006 and 2007. Is GWA producing and purchasing (from the Navy and Air Force) more water than it sells to their customers? Now is the right time for GWA to admit that their revenue estimates with new meters are inaccurate.
10. Question #14. Here it goes again. Instead of answering the question, GWA instead gave excuses and blaming the previous GWA administration. Our interpretation of GWA's answer to question #14 is that GWA has not complied with the Emergency Operations, Maintenance, Renovation, and Replacement Reserve Fund requirements. GWA should be directed to provide specific plans to comply with th Reserve Fund requirements. We do not believe that GWA has began a program of staff reduction. The average annual personnel expenses have increased since 2004. GWA and GPA have identical functions (personnel, supply, procurement, engineering, administrative functions, etc). Nothing has been done to consolidate these functions. By stateside standard, GWA and GPA are considered small utility companies. The Public Utilities Commission should not accept excuses as justification for any rate increase. It is interesting to note that several large national and international companies were interested in taking over GWA. Mr Bert Johnston, former GWA General Manager, was visited by these companies. Zeny Nace, former GWA Controller and now in the Public Auditor's office, should be asked to review the correctness of the "History Of Losses" table. The Employee Level table is misleading. The table does not reflect a significant reduction of personnel costs. The statement that the USEPA has indicated that GWA will not be fined for failure to comply with the Stipulated Order funding requirement is a joke. No official in the USEPA can speak for the Federal District Court Judge. The Stipulated Order is from the federal court. The PUC should question the accuracy/truthfulness of the statement that Operations, Maintenance, Renovation, and Replacement Reserve Fund described in the Stipulated Order is the same as the GWA's working capital fund (a requirement of the bond indenture agreement). GWA must be directed to provide the public (as a part of the petition) all documents pertaining to this matter, i.e. GWA's request to USEPA, USEPA's approval and denial of their request, the bond indenture agreement which contained a requirement for a working capital for emergencies. The public has a right to review these documents which were mentioned in th rate increase petition. We also questioned the statement that although there is a legal requirement to have this fund fully funded, the CCU has only authorized GWA to petition for \$2 million per year over affordability concerns. Can the CCU authorize a violation of a legal requirement? Should the PUC participate and be a party to a violation of a legal requirement?
11. Question #15. Mr Wiegand's answer to question #15 is not current. He gave the status of the Operation and Maintenance Fund as of September 30, 2006. He did not provide the current status of the fund. In addition, he stated that GWA is requesting permission from the PUC to authorize the transfer of the funds in the Rate Stabilization Trust Account into the Operation and Maintenance Fund. PUC must recognize that CCU Resolution No. 06-FY 2007 did not authorize Mr Wiegand to petition the PUC for transfer of funds. The PUC should not act on the transfer request.
12. Question #16. Again Mr Wiegand's answer to the question is ridiculous. GWA should have

at ch 2

- adopted a policy regarding its target for working cash on hand. It is unimportant what Fitch Ratings Service recommends as targets. Mr Wiegand failed to answer the question "what is GWA's target for working cash on hand?". He should be directed to respond to the question.
13. Question #17. Mr Wiegand again failed to answer the question. He failed to provide the GWA plan to improve its bond rating.
 14. Question #18. Again, Mr Wiegand's answer to the question is misleading and useless. The correct answer is that GWA's recent track record with base rate increases before the PUC is inadequate and unsatisfactory. He admitted that GWA's filings have not been as complete and comprehensive. The current petition for rate increase and transfer of funds further illustrated the problem. He also made misleading and useless statement that prior to the CCU assuming governance of GWA in 2003, GWA never petitioned the PUC for a rate increase. PUC has the correct information. The truth is that prior to the CCU governance of GWA, its management petitioned and received rate increases from the PUC. It appears that Mr Wiegand does not fully understand PUC filing requirements. GWA should retain the services of Mr Bruce Pecon. Mr Pecon is an expert on PUC filings. A current PUC commissioner was employed by former Senator Brown as well as Mr Ben Gumataotao, now Piti mayor. Ben was a former PUC commissioner. Both were present in PUC meetings prior to 2003. Both heard the oral testimonies of Senator Brown wherein she objected to rate increase petitions by GWA.
 15. Question #19. Mr Wiegand did not provide an exhibit with the petition on how he arrived at a debt service coverage ratio of 1.64x. The public needs to know how he arrived at this ratio.
 16. Question #20. Again, the answer to the question is incomplete. GWA purchases water from the Navy and Air Force. GWA stopped purchasing water from Earth Tech since March 2006. He failed to provide any significant events regarding water purchases from the Navy and Air Force. Instead, Mr Wiegand stated that the purchase of the Earth Tech contract will reduce the amount paid by GWA for the purchase of water from outside sources. Mr Wiegand failed to provide evidence (an exhibit) that (a) GWA is purchasing less water from the Navy and Air Force, and (b) that the cost of producing the water by GWA is less than the cost of the water purchases under Earth Tech contract. He did not report any significant events. It is quite possible that it is cheaper to purchase water from the Air Force, Navy and previously from Earth Tech than for GWA to produce the same volume of water.
 17. Question #21. Again, Mr Wiegand failed to explain clearly the GWA's self insurance program. Instead, he just copied the contents of Section 6.06(A) and © of the bond indenture. It appears that the accurate response is that GWA does not have a self-insurance in place. It should be noted that FEMA has a requirement for GWA to have insurance. Otherwise, future typhoon damages may not be covered by FEMA.
 18. Question 22. The answer to the question is incomplete. Refer to Mr Wiegand's Addendum to Testimony (attached to the rate increase petition). The Addendum to Testimony clearly showed that there are significant problems with the Performance Management Contract of the wastewater systems. These significant problems should be addressed by the PUC. GWA should return all of the employees back to the waste water division and these employees should be managed by the Veolia Water Company. GWA should not be allowed to violate the bid processes. The Public Utilities Commission should not approve any rate increase to fund for the errors of GWA.
 19. Question #23. Mr Wiegand said that GWA is assuming all of its working capital accounts such as accounts receivable and accounts payable will remain flat during the test year (2007). PUC must secure more information on this assumption and the information should be made available to the public. It is difficult to accept that all of its working capital accounts will remain flat in 2007.

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FINANCIAL PLAN & COMPLIANCE SCHEDULES

In Response to

USEPA Consent Order

USEPA Docket CWA-402-9-01-19

Submitted By:

Guam Waterworks Authority

January 31, 2002
January 31, 2002

adcl 3



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION IX
 75 Hawthorne Street
 San Francisco, CA 94105

CWA 402-9-01-19
 9-01-19

In Reply Refer to: CWA-402-9-01-19
 Mail Code: CMD-5
 Certified Mail: P 243 065 252

1 2 1 5 201

Herbert J. Johnston, Jr.
 General Manager
 Guam Waterworks Authority
 P.O. Box 3010
 Hagatna, Guam 96932



Dear Mr. Johnston:

Please find enclosed, for your and Governor Gutierrez's signature, an Administrative Order on Consent (Order) pursuant to Sections 308 and 309 of the Clean Water Act (the "Act"), as amended [33 U.S.C. Sections 1318 and 1319], for the Guam Waterworks Authority's (GWA), Agana, Agat, Baza Gardens, Commercial Port, Northern District and Umatac-Merizo sewage collection, treatment and disposal facilities. The enclosed Order relates to all of the above referenced GWA facilities and their inability to comply with water quality based effluent limitations and other requirements of their respective National Pollutant Discharge Elimination System (NPDES) permits and Section 301(a) of the Act [33 U.S.C. Section 1311(a)].

The above mentioned GWA facilities have not been able to comply with terms of their respective NPDES permits and have experienced frequent sewage overflows from their collection and conveyance systems. NPDES permit effluent violations have primarily been related to biochemical oxygen demand, suspended solids, settleable solids, and bacterial indicator organisms. GWA has also not been able to routinely perform required NPDES permit effluent and receiving water monitoring requirements. GWA's collection and conveyance system has experienced frequent sewage overflows since 1997 which increased in significance since 1999. The Order's Finding of Violation lists the NPDES permit violations for the above-referenced GWA facilities and reported sewage overflows.

This Order requires that GWA submit a financial plan to secure funding for capital, operational and maintenance costs necessary to bring GWA's collection, treatment and disposal systems into compliance with NPDES permit requirements and the Clean Water Act. GWA is to submit compliance schedules for its facilities, perform treatment system evaluations, assess its collection and conveyance system, and develop and implement a preventive maintenance and a O&M training program. In addition, under the Order, GWA is to comply with compliance schedules as established in Appendix A.

This Order is entered into voluntarily and becomes effective upon signature of all parties. Upon signature, please provide us with a signed copy. Your response is requested within 30 days of receipt.

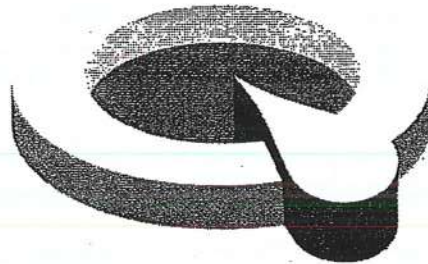
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QualServe™ Report of Peer Review

Prepared for

Guam Waterworks Authority

November 21, 2002



QUALSERVE



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Transmittal Letter

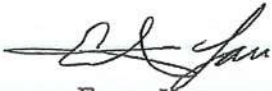
We would like to express our sincere appreciation to the people at the Guam Waterworks Authority who helped us understand the workings and accomplishments of their joint water/wastewater utility. Your cooperation with helping us to prepare for this review and the kindness and energy you have displayed while we visited your facilities made our task enjoyable. We have learned a great deal that will benefit us in our work, and trust that our discussions and this report will help you achieve your goals and contribute to your continued success. The residents of Guam are fortunate to have a knowledgeable and dedicated staff operating their facilities and searching for affordable opportunities to provide superior service.

Thank you for providing us with the documentation we used to prepare for our visit. That background information, coupled with your self-assessment report and the insights we gained through interviews and facilities visits has helped us to shape a broad understanding of your utility and the methodologies you apply in your daily work. We hope that in considering and applying this information, we have not misunderstood, omitted, or misrepresented anything of significance. Our goal has been to understand how you accomplish your work, how decisions are made, and whether practices at Guam Waterworks Authority are consistent with those at other high achieving North American water and wastewater utilities.

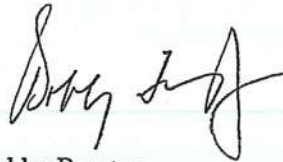
We have organized our review around the standard QualServe business process categories. These are the same as those used in the framework for the QualServe self-assessment survey.

We believe it is important that you have this report in hand before we travel home. Once we return to our own utilities, it will be difficult for our team to assemble and continue deliberations with the freshness of information and degree of focus that we have applied in preparation for our visit and over the few days we have spent with you on site. Our comments are necessarily succinct. They highlight observable strengths and areas where we believe you might benefit from additional study and action. If there are specifics that are unclear, or topics that you would like to discuss with a member of the team, we welcome your call.

Sincerely,



Ernest Lau
Manager & Chief Engineer
Dept. of Water, County of Kauai



Bobby Praytor
Manager, Planning Division
Dallas Water Utilities



David Craddick
Director
Maui County Board of Water Supply



Edward H. McCormick
Manager of Support Services
East Bay Municipal Utility District



Jon DeBoer
Peer Team Facilitator

Capital Improvement Program

Guam Waterworks Authority

Strengths

- + There are facility master plans for both water and wastewater that identify projects that are needed.
- + Water and wastewater projects are prioritized on a systematic manner.
- + USEPA Consent Order (Docket CWA-402-9-01-19, January 31, 2002) identifies high priority projects needed to ensure compliance with federal laws.
- + GWA has obtained federal grants for CIP projects and appears well positioned to obtain more grants.
- + GWA has engineering staff to work on CIP water and wastewater projects.

Opportunities for Improvement

- O Implement CIP projects specified in USEPA Consent Order (CWA-402-9-01-19, January 31, 2002). If funds are presently unavailable, proceed to develop Scope of Work for each project anyway.
- O Expedite implementation of projects already funded by USEPA.
- O Establish reliable funding sources to ensure implementation of the capital programs.
- O Consolidate and update water and wastewater facility plans into a single 20-year plan that also identifies projects that address CIP (capacity of growth), capital replacement (aging infrastructure), and repair and maintenance.
- O Involve early on both water and wastewater operations staff in the identification of CIP projects and scope of work definition.
- O Evaluate system rehabilitation/replacement needs in the long term program. Involve both water and wastewater operations.
- O Evaluate the utility's internal staff capacity to deliver the capital program, on-time and on-budget.
- O Nearing design capacity of several plants, so GWA needs to begin planning for wastewater plant capacity upgrades.

FRANCISCO S.N. FLORES

August 1, 2007

Chairman & Board Members
Consolidated Commission on Utilities
Hagåtña, Guam 96910

Mr. Chairman & Board Members:

PDN published that average rate increase is \$4.00 per consumer. GWA collects approximately \$400,000 per month. If the 14% requested by GWA is implemented, the \$4.00 rate increases to almost \$7.00 per customer on a monthly basis.

I agree that increase is inevitable for operational expenses and payment of borrowed money, but 14% is just too excessive

Thank you for the opportunity to contribute my comments during our meeting tonight.

Sincerely,


FRANCISCO S.N. FLORES
Consumer

Lou Palomo

From: "Hernandz Manuyel R." <Tiko55-61@msn.com>
To: <info@guampuc.com>
Sent: Monday, July 30, 2007 7:53 PM
Subject: Guam PUC Contact

Name: Hernandz Manuyel R.

Email: Tiko55-61@msn.com

Village: Toto, Barrigada

Comments: Before increasment of water utilities, the question should ask oursefs is that would the citizens of Guam can afford this outrage of increasment. Lets increase the people income, so that they can afford this increasment. Secondly, why can the PUC come up with a solution, to channel the falls in some type of a utility pump, to were the water current creates its powerto energies water supply. It works in other country, I do not see why it should not work there. Thank you for allowing me to voice my suggestion. Sincerly, Manny

Lou Palomo

From: "Tony C. Aguon" <taguon1@gmail.com>
To: <info@guampuc.com>
Sent: Sunday, July 01, 2007 6:28 PM
Subject: Guam PUC Contact

Name: Tony C. Aguon

Email: taguon1@gmail.com

Village: Yona

Comments: Today, I received a letter in the mail from the Guam Waterworks Authority (GWA), dated 6/25/07, concerning their petition for a rate increase to 14.24%. Please accept this as a formal opposition to their efforts. Ratepayers should not have to pay for mismanagement of government services. I currently work for the government and I will attest that many services in the government of Guam is mismanaged. Therefore, because of the lack of adequate leadership by both our politicians and GWA management, ratepayers should not have to pay for any rate increases. Thank you and please deliver this message to the PUC for testimony. If they have any questions, please have them contact me at this e-mail address or call me at 483-5662.

Sincerely,

Tony C. Aguon

Lou Palomo

From: "cc" <ccepeda@guam.net>
To: <info@guampuc.com>
Sent: Monday, July 30, 2007 2:34 PM
Subject: Guam PUC Contact

Name: cc

Email: ccepeda@guam.net

Village: Yigo

Comments: I would not mind the increase if we had reliable water now. I have lived in the "land trust" area outside the front gate of Anderson for 5 years and we have always had low or no water. When we call we're told that we are the only ones to make a call. This I know is false because I talk to my neighbors. We have 2 inch pipes and were told by GWA that we would be getting 6 inch pipes. That was 3 years ago and we still have not seen any progress. I also do not feel that we should bear the burden of paying for an aging system. That's why we pay taxes. If the money is not being used as it's supposed to, than we shoould let the Governor bear the burden.

Testimony of John AB Pangelinan
Against the Proposed Rate Increase of 14% As Is

Board Chairperson and members of the Public Utility Commission, thank you for providing me this opportunity to provide testimony against this proposal rate increase of 14%.

I am against this proposed rate increase because for the pass few years I have seen these requests made almost every six months, and passed with the understanding that their passing would provide the cash revenues needed to pay for the bond indenture that Guam Water Works (GWA) had made several years ago. Firstly previous rate proposals were passed solely on faith which was based the needs of the system. And I believe improvements have been made that merits these increases; but how long must we continue to have these rate increases? If each rate increase that I have observed is passed to satisfy the current bond payments of GWA, then why do we need to continue to have rate increases every six months? If debt payment fluctuates that drastically each year, then a review should be made to determine reasons for the vast disparity from year to year? If rate increases are made to supplement the operations of GWA, then a review of their operational budget should be made to understand why there is a need to increase the rates every six months. Did not previous rate increases passed by this PUC utilized for operations and bond payments? If so should these rates be sufficient to cover operational needs now.

Several months had passed when I first testified against a rate increase of 11%. I had addressed the Consolidated Commission on Utilities on this issue because the Commission noted that the 11% rate increase was best rate that can be proposed at that time. My argument against the 11% rate was that it was based solely on residential

charges. GWA, when proposing the increase, did not consider augmenting its revenue stream with federal dollars. There were no federal dollars requested to help fund the infrastructure that GWA badly needed for its water system. The objective of my argument is that GWA needed to look at other source funding as a means to augment the funding needs of GWA so that a proposed rate increases can be averted or lower to a minimum amount. The Consolidated Commission on Utilities responded to my testimony as follows:

- We are looking for a good grant writer.
- We need to get some one to work on grants.
- There are few people out in the market place who can write grant applications.
- GWA does not want to supplement local revenues with federal grant dollars because of the bond indenture and the inconsistency with federal funding.

I believe that this apathy to use federal dollars to augment the funding needs of GWA still persist today. GWA is relying solely on the community to pay for the bond indenture via rate increase rather than seek alternate funding sources such as the federal government. GWA has this master plan that supposedly reflects projects that are to be completed each year. If such a plan exists, then projects have already been identified that could be funded using federal grants. I am not seeking federal funding in the hundreds of million but if such funding is available, we then should take advantage of such programs. What I am seeking are small projects or a portion of the water system that could be funded in multiples of one or two millions for each project. One project of \$1 Million may not be significant but if we have five projects, each estimated at \$1 Million, then the impact would be \$5 Million in aggregate funding from the federal government. I believe this aggregate funding would equal the rate increase that was proposed at that time. But GWA and the Consolidated Commission on Utilities have decided to do otherwise at the expense of the community.

If the PUC plans on approving GWA's request for the propose rate increase of 14%, which is supported by the Consolidated Commission on Utilities, then such rate approval

should be tied to benchmarks that have been earmarked for accomplishment during the year. Such benchmarks must include an active plan by GWA to seek other sources of funding for its master plan so that rates increases can be minimized or prevented each year. If identified benchmarks are not met, GWA does not get the next rate increase.

Lastly, I believe that GWA with the support of the Consolidated Commission on Utilities have done a great job at providing water to the community. My residence is in the UOG area of Mangilao and I have gone through the hardships of not having water on a normal basis. Today, we have water, lots of water. But I still need to know that GWA and the Consolidated Commission on Utilities have done their *fiduciary best efforts* to keep water and sewer rates low and this I have not seen to date.

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

GUAM WATERWORKS AUTHORITY
PETITION FOR RATE RELIEF

DOCKET 07-4



FY07 RATE ORDER

Background

On June 13, 2007 Guam Waterworks Authority [GWA] petitioned the Guam Public Utilities Commission [PUC] for an average 16.55% rate increase¹ on base rates, excluding lifeline and surcharge revenues². On May 9, 2007 PUC's independent regulatory consultant Georgetown Consultant Group [GCG] filed its report concerning the rate petition. In its report GCG supports the GWA petition. On July 18, 2007 GCG and GWA filed a stipulation [Stipulation], which presents a joint position in support of the petition and other issues. The Stipulation is made *Attachment A* to this order.

On July 31, 2007 and August 1, 2007, PUC conducted three duly noticed public hearings on GWA's petition pursuant to the requirements of 12 GCA § 12016. The public comments made at these hearings are summarized in the August 9, 2007 report of PUC's administrative law judge [ALJ]. After carefully considering the Stipulation, the record herein and ALJ's report, for good cause shown and on motion duly made, seconded and carried by the affirmative vote of the undersigned commissioners, PUC makes the following determinations:

Determinations

1. GWA has complied with the requirements of the Ratepayer's Bill of Rights in this docket.
2. The Rate Stabilization Plan, which was established by PUC's October 14, 2004 Rate Order in Docket 04-1 has served its purpose as a reservoir for rate increase revenues during the term of the Interim Financial Plan. This

¹ In its petition GWA incorrectly states that its requested increase is 14.24%, which would be correct if the increase applied to lifeline rates. As GWA has not requested that the increase apply to lifeline rates, the correct amount of increase for which GWA petitioned is 16.55%.

² On May 11, 2007, PUC administrative law judge dismissed GWA's first petition for rate relief dated March 30, 2007 upon finding that GWA had failed to comply with the pre-filing notice requirements of 12 GCA § 12001.2. After satisfying this requirement, GWA refilled its petition with PUC on June 13, 2007.

Plan has now expired. Accordingly, GWA should be authorized to withdraw and utilize the Plan's fund balance consistent with bond covenant requirements.

3. PUC's February 2, 2006 Rate Order in Docket 05-5 directed that future rate proceedings, commencing with the instant rate proceeding, would be conducted within the context of the Final Financial Plan, which under section 30 of the Stipulated Order³ GWA was ordered to finalize and submit with PUC for review and approval during FY06. The Stipulated Order requires that the Plan include a restructured user fee system and a system development charge. GWA has failed submit this Plan for review pursuant to the requirements of the Stipulated Order. GWA should be ordered to make this filing, which will require prefiling notice pursuant to 12 GCA § 12001.2[b], as part of its next rate petition.
4. 12 GCA § 12001.2[d] requires that in each GWA rate proceeding, PUC consider the results of an annual staffing study of GWA, which PUC is required to conduct under this statute. As part of its deliberations in this proceeding, PUC has considered GCG's January 15, 2007 report on GWA staffing patterns.⁴
5. The recommendations contained in the Stipulation should be approved. The award of an average 16.55% increase in current rates, excluding the surcharges and lifeline rates, is just and reasonable. The specific increase on each GWA rate is set forth in *Attachment B* to this Order.
6. The Tiyan interim rates should be increased as set forth in Attachment B. These interim rates should be converted to permanent rates within two years of the date of this Order, with regulatory oversight of a reconciliation of bills and usage as part of this conversion process.
7. GWA's testimony satisfies the requirement of 12 GCA § 14112 that in any rate proceeding it shall establish that there is a community benefit and public need for the services, which are subject to the rate increase.
8. Public testimony during the rate hearings emphasized the importance of regulatory oversight of GWA efforts to maximize revenues. Specific

³ Stipulated Order For Preliminary Relief, as amended, in United States District Court – Territory of Guam No. 02-35 [*USA v. Guam Waterworks Authority and Government of Guam*].

⁴ Notice of this GWA staffing pattern report was published in the PDN on February 8, 2007 in accordance with in accordance with the requirements of section 12001.2[d].

concern was expressed over: a] lost revenue and expenses related to GWA's 50% system water loss; b] GWA's failure to establish a system development charge; and c] its failure to meet revenue targets for new meters⁵. Public concern was also raised that: a] GWA is violating the requirements of 12 GCA § 12026 regarding estimated billings; and b] GWA is not maximizing opportunities to obtain Federal grants. GCG should be directed under ALJ oversight to study and report on these public concerns in advance of the October 2007 regulatory session.

9. In furtherance of the Stipulation, GWA should be ordered on or before September 15, 2007 to file: a] a report, which fully describes any deficiency in the OMRRR⁶ Fund balance and any other fund balance as well as a plan to remedy such deficiencies; and b] an opinion from bond counsel, which clarifies the flow of funds requirements under GWA's bond indenture.
10. GWA has failed to petition PUC under 12 GCA § 12015.3 for review and approval of rates for the beneficial use of water obtained by private water well operators. GCG should be directed under ALJ oversight to examine and submit a report, with recommendations on this regulatory issue, for PUC consideration during the October 2007 regulatory session.
11. The record suggests that there are conflicts between GWA's rules and regulations and its practice of charging customers for installation of new meters. ALJ should be authorized and directed to conduct regulatory proceedings to examine these asserted conflicts in preparation for PUC consideration of the issue during the October 2007 regulatory session.

Ordering Provisions

After careful review and consideration of the above determinations, the report and recommendations of its ALJ, the Stipulation and record herein, for good cause shown, on motion duly made, seconded and carried by the undersigned commissioners, the Guam Public Utilities Commission **HEREBY ORDERS THAT:**

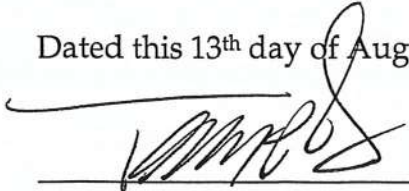
1. All rulings and orders of the ALJ during the course of this proceeding are confirmed and ratified. All motions not heretofore granted or denied are denied. No other matters currently require discussion.

⁵GCG shared this concern in its May 9, 2007 report [at page 10].

⁶OMRRR means the Operation and Maintenance Renovation Replacement Reserve Fund mandated by Article V of GWA's bond indenture.

2. A 16.55% rate increase on current base rates [excluding surcharges and lifeline rates], as set forth in Attachment B, is hereby awarded for services rendered on and after the date of this Order.
3. GWA is authorized to withdraw and utilize the fund balance in the Rate Stabilization Fund consistent with bond covenant requirements.
4. GWA shall file with PUC its Final Financial Plan, including proposed restructured user fees and a system development charge in conformance with the requirements of Section 30 of the Stipulated Order, not later than the filing of its next rate petition.
5. The interim Tiyan rates, as approved by PUC's September 28, 2006 order in Docket 05-5, shall be converted to permanent rates within two years of the date of this order. ALJ is authorized and directed to oversee regulatory proceedings to reconcile interim Tiyan bills and usage as part of this conversion process.
6. ALJ is authorized and directed to oversee the following regulatory activities in preparation for the October 2007 regulatory session:
 - a. GCG's review and report on the public concerns described in determination 8 above and on the scope and process for establishing rates for private water well operators.
 - b. GCG's review of asserted conflicts between GWA's rules and regulations and its practice of charging new customers for the installation of new water meters.
7. On or before September 15, 2007 GWA shall file a report, which fully describes any deficiency in its OMRRR Fund balance and any other fund balance and a plan for remedying any such deficiencies and an opinion from bond counsel, which clarifies the flow of funds requirements under its bond indenture.
8. GWA shall pay for PUC's expenses, including without limitation, consulting and counsel fees and expenses and the expenses of conducting the hearing process.

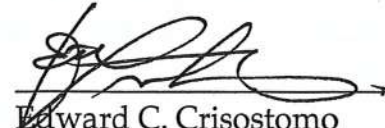
Dated this 13th day of August 2007.



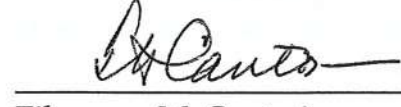
Terrence M. Brooks



Joseph M. McDonald

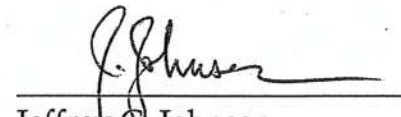


Edward C. Crisostomo



Filomena M. Cantoria

Rowena E. Perez



Jeffrey C. Johnson



**BEFORE THE
PUBLIC UTILITIES COMMISSION OF GUAM**

**PETITION OF GUAM)
WATERWORKS AUTHORITY FOR)
RATE RELIEF)
)
)
)**

**DOCKET 07-04
STIPULATION**

The **GUAM WATERWORKS AUTHORITY** ("GWA") and **GEORGETOWN CONSULTING GROUP, INC.** ("GCG"), which serves as independent regulatory consultant to the **GUAM PUBLIC UTILITIES COMMISSION** ("PUC"), hereby enter into this evidentiary stipulation and make the following recommendations to the PUC for its consideration:

1. GWA has petitioned the PUC for an increase in its rates that would, if granted, produce additional revenues of \$5,968,974, as shown on the GWA exhibits filed on June 13, 2007 and Exhibit A to the Testimony of Jamshed K. Madan, filed herein on May 9, 2007, Schedule 1, line 51.
2. GWA's revenue request is driven primarily, but not exclusively, by the following factors:
 - a. The need to provide additional revenues to meet the debt service requirements under GWA's revenue bonds. This debt service requirement has not previously been recognized by the PUC in GWA's rates. The annual debt service is \$7.705 million, with payments of both principal and interest having commenced on July 1, 2007.
 - b. The need to increase the amounts contained in reserve funds that GWA is required to maintain under its 2005 Series Bond Indenture and under the Stipulated Order in District Court of Guam Civil Case No. 02-00035, as amended (the "Stipulated Order").
3. GWA has not requested in this rate proceeding the full amount of revenues required to provide for the full elimination of projected deficiencies in certain of its reserve funds. Despite the revenue increase sought in this proceeding, a significant deficiency in the Operation and Maintenance Renovation Replacement Reserve Fund ("OMRRR Fund") is projected to remain. While the full debt service and the requirement of the OMRRR Fund are taken into account in the details of the cash flow shown on the revenue requirement schedules and described in the testimony of Randall Wiegand, GWA's witness, the full

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requirement of the O&M Fund, which GWA estimates requires \$5.9¹ million to be in compliance with the bond indenture, was not included by GWA in its revenue requirements. This was due to a policy decision by the Consolidated Commission on Utilities ("CCU") that GWA's ratepayers should not be additionally burdened by a rate increase greater than what GWA has requested. As a result, it appears that even if the revenues requested by GWA are granted in full by the PUC, the result will be that the OMRRR Fund will most likely not be at the level required by GWA's bond indenture, as discussed in the testimony of Mr. Wiegand.²

4. The bond indenture requirements are clearly a legal obligation of GWA, which the PUC is required to provide sufficient revenues to cover. GWA has sought the permission of the United States Environmental Protection Agency to use the Stipulated Order Reserve Fund and the Bond Indenture Reserve Fund interchangeably. The USEPA tentatively agreed to GWA's request, although it has yet to formally provide GWA with a formal written response to GWA's request. As a result, GWA agrees to provide a report to the PUC which will fully describe any deficiency in the OMRRR Fund and any other fund balance, as well as specific actions GWA proposes to remedy such deficiencies. GWA will provide its report on this issue not later than September 15, 2007, which report will include an opinion from bond Counsel as to the flow of funds under the Indenture.
5. The pro-forma balance in the OMRRR Fund is computed to be below the amount required by the bond indenture and, possibly, the Stipulated Order requirements. While GCG believes that there are significant adjustments that could be made to the case filed by GWA, the adjustments that could be recommended by GCG would not result in a situation where the projected deficiencies in the required bond indenture funds are all cured. GWA and GCG, therefore, recommend that the entire \$5.9 million rate relief requested by GWA be approved, rather than reducing the rate request by the amount of any possible adjustments that GCG might otherwise recommend. Recommendations as to how this increase should be collected are summarized below.
6. It is recommended that the increased revenues approved by the PUC be implemented by an across the board increase that excludes both the lifeline revenues and the surcharge revenues. The percentage increase on the remaining base rates would be 16.55% as computed by GWA and results in the proposed rates as filed by GWA in this Docket (**GCG Exhibit B1, pages 1-5**). In the event that the PUC does not wish to exclude lifeline revenues in this proceeding from a rate increase, there would be a 14.24% increase on all base rates excluding only the surcharge revenues and fire hydrants (**GCG Exhibit B2, pages 6-10**).

¹ GWA Exhibit C.

² Testimony of RV Wiegand, page 13.

7. The Tiyan interim rate should continue as adjusted by the PUC decision in this rate case (See GCG Exhibit B1) and to the extent possible a full reconciliation of the bills and usage should be performed at the sunset of this billing provision. GCG testified³ the situation is very complicated, but both GCG and GWA agree that in no event shall this situation continue beyond two years from the PUC decision in this Docket. It is agreed that GWA is not limited in any way to make any request with regard to the Tiyan rates and reconciliation of existing estimated rates in the next base rate case proceeding, but will affirmatively address this issue in its filing.

8. The ALJ required that GWA address an alleged conflict between the rules and regulations and the practice of charging new customers for installation of meters in its rate filing in this Docket.⁴ GWA agrees to review its current tariff, rate schedules and rules and regulations to review whether there is any inconsistency or ambiguity regarding customer payments for installation of equipment required for new service and if so to propose an appropriate solution and process to remedy the situation. GWA agrees that it will take the matter to the Consolidated Commission on Utilities for their consideration and disposition and that GWA will provide a report no later than September 15, 2007 on the issue of customer payments for installment of equipment required for new service.

**GEORGETOWN CONSULTING
GROUP, INC.**


By: **BLAIR STERLING JOHNSON
MARTINEZ & LEON GUERRERO**
A PROFESSIONAL CORPORATION

DATED: JULY 18, 2007

By: 
WILLIAM J. BLAIR
Attorneys for Georgetown Consulting Group, Inc.

GUAM WATERWORKS AUTHORITY

DATED: JULY 18, 2007

By: 
SAMUEL J. TAYLOR
Attorney for Guam Waterworks Authority

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G:\WORDDOC\GCG\PLD\134-GWA STIPULATION RE RATE RELIEF (DOCKET 07-04).DOC

³ Testimony of Georgetown Consulting Group, May 2007, page s 24-26.

⁴ HMB Letter to David R. Craddick and Jamshed K Madan, February 2, 2007.

RECOMMENDED RATES ACROSS THE BOARD
EXCEPT LIFELINE AND SURCHARGES

TARIFF SHEET

FOR WATER/SEWER RATES EFFECTIVE June 1, 2007

The Guam Waterworks Authority (GWA) Rate Schedule provided herewith went into effect for the billing cycle beginning on June 01, 2007 pursuant to the Public Utilities Commission's Decision and Order dated February 02, 2006.

WATER RESIDENTIAL WATER

Meter Size	Basic Water Charge	Lifeline Water Consumption Per K/Gal for Less than 5000 Gallons	Water Consumption Per K/Gal for Greater Than 5000 Gallons
3/4"	8.69	2.40	4.14
1"	10.15	2.40	4.14
1 1/2"	15.93	2.40	4.14
2"	20.29	2.40	4.14
3"	36.24	2.40	4.14
4"	50.72	2.40	4.14
6"	94.20	2.40	4.14
8"	137.68	2.40	4.14
10"	188.41	2.40	4.14
12"	224.63	2.40	4.14

COMMERCIAL & GOVERNMENT WATER

Meter Size	Basic Water Charge	Water Consumption Per K/GAL
3/4"	8.69	5.15
1"	10.15	5.15
1 1/2"	15.93	5.15
2"	20.29	5.15
3"	36.24	5.15
4"	50.72	5.15
6"	94.20	5.15
8"	137.68	5.15
10"	188.41	5.15
12"	224.63	5.15

**RECOMMENDED RATES ACROSS THE BOARD
EXCEPT LIFELINE AND SURCHARGES**

AGRICULTURE & IRRIGATION WATER

Meter Size	Basic Water Charge	Water Consumption Per K/GAL
3/4"	8.69	1.71
1"	10.15	1.71
1 1/2"	15.93	1.71
2"	20.29	1.71
3"	36.24	1.71
4"	50.72	1.71
6"	94.20	1.71
8"	137.68	1.71
10"	188.41	1.71
12"	224.63	1.71

WASTEWATER

Sewer Rates	Rate
Residential (flat Monthly Rate)	22.00
Commercial 1 (per 1000 gallons*)	2.83
Commercial 2 (per 1000 gallons*)	6.91
Commercial 3 (per 1000 gallons*)	9.58
Government and Federal (per 1000 gallons*)	4.05

*Rates applied to 80% of water consumption.

SURCHARGES

GPA/Navy 2001 SURCHARGE: A rate of **8.03%** of the non-lifeline portion of bills for all customer classes established for the purpose of paying arrearages owed by GWA to the Guam Power Authority, the United States Navy, and the Public Utilities Commission

SUPPLEMENTAL ANNUITY SURCHARGE: A rate of **3.49%** of the non-lifeline portion of bills for all customer classes and types established for the purpose of allowing GWA to recover costs assessed by the Guam Legislature for the purpose of paying benefits to retirees of the Guam Waterworks Authority and the Public Utility Agency of Guam.

RECOMMENDED RATES ACROSS THE BOARD
EXCEPT LIFELINE AND SURCHARGES

MISCELLANEOUS CHARGES

Description	Meter/Detail	Rate
Service Reconnection	3/4" to 1-1/2" meters	45.00
	2" meter and larger	145.00
Special Reading		15.00
Bill Analysis		10.00
Verification time test		45.00
Bench Test	1 st . Test (w/in one year)	no charge
	3/4" to 1-1/2" meters	85.00
	2" meter and larger	175.00
Fire Hydrant Fee		25.00/month
Bulk Water Sales		\$3.00/kgal
Meter Relocation		at cost
Return Check Charge		30.00
Sewer Connection Permit:	Residential	50.00
	Commercial	at cost
	Government	at cost
Bulk Sewage Dumping	Permit Charge	\$200.00/truck
	Discharge (<5 kgal)	\$25.00/truck
	Discharge (5> kgal)	\$5.00/truck
Meter Installation		at cost
Water Service Deposit	3/4"	32.00
	1"	37.00
	1 1/2"	55.00
	2"	73.00
	3"	123.00
	4"	178.00
	6"	313.00
	8"	378.00
	10"	660.00
	12"	773.00
Sewer Service Deposit	Residential	20.00
	Commercial I	60.00
	Commercial II	650.00
	Commercial III	1,400.00
	Metered Industrial	5,000.00

**RECOMMENDED RATES ACROSS THE BOARD
EXCEPT LIFELINE AND SURCHARGES**

Pressure Reading		25.00
Direct Service (authorized by GWA)	3/4"	60.00
	1"	60.00
	1 1/2"	70.00
	2"	120.00
	3"	180.00
	4"	240.00
	6"	360.00
	8"	480.00
	10"	600.00
	12"	720.00
Illegal Connection	Basic Water Charge	Plus Estimated Water
3/4"	2,500.00	3.00/kgal 5.15 kgal
1"	5,000.00	3.00/kgal 5.15 kgal
1 1/2"	7,000.00	3.00/kgal 5.15 kgal
2"	10,000.00	3.00/kgal 5.15 kgal
3"	12,000.00	3.00/kgal 5.15 kgal
4"	15,000.00	3.00/kgal 5.15 kgal
6"	17,000.00	3.00/kgal 5.15 kgal
8"	20,000.00	3.00/kgal 5.15 kgal
10"	22,500.00	3.00/kgal 5.15 kgal
12"	26,000.00	3.00/kgal 5.15 kgal
Meter Tampering	Penalty	500.00
	Estimated Water Loss	3.00/kgal 5.15 kgal
Illegal Sewage Dumping		500.00

RECOMMENDED RATES ACROSS THE BOARD
EXCEPT LIFELINE AND SURCHARGES

Tiyan Estimated Monthly Bill

Basic Water Charge	\$8.69
Basic Sewer Charge	22.00
Water Usage @ 7,360 Gals	21.76
GPA/Navy Surcharge ¹	1.48
Supplemental Annuity Surcharge ¹	.64
Total Estimated Charge	\$54.57

¹ Applied on Non-Life Usage and Basic Water Charge

RECOMMENDED RATES ACROSS THE BOARD
Except Surcharges

TARIFF SHEET

FOR WATER/SEWER RATES EFFECTIVE June 1, 2007

The Guam Waterworks Authority (GWA) Rate Schedule provided herewith went into effect for the billing cycle beginning on June 01, 2007 pursuant to the Public Utilities Commission's Decision and Order dated ~~February 02, 2006.~~

WATER RESIDENTIAL WATER

Meter Size	Basic Water Charge	Lifeline Water Consumption Per K/Gal for Less than 5000 Gallons	Water Consumption Per K/Gal for Greater Than 5000 Gallons
3/4"	8.52	2.74	4.06
1"	9.95	2.74	4.06
1 1/2"	15.62	2.74	4.06
2"	19.89	2.74	4.06
3"	35.52	2.74	4.06
4"	49.72	2.74	4.06
6"	92.33	2.74	4.06
8"	134.95	2.74	4.06
10"	184.67	2.74	4.06
12"	220.17	2.74	4.06

COMMERCIAL & GOVERNMENT WATER

Meter Size	Basic Water Charge	Water Consumption Per K/GAL
3/4"	8.52	5.05
1"	9.95	5.05
1 1/2"	15.62	5.05
2"	19.89	5.05
3"	35.52	5.05
4"	49.72	5.05
6"	92.33	5.05
8"	134.95	5.05
10"	184.67	5.05
12"	220.17	5.05

RECOMMENDED RATES ACROSS THE BOARD
Except Surcharges

AGRICULTURE & IRRIGATION WATER

Meter Size	Basic Water Charge	Water Consumption Per K/GAL
3/4"	8.52	1.68
1"	9.95	1.68
1 1/2"	15.62	1.68
2"	19.89	1.68
3"	35.52	1.68
4"	49.72	1.68
6"	92.33	1.68
8"	134.95	1.68
10"	184.67	1.68
12"	220.17	1.68

WASTEWATER

Sewer Rates	Rate
Residential (flat Monthly Rate)	25.13
Commercial 1 (per 1000 gallons*)	2.63
Commercial 2 (per 1000 gallons*)	6.41
Commercial 3 (per 1000 gallons*)	8.89
Government and Federal (per 1000 gallons*)	3.76

*Rates applied to 80% of water consumption.

SURCHARGES

GPA/Navy 2001 SURCHARGE: A rate of **8.33%** of the non-lifeline portion of bills for all customer classes established for the purpose of paying arrearages owed by GWA to the Guam Power Authority, the United States Navy, and the Public Utilities Commission

SUPPLEMENTAL ANNUITY SURCHARGE: A rate of **3.62%** of the non-lifeline portion of bills for all customer classes and types established for the purpose of allowing GWA to recover costs assessed by the Guam Legislature for the purpose of paying benefits to retirees of the Guam Waterworks Authority and the Public Utility Agency of Guam.

RECOMMENDED RATES ACROSS THE BOARD
Except Surcharges

MISCELLANEOUS CHARGES

Description	Meter/Detail	Rate
Service Reconnection	3/4" to 1-1/2" meters	45.00
	2" meter and larger	145.00
Special Reading		15.00
Bill Analysis		10.00
Verification time test		45.00
Bench Test	1 st . Test (w/in one year)	no charge
	3/4" to 1-1/2" meters	85.00
	2" meter and larger	175.00
Fire Hydrant Fee		25.00/month
Bulk Water Sales		\$3.00/kgal
Meter Relocation		at cost
Return Check Charge		30.00
Sewer Connection Permit:	Residential	50.00
	Commercial	at cost
	Government	at cost
Bulk Sewage Dumping	Permit Charge	\$200.00/truck
	Discharge (<5 kgal)	\$25.00/truck
	Discharge (5> kgal)	\$5.00/truck
Meter Installation		at cost
Water Service Deposit	3/4"	32.00
	1"	37.00
	1 1/2"	55.00
	2"	73.00
	3"	123.00
	4"	178.00
	6"	313.00
	8"	378.00
	10"	660.00
	12"	773.00
Sewer Service Deposit	Residential	20.00
	Commercial I	60.00
	Commercial II	650.00
	Commercial III	1,400.00
	Metered Industrial	5,000.00

RECOMMENDED RATES ACROSS THE BOARD
Except Surcharges

Pressure Reading		25.00
Direct Service (authorized by GWA)	3/4"	60.00
	1"	60.00
	1 1/2"	70.00
	2"	120.00
	3"	180.00
	4"	240.00
	6"	360.00
	8"	480.00
	10"	600.00
	12"	720.00
Illegal Connection	Basic Water Charge	Plus Estimated Water
3/4"	2,500.00	3.00/kgal 5.15 kgal
1"	5,000.00	3.00/kgal 5.15 kgal
1 1/2"	7,000.00	3.00/kgal 5.15 kgal
2"	10,000.00	3.00/kgal 5.15 kgal
3"	12,000.00	3.00/kgal 5.15 kgal
4"	15,000.00	3.00/kgal 5.15 kgal
6"	17,000.00	3.00/kgal 5.15 kgal
8"	20,000.00	3.00/kgal 5.15 kgal
10"	22,500.00	3.00/kgal 5.15 kgal
12"	26,000.00	3.00/kgal 5.15 kgal
Meter Tampering	Penalty	500.00
	Estimated Water Loss	3.00/kgal 5.15 kgal
Illegal Sewage Dumping		500.00

RECOMMENDED RATES ACROSS THE BOARD
Except Surcharges

Tiyan Estimated Monthly Bill

Basic Water Charge	\$8.52
Basic Sewer Charge	25.13
Water Usage @ 7,360 Gals	23.28
GPA/Navy Surcharge ²	1.51
Supplemental Annuity Surcharge ¹	.65
Total Estimated Charge	\$59.09

² Applied on Non-Life Usage and Basic Water Charge

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



REGULATORY PARTICIPATION
IN COMPLIANCE ACTIVITIES
UNDER CONSENT DECREE IN
FEDERAL DISTRICT COURT OF
GUAM CIVIL CASE 02-22

DOCKET 07-9

Resolution

The Guam Public Utilities Commission [*PUC*] opens a new docket to address its participation in compliance activities by the Government of Guam [*GovGuam*] under the Consent Decree in Federal District Court of Guam Civil Case No. 1-02cv-00022 [*United States of America v. Government of Guam*].

In its February 1, 2007 order in Docket 06-2, PUC, at the request of the office of the Attorney General of Guam, made recommendations regarding institutional changes in the management and operation of GovGuam's solid waste operations to empower it to meet the requirements of the Consent Decree. In that order, PUC pledged, within the scope its enabling legislation, to provide any assistance and to perform any task as may be assigned to it by the District Court under the Consent Decree.

On July 6, 2007, Federal Judge Manibusan issued a Report and Recommendations [*Report*] in the Consent Decree proceeding. Judge Manibusan recommends that PUC, in its capacity as an independent regulatory authority, be ordered by the court to review and approve: a) proposed legislation from GovGuam to convert solid waste management into a public corporation under the Consolidated Commission on Utilities; and b) petitions from the new corporation for: i) revenue bond financing; and ii) a plan for privatizing residential waste collection and billing and collection and for restructuring the new corporation's business relationship with commercial haulers. The Federal court has not yet taken action on Judge Manibusan's report. In his report, Judge Manibusan noted PUC's February 1, 2007 pledge to provide assistance consistent with its role as an independent regulatory body.

On July 23, 2007, Executive Order 2007-09 was promulgated, which designates PUC as a member of the Solid Waste Law Review Commission [*SWLRC*]. The SWLRC is created and tasked by the Executive Order with: a) establishing solid waste management legislative policy; b) drafting legislation to reconstitute the Solid Waste Management Division into an entity that can effectively manage

solid waste management on Guam; and c] preparing a petition and supporting legislation for revenue bond financing for solid waste management requirements. The Executive Order is in direct conflict with the Report¹.

On August 6, 2007 PUC chairman Terrence Brooks, in a letter to Governor Camacho and Speaker Forbes [*copy attached*], expressed concern that PUC's participation in SWLRC activities would conflict with: a] the independent regulatory duties, which Judge Manibusan has recommended that the Federal District Court order PUC to undertake; and b] Guam public policy that a strong public interest is served by maintaining a strong, independent PUC, which is independent of the Executive and Legislative branches².

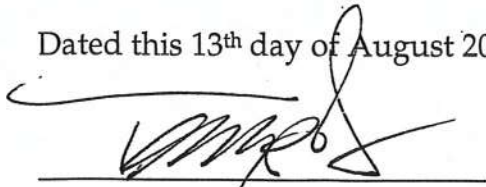
After careful review of the Report, Executive Order 2007-09 and PUC's February 1, 2007 order and after discussion and on motion duly made, seconded and carried by the affirmative vote of the undersigned commissioners, the Guam Public Utilities Commission **RESOLVES THAT:**

1. PUC's participation as a member of the SWLRC would inconsistent with: a] its responsibilities and status under Guam law as an independent regulatory commission: b] its pledge to provide independent regulatory service to the District Court of Guam; and c] Judge Manibusan's recommendation that PUC be ordered to review and approve petitions from GovGuam concerning compliance activities.
2. Consistent with clear Guam public policy for a strong, independent regulatory commission, PUC must respectfully decline to serve on the SWLRC.
3. In the event that the Report is not adopted by the District Court of Guam, then PUC will reconsider this resolution, consistent with its strong interest in contributing its services toward the goal of empowering GovGuam to meet its obligations under the Consent Decree.
4. A copy of this Resolution shall be transmitted to the Governor and to the Speaker of the 29th Guam Legislature.

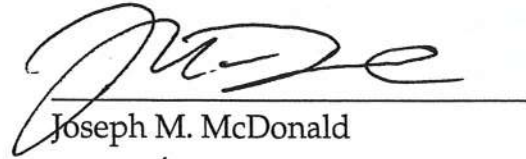
¹ The Executive Order states "*the U.S. District Court of Guam should not determine for the government of Guam what type of entity the Solid Waste Management Division should be converted into...*"

² See Public Law 26-18

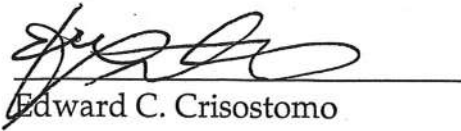
Dated this 13th day of August 2007.



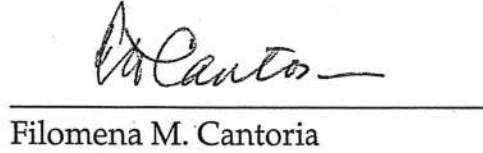
Terrence M. Brooks




Joseph M. McDonald



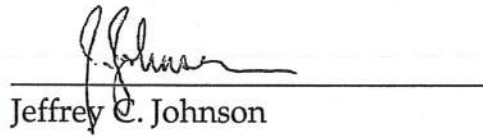
Edward C. Crisostomo



Filomena M. Cantoria



Rowena E. Perez



Jeffrey C. Johnson

**PUBLIC UTILITIES COMMISSION
OF GUAM**

Terrence M. Brooks

Edward C. Crisostomo
Filomena M. Cantoria
Joseph M. McDonald
Rowena E. Perez
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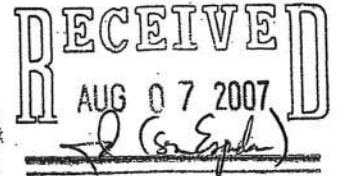
Office of the Speaker
MARK FORBES
Date: 8/7/07
Time: _____
Rec'd by: Jana
Print Name: _____
Harry M. Boertzel
Administrative Law Judge

Lourdes R. Palomo
Administrator

August 6, 2007

VIA HAND DELIVERY

The Honorable Felix P. Camacho
Governor of Guam
Office of the Governor of Guam
P.O. Box 2950
Hagatna, Guam 96932



**RE: EXECUTIVE ORDER 2007-09: SOLID WASTE LAW REVIEW
COMMISSION**

Dear Governor Camacho:

Executive Order 2007-09 designates the Guam Public Utilities Commission [PUC] as a member of the Solid Waste Law Review Commission [SWLRC]. The SWLRC is created and tasked by the Executive Order with: a) establishing solid waste management legislative policy; b) drafting legislation to reconstitute the Solid Waste Management Division into an entity that can effectively manage solid waste management on Guam and c) preparing a petition and supporting legislation for revenue bond financing for solid waste management requirements.

While PUC is respectful and would like to be supportive of the SWLRC's mission, it has serious concerns whether its participation on the SWLRC would compromise the independent regulatory role, which Judge Manibusan has recommended PUC be ordered to assume in his July 6, 2007 Report and Recommendation in Federal District Court of Guam Civil Case No. 1-02cv-00022 [United States of American v. Government of Guam]. In his Report, Judge Manibusan has recommended that the Federal District Court of Guam order PUC, in its capacity as an independent regulatory authority within defendant Government of Guam, to review and approve the very work product, which the SWLRC is tasked with developing under the Executive Order. Judge Manibusan's report recommends that PUC be ordered to review and approve: a) proposed legislation from the Government of Guam to convert solid waste management into a public corporation under the Consolidated Commission on

Utilities; and b] petitions from the new public corporation for: i] revenue bond financing; and ii] a plan for privatizing residential waste collection and billing and collection and for restructuring the new corporation's business relationship with commercial haulers.

The Government of Guam has emphasized, most recently in Public Law 26-18, that *"a strong public interest is served by maintaining a strong, independent Public Utilities Commission of Guam, which is independent of the Executive and Legislative Branches. Federal legislation, which authorized the transfer of the U.S. Navy's electric power assets to the Guam Power Authority under the GPA – Navy customer service agreement, was conditioned on Guam's creation of an independent public utilities commission. Moreover, GPA's bond indenture agreements require the existence of an independent Commission."* Given the strong Guam public policy in maintaining PUC's independent regulatory stature and given Federal Judge Manibusan's recommendation that PUC be ordered to provide independent regulatory services to the Federal District Court of Guam, PUC must carefully examine whether it would be appropriate to participate in the SWLRC's activities.

PUC has scheduled a business meeting for August 13, 2007 to consider this serious matter. PUC will report to you on August 14, 2007 regarding the outcome of this deliberation. Please accept my assurance that PUC remains dedicated to contributing its services toward the goal of empowering the Government of Guam to meet its obligations under the Consent Decree.

Respectfully submitted,



Terrence Brooks
Chairman

Cc: Mark Forbes, Speaker
Senator Jim Espaldon



OFFICE OF THE GOVERNOR
HAGATÑA, GUAM 96913
U.S.A.

EXECUTIVE ORDER NO. 2007-09

**RELATIVE TO ESTABLISHING THE SOLID WASTE LAW REVIEW
COMMISSION WITHIN THE GOVERNMENT OF GUAM AND TO
ESTABLISH COOPERATION WITHIN THE BRANCHES OF THE
GOVERNMENT OF GUAM**

WHEREAS, the Organic Act of Guam provides that *T.M. J. Tahan Gubhan*, Governor of Guam, is tasked with the responsibility of overseeing the health and safety of the people of Guam; and

WHEREAS, U.S. Environmental Protection Agency ("USEPA") has been attempting to get the government of Guam to stop the discharge of leachate from the Ordot Dump since 1986 when it issued an administrative order under the Clean Water Act; and

WHEREAS, within months of taking office, the Administration executed a Consent Decree with the Court in December 2003 in order to start the incremental process of complying with the Clean Water Act, finally closing the Ordot Dump, and constructing a new facility to accept the solid waste of Guam; and

WHEREAS, Ordot Dump continues to pose a threat to public and environmental health and must be closed pursuant to a Consent Decree entered into by the government of Guam, the USEPA, and the United States Department of Justice (U.S. District Court Territory of Guam Civil Case No. 02-00022); and

WHEREAS, the government of Guam will be unable to timely meet the deadline to close the Ordot Dump as contained within the Consent Decree; and

WHEREAS, the government of Guam has faced numerous delays in implementing the mandates of the consent decree resulting from new oversight and regulations by regulatory bodies, shortage of qualified individuals in Solid Waste Management, delays in receiving funding, the unexpected increase in military buildup, the new requirement for extensive hydrological studies, and continued political opposition; and

WHEREAS, U.S. Magistrate Judge heard arguments on the United States of America's Motion to Enforce the Consent Decree and the government of Guam's Motion to Modify the Consent Decree on March 8, 2007; and

WHEREAS, U.S. Magistrate Judge issued his Report and Recommendation on July 6, 2007; and

WHEREAS, the U.S. Magistrate Judge surmised, on page 27 of his recommendation, that a reason why the government of Guam has not given priority to the closure of the Ordot Dump is "that there is currently no mandated legislative policy" in regards to the closure of the Ordot Dump; and



WHEREAS, U.S. Magistrate Judge recommended, on page 27 of his recommendation, that a Law Revision Committee should be created and "shall be tasked with developing a general legislative policy ... with regard to the closure of the Ordot Dump and the construction of a new landfill"; and

WHEREAS, U.S. Magistrate Judge recommended that a legislative review panel consist of:

1. the Governor of Guam or his designated representative;
2. the Speaker of the Guam Legislature or his designated representative;
3. the Attorney General of Guam or her authorized representative;
4. the Director of the Department of Public Works or his authorized representative; and
5. the Chairperson of the PUC or his authorized representative.

WHEREAS, U.S. Magistrate Judge recommended, on page 28 of his recommendation, that the Government of Guam draft "legislation that reconstitutes SWM [the Department of Public Works, Solid Waste Management Division] as a public corporation under the oversight of the Consolidated Commission on Utilities" and "the proposed legislation must also empower and authorize the new public corporation to secure revenue bond financing for Consent Decree Capital projects"; and

WHEREAS, the U.S. District Court of Guam should not determine for the government of Guam what type of entity the Solid Waste Management Division should be converted into, but a Law Review Commission, representing the elected officials of the government of Guam, could help identify how to reform the Department of Public Works Solid Waste Management Division into an entity that can effectively handle all aspects of solid waste management without sacrificing the health and safety of the people of Guam; and

WHEREAS, the Administration does not believe it can force the Guam Legislature or the Guam Attorney General to participate in the Law Review Commission, but respectfully requests their participation to expeditiously address all outstanding solid waste issues; and

WHEREAS, further delays in the closure of the Ordot dump and the opening of a new facility to accept Guam's solid waste will violate Consent Decree timelines, and more importantly impose an unacceptable risk to the health and safety of the people of Guam.

NOW, THEREFORE, I, MICHAEL W. CRUZ, M.D., I Maga'låhan Guåhan, para na'go, Acting Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, do order:

1. **Solid Waste Law Review Commission.** The Solid Waste Law Review Commission is hereby established and shall consist of at least one representative from the following agencies or branches of the government of Guam:

- a. the Governor of Guam or his designated representative;
- b. the Speaker of the Guam Legislature or his designated representative;
- c. the Attorney General of Guam or her designated representative;



- d. the Director of the Guam Environmental Protection Agency or her designated representative;
- e. the Minority Party Leader of the Guam Legislature or her designated representative;
- f. the Director of the Department of Public Works or his designated representative; and
- g. the Chairperson of the PUC or his designated representative.

The Governor of Guam or his designated representative shall chair and preside over the meetings. The above designated individuals shall, in writing directed to the Governor of Guam, acknowledge their participation in the Review Commission or designate their authorized representative within three days of this signing of this order.

The Law Review Commission should meet every two weeks or sooner in order to ensure that the timeliness contained within this Executive Order are met.

The Law Review Commission and DPW shall draft monthly reports on their progress.

2. **Purpose.** The purpose of the Law Review Commission shall be to:

- a. Within 60 days draft legislation to establish the solid waste management legislative policy for the government of Guam. The legislative policy should address the three fundamental issues that have plagued the government of Guam:
 - 1. The closing of Ordol and the plans to stop the escape of leachate;
 - 2. The creation of a new site to receive solid waste; and
 - 3. The waste to energy facility contract that is currently being addressed by the Supreme Court of Guam.
- b. Within 90 days draft legislation that will support a fluid conversion of the Solid Waste Management into an entity that can efficiently manage Solid Waste Management on Guam, while ensuring that the health and safety of the people of Guam will not be adversely affected.
- c. Within 120 days revise the petition and supporting legislation required for revenue bond financing necessary for the financing of solid waste management as may be required.



- d. Review and revise the provisions of Guam Law that relates to Solid Waste Management, with the assistance of the Compiler of Laws, in order to correct the provisions of the law and consolidate the relevant provisions which relate to solid waste management.

SIGNED AND PROMULGATED at Hagåtña, Guam this 29 day of July, 2007.

MICHAEL W. CRUZ, M.D.
Maga'låhen Guåhan, para pa'go
Acting Governor of Guam

COUNTERSIGNED:

MARK FORBES
Segundo na Maga'låhen Guåhan, para pa'go
Acting Lieutenant Governor of Guam

Public Law 26-18

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

Bill No. 55 (LS)
As amended.

Introduced by:

J. F. Ada
K. S. Moylan
M. C. Charfauros
J. M.S. Brown
T. C. Ada
F. B. Aguon, Jr.
E. B. Calvo
F. P. Camacho
Mark Forbes
L. F. Kasperbauer
L. A. Leon Guerrero
V. C. Pangelinan
A. L. G. Santos
A. R. Unpingco
J. T. Won Pat

AN ACT TO AMEND §12002(b) OF TITLE 12 OF THE GUAM CODE
ANNOTATED, RELATIVE TO THE OPERATION OF THE PUBLIC UTILITIES
COMMISSION.

BE ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent.

I Liheslaturan Guåhan finds that a strong public interest is served by maintaining a strong, independent Public Utilities Commission of Guam ("Commission"), which is independent of the Executive and Legislative Branches. Federal legislation, which authorized the transfer of the U.S. Navy's electric power assets to the Guam Power Authority ("GPA") under the GPA – Navy customer service agreement, was conditioned on Guam's creation of an independent public utilities commission. Moreover, GPA's bond indenture agreements require the existence of an independent Commission.

I Liheslaturan Guåhan finds that an essential characteristic of Commission independence is its necessary authority to have direct access to the courts of Guam in order to enforce its regulatory orders and to insure that regulated public utilities comply with requirements of law. Currently, 12 G.C.A. §12002(b) requires that the Commission have the consent of the Attorney General of Guam to institute proceedings in the courts of Guam. This statute specifically provides that, "The Attorney General of Guam shall represent the Commission in litigation concerning the affairs of the Commission, provided that he may delegate this duty to the attorney for the Commission with respect to any such litigation."

The intent of this Act is to provide the Commission with direct access to the courts of Guam. This Act

also gives statutory recognition to the position of the Commission's administrative law judge, which office is already established by regulation in the Commission's rules and regulations.

Section 2. Section 12002(b) of Chapter 12 of Title 12 of the Guam Code Annotated is hereby amended to read as follows:

"(b) The Commission may also appoint an attorney, who shall serve at the pleasure of the Commission and whose duties, which may include service as the Commission's administrative law judge, shall be fixed by the Commission. The attorney, who must have been admitted to practice before the Supreme Court of Guam, shall advise the Commission on all legal matters to which the Commission is legally interested, and may represent the Commission in connection with legal matters before / *Liheslaturan Guåhan*, the courts of Guam, and boards and other agencies of Guam. The Commission is authorized to establish by rule or order that each public utility regulated under this Chapter shall be assessed the costs incurred by the Commission for professional services rendered by the attorney."

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

FOCUSED MANAGEMENT AUDIT
OF DEPARTMENT OF PUBLIC
WORKS' SOLID WASTE MANAGEMENT
DIVISION

DOCKET 06-2



Order

The purpose of this Order is to respond to the Attorney General of Guam's January 24, 2007 request¹ for the Guam Public Utilities Commission's [PUC] position on issues regarding the Government of Guam's [Government] compliance with its obligations as defendant under the *Consent Decree* in District Court of Guam [District Court] Civil Case 02-22 [USA v. Government of Guam]. The Attorney General serves as counsel for the Government in this proceeding. It is PUC's understanding that this Order may serve some purpose in pending enforcement proceedings now before the District Court regarding the *Consent Decree*.

PUC finds itself in the anomalous situation of attempting to regulate the rates of a line department of the Government, which is the defendant in Federal enforcement proceedings. At PUC's direction, its regulatory consultant has conducted two recent audit reviews² of: a] the events and circumstances, which have caused the Government to default in its obligations under the *Consent Decree*; and b] the remedial action, which is necessary to empower the Government to meet its obligations under the *Consent Decree* in a timely manner.

Findings and Recommendations

After careful review of the GCG reports and the record in this docket, including PUC's September 28, 2006 Order and in response to the Attorney General's request, PUC makes the following findings and recommendations, which are

¹ On January 24, 2007 the Attorney General's office [Helen Kennedy, Esq.] requested PUC's position on the following: "a] A list of time frames PUC needs to review and approve any financing as well as contracts relating to the Landfill, Ordot Closure and the Household Hazardous Waste Facility; b] A list of prerequisites [for] accomplishment by DPW before PUC will approve rate increases to cover the construction costs [e.g. changes in legislation]; and c] PUC's position, from the exercise of its powers and duties, as to significant changes in factual or legal circumstance since February 11, 2004, the date the Court entered the *Consent Decree*."

² Georgetown Consulting Group [GCG] Audit Report dated September 2006 and GCG Update Report dated January 5, 2007. The Update Report is enclosed as *Attachment A*.

relevant, both to PUC's ability to discharge its ratemaking responsibilities and to the Government's ability to discharge its responsibilities under the Consent Decree.

1. *Public Corporation.*

Finding. The Solid Waste Division of the Department of Public Works [SWM] is incapable, due to handicaps incident to its status as a line agency³, of billing and collecting the revenue necessary to meet the financial obligation required to fund procurements mandated by the Consent Decree. SWM is also incapable, due to these handicaps, of complying with the Consent Decree operational mandates.

Recommendation: The District Court should order and direct the Government, within 60 days to enact legislation to reconstitute SWM as a public corporation [Corporation] under the oversight of the Consolidated Commission on Utilities [CCU]⁴. This legislation should include the Corporation within the definition of "public utility" in PUC's enabling legislation [12 GCA 12000(a)]. This recommendation reflects the Government's public policy.⁵ GWA's progress under the District Court's October 19, 2006 *Amended Stipulated Order* in Civil Case

³ These handicaps include: a] the fragmentation of operational and governing authority among the Management Team established by Executive Order 2006-12 [*Consent Decree administration*]; the Department of Public Works' director [*solid waste operations*]; the Department of Administration [*billing and financial management*]; the Attorney General's Office [*legal*]; the Governor's office [*policy, revenue transfer authority and contract authority*]; and the Legislature [*policy and appropriation power*]; b] lack of adequate personnel, systems and resources to manage and operate waste collection and landfill duties; c] and rate revenues being subject to appropriation and Executive transfer for other purposes.

⁴ Several benefits would immediately flow from this recommendation: a] governing authority and Decree compliance responsibility would be consolidated in a single commission; b] CCU has proven its ability to secure the revenue bond financing, which is necessary to comply with the Consent Decree; c] CCU has in place a seasoned team of managers, who could be tasked with overseeing the performance of the tasks recommended in this Order; d] CCU could draw upon the legal, financial, managerial and operational resources of sister utilities [*Guam Power Authority [GPA] and Guam Waterworks Authority [GWA]*] and its team of outside consultants in empowering the Corporation to establish itself as a functioning utility - such collaborations are already occurring between GPA and GWA; and e] the Corporation's rate revenues would not be subject to appropriation or executive transfer for unrelated purposes. The key benefits discussed in subparagraphs (b), (c), and (d) above would not be available were the Government to reconstitute SWM as a public corporation with a separate governing board other than CCU.

⁵ Pursuant to 10 GCA 51103(a), the Guam Environmental Protection Agency adopted a 2006 *Solid Waste Management Plan*, which recommends that SWM be re-established as a public corporation under CCU. The Plan was filed with the Legislature on October 2, 2006 pursuant to 10 GCA 51119(a)(1).

02-35 [*USA v. Guam Waterworks Authority*] confirms the wisdom of empowering a public corporation, under CCU's governance, with financing court mandated capital projects with revenue bonds. This successful model should be applied to SWM.

2. Revenue bonding.

Finding. Over the past two years, the Government's financial advisors have consistently advised it that revenue bonds are the most economic and effective means of financing the Government's obligations under the Consent Decree⁶. The Government currently appears to be reconsidering this advice⁷. Financing must be in place before procurements can be finalized for the capital projects mandated by the Consent Decree.

Recommendation. The District Court should order and direct that the legislation, which establishes the Corporation also empower and authorize it to secure revenue bond financing for Consent Decree capital projects⁸. The Court should further direct that the Corporation should: a] within 70 days of its creation petition PUC for approval of the revenue bonds and for the use of bond proceeds⁹ and PUC should act within 70 days on such filing; and b] upon the issuance of PUC's order and with the assistance of the Government's bond counsel, underwriters and financial consultants undertake all reasonable steps necessary to secure revenue bonding as the earliest possible date but in no event later than 120 days after PUC's order. PUC's order should contain customary assurances that the Corporation will be awarded rate relief, which is adequate to enable it to comply with its Indenture obligations.

⁶See DPW's October 2004 *Landfill Financial Plan*, referenced on page 4 of the GCG Update Report [*Attachment A*] and the uniform advice of the Government's financial advisors, as recounted in the Update Report at page 4.

⁷See, the Government of Guam's December 15, 2006 *Response to the United States' Concerns Raised in its Request for a Status Conference* in District Court Civil Case No. 02-22 at pages 8 and 9.

⁸Guam Public Law 28-71, which authorized GWA to secure revenue bond financing, is a model for this proposed legislation.

⁹This recommendation is consistent with the District Court's October 19, 2006 Amended Stipulated Order in *USA v. Guam Waterworks Authority* [Civil Case 02-35] [section 30], which directs that PUC approve GWA's financial plan for complying with the Stipulated Order. In PUC's experience with revenue bond financing for GPA and GWA, bond counsel requests that PUC approve the bond documents, costs of issuance and commit to providing adequate rate revenues to enable the utility to meet Indenture obligations. In addition, PUC under its contract review authority, reviews and approves the proposed use of bond proceeds.

3. *Residential and commercial collection service.*

Finding. The Corporation, under CCU's oversight, must restructure its billing and collection system and stabilize its residential and commercial service. These immediate reforms are essential to normalize the Corporation's revenue stream, which must support its revenue bond obligations.

Recommendation. The District Court should order and direct that the Corporation's enabling legislation should empower it, subject to PUC review and approval: a] to restructure the Corporation's business relationship with the commercial haulers; b] to either privatize its billing and collection or establish a protocol under which GPA would undertake this responsibility; and c] privatize residential collection for the entire island. Within 90 days of its creation, the Corporation should be ordered to file with PUC a petition for approval of procurement documents and plans for implementing these recommendations. PUC should complete its review of this plan within 70 days of its filing.

4. *Consent Decree Projects.*

Finding. The procurement process for the capital projects mandated by the Consent Decree¹⁰ would be substantially expedited by centralizing this responsibility in the Corporation.

Recommendation. The District Court should order that the Corporation's preparation of the Consent Decree procurement documents and regulatory review of the documents¹¹ will track the timeline for regulatory review of the revenue bond financing [*i.e., a petition for regulatory review should be filed within 70 days of corporate creation and PUC action on the petition within 70 days of filing.*]

¹⁰ These procurements include: a] the closure of the Ordot landfill; b] the construction and operation of the Layon landfill; c] the household hazardous waste facility; and d] the collateral procurements to privatize residential collection and billing and collection.

¹¹ PUC by order dated 10/27/05 in Docket 05-9 [*copy enclosed as Attachment B*] has established a protocol for regulatory review and approval of SWM procurements and financial obligations in excess of \$50,000.

5. *SWM Rate Relief.*

Finding. In its October 27, 2005 Rate Order in Docket 05-9, PUC expressed its intent to gradually increase SWM's rates in preparation for what the Government assured PUC was the imminent issuance of revenue bonds. The Government's effort to secure this financing has suffered one delay after another. As a result, Consent Decree related procurements have also stalled without a source of revenues to fund them. SWM's inability to collect more than 50% of its residential billings makes it manifestly unfair to raise the rates of the 50% of residential customers who pay for collection service. Moreover, the exposure of SWM rate revenues to Executive transfer for purposes unrelated to solid waste management also causes PUC serious concern¹². PUC finds these events to be barriers to further ratemaking for SWM.

Recommendation. It is essential that the District Court remove these barriers through the recommendations contained herein in order for Consent Decree compliance to occur.

6. *Layon Landfill Site.*

Finding. PUC does not have in its possession adequate information in order to make specific findings with regard to the status of the Layon landfill site. PUC is informed that the Layon site is not owned by the Government. This presents a substantial barrier to Consent Decree compliance, which must be promptly resolved.

Recommendation. The Corporation should be empowered in its enabling legislation, in the same manner as GPA and GWA, with the power of eminent domain¹³. The District Court should establish a reasonable deadline by which the Corporation must either have negotiated the acquisition and use of the Layon site, subject to PUC review and approval under its contract review protocol, or have initiated eminent domain proceedings for the site under 21 GCA 15101 et. sec.

¹²See January 19, 2007 memorandum of law entitled *Effect of 2007 Budget Bill on Integrity of Solid Waste Operating Fund*, which is an appendix to Georgetown's Update Report - Attachment A to this Order. PUC anticipates that the barrier caused by Executive transfer authority would be resolved by legislation, which establishes the Corporation.

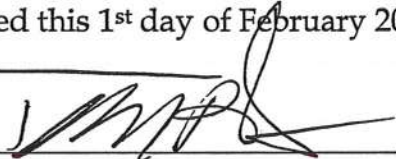
¹³GWA is given the power of eminent domain under 12 GCA 14104(b). GPA is given the power of eminent domain under 12 GCA 8104(2).

Ordering Provisions

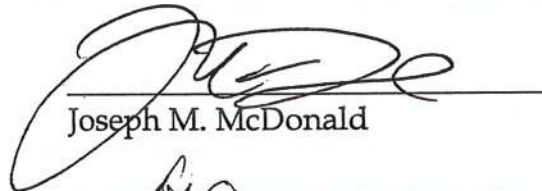
After careful review, for good cause shown and on motion duly made, seconded and carried by the affirmative vote of the undersigned commissioners, the Guam Public Utilities Commission **HEREBY ORDERS THAT:**

1. The findings and recommendations, as set forth above, are adopted.
2. PUC is prepared, within the scope of its enabling legislation, to provide any assistance and to perform any task as may be assigned to it by the District Court under the Consent Decree.] (*)
3. A copy of this Order shall be transmitted to the Attorney General of Guam and to the United States Attorney.

Dated this 1st day of February 2007.




Terrence M. Brooks



Joseph M. McDonald



Edward C. Crisostomo



Filomena M. Cantoria

Rowena E. Perez

Jeffrey C. Johnson

GUD NT ENT (12/06)

DISTRICT COURT OF GUAM

**4th Floor, U.S. Courthouse
520 West Soledad Avenue
Hagåtña, Guam 96910
671-473-9100**

United States of America,

Plaintiff,

vs.

Government of Guam,

Defendant.

Case No. 1-02-cv-00022

NOTICE OF ENTRY OF ORDER

NOTICE IS HEREBY GIVEN that on the date indicated below this court entered on the docket of the above-entitled case the following order:

Report and Recommendation filed July 6, 2007

Date of Entry: July 6, 2007

The original order is on file at the Clerk's Office of this court. The document may be viewed at the Clerk's Office and is available for viewing on the Internet by using PACER for a fee. Information on the PACER system can be found on the court's web page:
www.gud.uscourts.gov

Date: July 6, 2007

Clerk of Court

/s/ **Mary L.M. Moran**

1 of the Defendant herein. Furthermore, the LRC shall address the concerns of the Compiler of
2 Laws that the Legislature take action to correct provisions of Article 1 of the Solid Waste
3 Management Act so that the authority given to the PUC to set tipping fee rates and the use the
4 Solid Waste Operations Fund are legally established in place.

5 In concurrence with the PUC and the United States, the Court recommends that DPW's
6 SWM be reconstituted as a public corporation in order to address its organizational deficits, to
7 improve the quality of SWM's services to residential customers, and to establish a reliable
8 billing and collection system – all of which are critical prerequisites for obtaining the bond
9 financing necessary to pay for the Consent Decree projects. To this end, the Court
10 recommends the following timeframe:

- 11 (i) Within 60 days following the District Judge's order, GovGuam shall propose
12 legislation that reconstitutes SWM as a public corporation under the oversight of
13 the Consolidated Commission on Utilities ("CCU"). This proposed legislation
14 must include the new public corporation within the meaning of "public utility"
15 as set forth in 12 GUAM CODE ANN. § 12000(a). This proposed legislation must
16 also empower and authorize the new public corporation to secure revenue bond
17 financing for Consent Decree capital projects. Copies of the proposed
18 legislation must be provided to the United States, and the PUC for review and
19 approval. Thereafter, GovGuam must forthwith request legislative authorization
20 for this action. The proposed legislation may be dealt with through the LRC.
- 21 (ii) Within 90 days from its creation, the new public corporation shall file with the
22 PUC a plan for implementing a proposal to (i) procure service of a company
23 to collect residential waste for the island; (ii) to either privatize its billing and
24 collection or establish a protocol under which GPA would undertake this
25 responsibility; and (iii) to restructure its business relationship with commercial
26 haulers.
- 27 (iii) Within 120 days from its creation, the new corporation shall submit to the PUC
28 a petition for the approval of the revenue bonds and for the use of bond

1 proceeds, with PUC action within 90 days from such filing. The PUC shall
2 award the new corporation adequate rate relief to allow it to comply with its
3 indenture obligations. Furthermore, GovGuam shall request Legislative
4 authorization of this bond financing no later 45 days following PUC approval.
5 • Within 120 days from its creation, the new corporation shall have negotiated the
6 acquisition of the Layon site for the new landfill or have initiated an eminent
7 domain proceeding to acquire said site.

8 Additionally, in order to assist GovGuam in meeting its obligations, the Court further
9 recommends the following:

- 10 • the Public Auditor must complete her audit findings and issue her report of the
11 SWM's accounts receivable no later than 90 days from the District Judge's
12 order. GovGuam shall provide copies of the report to the PUC and the United
13 States.
14 • within 30 days of the District Judge's order, and every 15th of the month
15 thereafter, GovGuam shall provide monthly compliance reports, with each
16 report signed by a the Governor and the DPW director, or the Governor and the
17 head of the new public corporation, that (a) document that GovGuam has
18 provided sufficient daily cover over the trash at the Ordot Dump; (b) identify
19 and explain any failures to comply with the compliance milestones; and
20 (c) include the amount of revenue collected in the proceeding month, the amount
21 of accounts receivable that have not been collected, a recitation of the
22 percentage of accounts receivable collected, and an explanation of why
23 GovGuam has not collected the unpaid accounts receivable.

24 Finally, the Court believes that GovGuam will more likely comply with any modified
25 schedule only with continued and intense Court supervision and monitoring. The Court
26 therefore recommends scheduled monthly status conferences with the parties. These status
27 conferences should be open to the public. These status conferences may be held
28 simultaneously with the LRC meetings.



OFFICE OF THE PUBLIC AUDITOR



August 9, 2007

Mr. Terrence Brooks
Chairman
Public Utilities Commission
P.O. Box 862
Hagåtña, Guam 96932

Dear Mr. Brooks:

Transmitted herewith is the executive summary for OPA Report No. 07-08, Department of Public Works Commercial Tipping Fees for the period October 1, 2003 through January 31, 2007. For your convenience, you may also view and download the report in its entirety at www.guamopa.org.

Senseramente,

Doris Flores Brooks, CPA, CGFM
Public Auditor

RECEIPT ACKNOWLEDGED:

By: LOURDES R. PALOMO

Date: 8/7/07



OFFICE OF THE PUBLIC AUDITOR

EXECUTIVE SUMMARY

Department of Public Works Commercial Tipping Fees Report No. 07-08, August 2007

This report presents the results of our performance audit of the Department of Public Works (DPW) Commercial Tipping Fees. The audit was initiated at the request of the DPW Director, and in response to a recommendation made in the Public Utilities Commission (PUC) Solid Waste Management Focused Audit Report and Recommendations, issued in August 2006 by the Georgetown Consulting Group (GCG).

We found that commercial tipping fees were not properly applied, billed, and collected. DPW and the Department of Administration (DOA) did not issue timely billing notices and did not collect on past due accounts. Although DOA attempted to establish a memorandum of understanding outlining billing and collection fees responsibilities, the agreement was not finalized. DPW and DOA each assumed the other was collecting commercial tipping fees. As a result, the following deficiencies were identified:

- Inefficient billing and collection processes.
 - \$3.6 million in commercial tipping fee receivables as of January 31, 2007, of which \$2.4 million or 65% are over 120 days old. One commercial hauler, whose business was purchased by another commercial hauler in 2004, still owed \$1.3 million, representing more than half of the receivables over 120 days.
 - \$484,416 in receivable discrepancies occurred due to the lack of reconciliation by commercial haulers with DOA records.
 - \$46,124 in receivables from other commercial haulers (OCH) were not being monitored as of January 31, 2007.
- Commercial haulers continue to utilize the Ordot Dump (Dump) due to DPW's inability to aggressively collect from delinquent commercial haulers.
- An estimated \$4 million in revenues from October 2003 to January 2007 was lost due to DPW's inability to provide service to approximately 12,000 residential customers.
- Undetermined amount in government revenues since 1997 was lost due to an inoperable weigh scale.
- Undetermined amount in government revenues was lost due to the lack of procedures to develop a database to bill and collect from government agencies that utilize the Dump.
- The lack of service agreements or contracts for the collection and disposal of solid waste (i.e., contract provisions to include a service period, service rates, the right to audit, etc.) has left DPW without a means to enforce penalties such as denying access to the Dump to commercial haulers due to non-payment and noncompliance.
- Approximately \$43,470 in tipping fee revenues from April 2006 to January 2007 was lost due to payment exemptions to all village Mayors.

Inefficient Billing and Collecting Processes

In our testing, we found that as much as 43 business days lapsed from the time DPW issued a commercial hauler a field invoice to the time DPW delivered the field invoice to DOA for data-entry into the AS400 system for billing. Another 11 to 28 business days are added to the billing process since DOA hand delivers official billing notices to commercial haulers due to staff shortages.

Because of billing and collection deficiencies at DPW and DOA, delinquent commercial haulers have continued to utilize the Dump to the detriment of the government of Guam's fiscal condition. The General Fund has subsidized DPW's SWM operations. In April 2007, DPW began coordinating with the Office of the Attorney General (OAG) in an effort to collect from delinquent commercial haulers.

Inoperable Weigh Scale

Since DPW's weigh scale became inoperable in December 1997, commercial haulers are charged tipping fees based on volume instead of weight. Despite being required by the Guam Environmental Protection Agency to obtain a weighing scale in 1999 and again in 2005, DPW continues to charge tipping fees in this inefficient manner. We were unable to determine the amount in government revenues lost since 1997 due to an inoperable weigh scale.

Estimated 12,000 Unserviced Residential Customers

Between October 2003 and January 2007, we estimated that \$4 million in government revenues were lost due to approximately 12,000 residential customers who may not have been billed or not provided services.

Residential Customer Serviced by Commercial Haulers

Prior to May 2007, DPW and PUC were unclear whether commercial haulers were responsible for collecting and remitting the required monthly \$10 tipping fees collected from residential customers serviced by commercial haulers. However, OAG's May 2007 memorandum stated, "The billing is to be done by the hauler and the collecting is to be done by the hauler... this means that the hauler is not entitled to retain the [\$10] residential [tipping] fees, which they have collected beyond the 60 days."

Lack of Service Agreements with Commercial Haulers

DPW did not enter into contracts for the collection and disposal of solid waste. Contract provisions such as establishing a service period, service rates, billing disputes, payment applications, the right to audit, etc. would have provided DPW a means to enforce penalties (i.e., denying access to the Dump) on commercial haulers due to nonpayment and noncompliance.

Other Deficiencies

Other deficiencies include:

- No established payment terms and instructions (to include account numbers and billing notice numbers when making payments for proper credit) on monthly-generated official commercial billings.
- No developed waste collection district plan as mandated by P.L. 26-99 until May 2007. DPW completed the plan, but has yet to issue a solicitation of interest to obtain feedback for a refined district plan invitation for bid.

- Lax internal controls over cash collections from self-hauling customers at the Dump.

SWM as a Public Corporation

OPA concurs with PUC's rationale to convert the SWM division into a separate public corporation, under the auspices of the Consolidated Commission on Utilities. The proposed realignment will more accurately determine the total costs to operate a waste management system (i.e., collection and disposal of solid waste, closure of the dump, and development of a new sanitary landfill). However, legislation to affect the realignment has not been introduced to the Guam Legislature as of the date of this report.

Recommendations

Because of the existing General Fund cash deficiency, DPW should immediately take aggressive collection action by restricting access to the Dump for commercial haulers who are delinquent beyond 60 days.

To address the billing and collection problems, we recommend that DPW and DOA begin coordinating the transfer of the commercial billing and collection functions (i.e. data-entry, billing, and delivery). DPW should establish internal controls (checks and balances) and segregation of duties within the billing process to reduce the opportunities for one person to both perpetrate and conceal fraud. DOA should issue and record credit memos and conduct periodic reviews of billing transactions to ensure proper controls are in place. Both DPW and DOA concurred and supported the transfer of the billing function of commercial tipping fees from DOA to DPW.

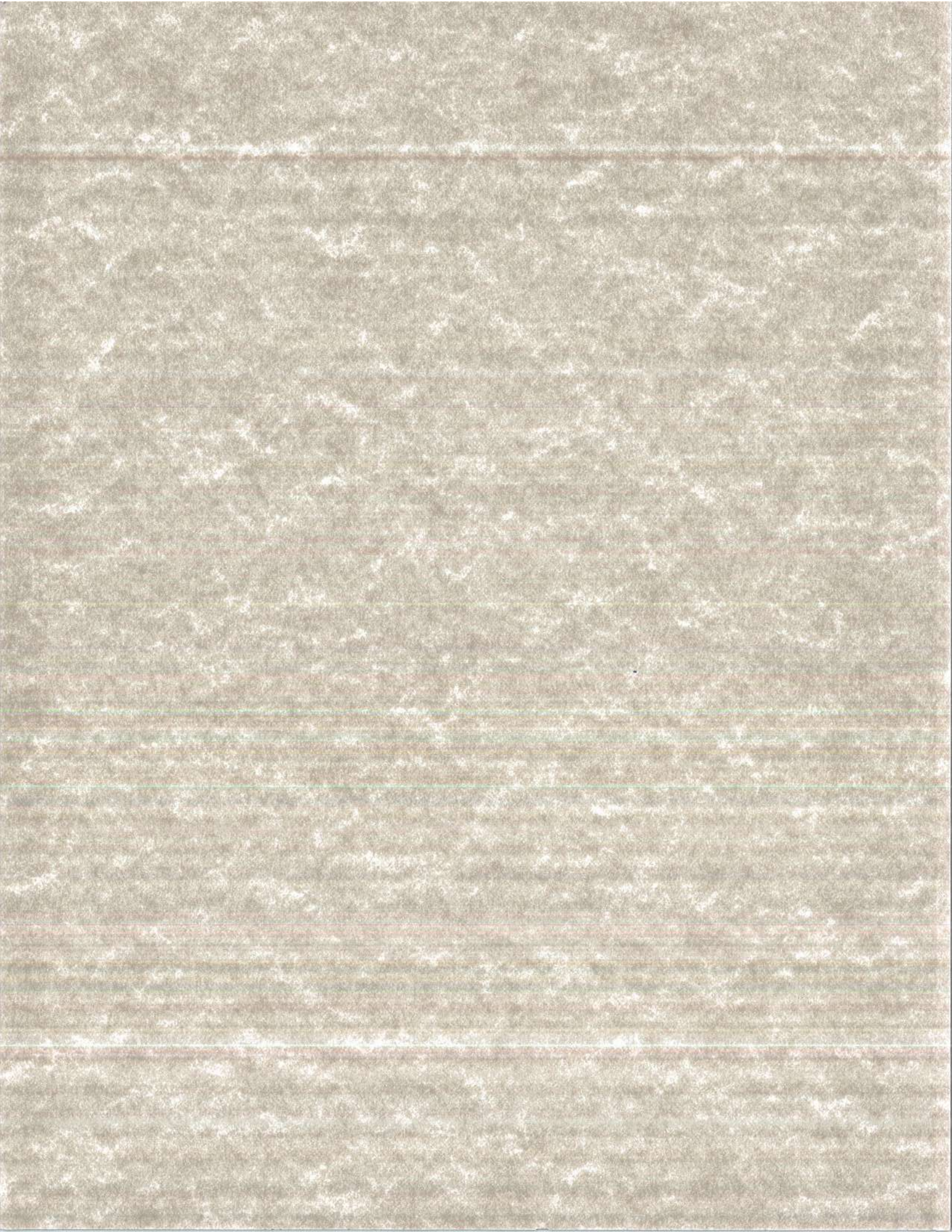
Other recommendations include secure a weigh scale under a proper procurement process, work with the OAG in aggressively collecting past due commercial tipping fee accounts and finalize a proposed service contract agreement, and establish government tipping fee charge accounts to bill government entities.

Management Response

A draft report was transmitted to DPW, DOA, and the PUC. The DPW Director concurred with the audit recommendations and submitted its plan of action to address the audit recommendations. The DOA Director concurred with the recommendation to transfer the commercial billing and collection function to DPW.

The PUC Chairman submitted a response stating that the audit report adds convincing evidence that critical structural change is needed for the government of Guam to meet its responsibilities under the Consent Decree in District Court of Guam Civil Case 02-22. GCG also provided a response and addressed certain matters regarding DPW's escrow funds, the lack of legislative provisions for establishing late payment penalties, monitoring commercial haulers' customers, contract agreements, and mayors allowing residents to bring their solid waste to them for disposal. We have amended the report to address their concerns.

Doris Flores Brooks, CPA, CGFM
Public Auditor



**GUAM PUBLIC UTILITIES COMMISSION
BUSINESS MEETING
NOVEMBER 2, 2007**



The Guam Public Utilities Commission [PUC] conducted a business meeting at 6:00 p.m. on November 2, 2007 at Suite 202, GCIC Building Hagatna pursuant to due and lawful notice. Commissioners McDonald, Johnson, Perez and Brooks were in attendance. The following matters were considered at the meeting under the agenda made *Attachment A*.

1. Administration.

After review and discussion, on motion duly made, seconded and unanimously carried, the commissioners resolved to approve: a) the minutes of PUC's August 13, 2007 meeting; b) the FY08 administrative budget, in form made *Attachment B*¹; c) the Administrative Order appointing a certifying and disbursement officer, in form made *Attachment C*; d) PUC's FY07 annual report, in form made *Attachment D*; e) a bank resolution in form made *Attachment E*; and f) PUC's FY07 FOIA report.

2. GPA and GWA staffing studies.

The Commissioners were informed of the requirement that PUC conduct annual staffing studies of GPA and GWA pursuant to 12 GCA § 12001.2[d]. The GPA study will be done by Georgetown as part of its review of GPA's petition for FY08 rate relief in Docket 07-10. Georgetown has been directed to file its study of GWA's staffing patterns with PUC not later than January 11, 2008.

¹ The commissioners tabled their consideration of the proposed Assessment Order until their November 16, 2007 meeting on telecommunications matters. The reason for this decision is that Commissioner Brooks has recused himself from voting on any regulatory which involves telecommunications and the Assessment Order would level an assessment against GTA.

3. Guam Power Authority.

- a. The commissioners were provided with ALJ's October 26, 2007 conference letter, which summarizes the status of open GPA regulatory matters, including the schedule, which will bring GPA's rate petition to public hearing in February 2008.
- b. The Commissioners requested that Ms. Palomo coordinate tours of GPA and GWA facilities for the commissioners.
- c. On motion duly made seconded, carried and unanimously carried the Commissioners resolved that:
 - i] the scope of GPA's load research/cost of service study is approved, subject to the requirement that GPA file for PUC consideration in Docket 07-10 a proposed process for reducing inter-class rate subsidies; ii] GPA's petitions for Dededo CT repair and the Agana-Tamuning underground project would be deferred for consideration in Docket 07-10; iii] GPA's amendment and extension of its lubrication oil contract is approved, subject to ALJ review of the issue of whether GPA violated the contract protocol with regard to this procurement; and iv] GPA's FY07 CIP ceiling will serve as an interim FY08 ceiling pending further review in Docket 07-10.
- d. After review and discussion of ALJ's October 31, 2007 report regarding GPA line losses, including the positions of GPA and Georgetown, which are attachments to the ALJ report, and on motion duly made, seconded and unanimously carried, the commissioners resolved to adopt the Order, in form made *Attachment F*.
- e. The commissioners directed that the parties in Docket 07-10 be directed to brief their positions regarding: i]

how the debt service coverage ratio should be calculated pursuant to indenture requirements; and ii] the purpose and appropriate margin for a PUC debt service benchmark [see ALJ 10/22/07 memorandum order].

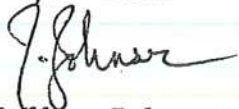
4. Guam Waterworks Authority.

The commissioners reviewed ALJ's October 29, 2007 conference letter, which summarizes the status of open GWA regulatory matters. As Georgetown is still working on its private water well report, this agenda item was tabled.

5. Other Business.

After discussion, the commissioners resolved to adopt a resolution [Attachment G] commending Edward Crisostomo's dedicated service as a commissioner. PUC administrator Palomo was directed to have the resolution suitably framed and delivered to Mr. Crisostomo.

There being no further business to consider, the meeting was adjourned.



Jeffrey Johnson
Chairman

GUAM PUBLIC UTILITIES COMMISSION

**BUSINESS MEETING
SUITE 202 GCIC BUILDING
414 W. SOLEDAD AVE. HAGATNA
6:00 p.m. Friday November 2, 2007**

AGENDA

1. Administration.
 - a. Approval of minutes – August 13, 2007 business meeting.
 - b. FY08 administrative budget – assessment order.
 - c. Administrative order – [certifying and disbursement officer order]
 - d. Bank resolution.
 - e. FY07 PUC annual report [12 GCA § 12003].
 - f. FY07 FOIA report [5 GCA § 1010].
2. GPA and GWA staffing study requirement [12 GCA § 12001.2(d)].
3. Guam Power Authority.
 - a. October 26, 2007 conference letter.
 - b. Procurement review:
 - Load research/cost of service study scope.
 - Agana – Tamuning underground project.
 - Dededo CT repair project.
 - Lubrication oil contract amendment and extension.
 - c. Line loss benchmark and monitoring protocol.
4. Guam Waterworks Authority.
 - a. October 26, 2007 conference letter.
 - b. GCG October 30, 2007 report – private waterwell rates.
5. Other business.

**PUBLIC UTILITIES COMMISSION
BUSINESS MEETING
AUGUST 13, 2007
SUITE 202 GCIC BUILDING
414 W. SOLEDAD AVE. HAGATNA, GUAM**

MINUTES

A business meeting of the Guam Public Utilities Commission was convened at 6:00 p.m. on August 13, 2007 pursuant to due and lawful notice. Commissioners McDonald, Cantoria, Crisostomo, Johnson and Brooks were in attendance. The following matters were considered at the meeting pursuant to the agenda made *Attachment A*.

1. Administration.

After review and discussion of the minutes of the May 26, 2007 meeting and on motion duly made, seconded and unanimously carried, the Commission resolved to approve the minutes.

The commissioners considered and accepted commissioner Brooks' July 25, 2007 letter of resignation as chairman. Mr. Brooks will remain as a commissioner. After discussion and on motion duly made, seconded and carried and pursuant to the authority of 12 GCA § 12001[e], commissioner Jeffrey Johnson was elected to be the new chairman.

After review and discussion, on motion duly made, seconded and carried the commissioners resolved to adopt the Administrative Order in form made *Attachment B*.

2. Guam Power Authority.

The commissioners reviewed a proposed regulatory order, which would address: a] the need to increase the LEAC factor for the period August 13, 2007 through January 31, 2008; b] four GPA petitions for contract review; c] a protocol for establishing regulatory benchmarks for line loss; and d] a protocol for regulatory involvement in GPA's development of an integrated resource plan. After ALJ's presentation of the proposed order and discussion, on motion duly made, seconded and carried, the commissioners resolved to adopt and approve the order in form made *Attachment C*.

3. Guam Waterworks Authority.

The commissioners next reviewed ALJ's report and proposed order regarding GWA's June 13, 2007 petition for FY07 rate relief. ALJ briefed the commissioners on his report, public comments that were presented during PUC's three public hearings and on the proposed order. After discussion and on motion duly made, seconded and unanimously carried, the commissioners resolved to adopt the order in form made *Attachment D*.

The commissioners also considered a proposed order to approve GWA's June 19, 2007 petition to use interest on bond proceeds. After discussion and on motion duly made, seconded and unanimously carried, the commissioners resolved to approve the petition, with conditions pursuant to the order in form made *Attachment E*.

4. Solid Waste Management.

The commissioners next considered Chairman Brooks' August 6, 2007 letter to Governor Camacho and Speaker Forbes, which expressed concern about PUC's appointment to the Solid Waste Law Review Commission, as established by Executive Order 2007-09. ALJ briefed the commissioners regarding these concerns and presented a proposed resolution by which PUC would respectfully decline its appointment to the SWLRC. After discussion and on motion duly made, seconded and unanimously carried, the commissioners resolved to adopt the resolution in form made *Attachment F*.

5. Telecommunications.

Prior to the beginning of discussion of the telecommunications agenda items, commissioner Brooks excused himself, consistent with his voluntary disqualification in all telecom dockets.

- a.* The commissioners first reviewed proposed interconnection implementation rules, which had been crafted by PUC's regulatory consultant and subjected to public notice and comments by telecommunications companies. The record of these proceedings is summarized in Georgetown's July 21, 2007 report. After ALJ's briefing and review of the Georgetown report, the proposed rules and a proposed order, on motion duly made, seconded and unanimously carried, the commissioners resolved to adopt the proposed rules and order in form made *Attachment G*.

- b. The commissioners next were next briefed by ALJ on his July 25, 2007 report in Docket 07-5, regarding the arbitration of open issues between GTA Telecom and Guam Cellular and Paging, Inc. regarding the establishment of interconnection arrangements between them under federal law. After review and discussion of the report, including the determinations recommended therein and after review of a proposed arbitration decision, on motion duly made, seconded and unanimously carried, the commissioners resolved to adopt the decision in form made *Attachment H*.

- c. ALJ briefed the commissioners on proposed orders by which PUC would approve a negotiated interconnection agreement between IT&E Overseas, Inc. and GTA Telecom LLC and ITE's general tariff. PUC's consultant has recommended approval of the agreement and the tariff. After discussion and on motion duly made, seconded and unanimously carried, the commissioners resolved to adopt the orders in form made Attachments I and J.

There being no further business, the meeting was adjourned.

Jeffrey Johnson
Chairman

NOTE: TABLED TILL 11/16/07
BUSINESS MEETING

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

COMMISSION ADMINISTRATIVE)
DOCKET)
)
)
_____)

ASSESSMENT ORDER

WHEREAS, the Commission's operational expenses can be divided into two categories and are budgeted and collected under the following protocols: i] general administrative expenses, which are budgeted each fiscal year by the Commission and divided and assessed among the regulated utilities; and ii] regulatory expenses, which are incurred pursuant to the Commission's Administrative Order dated August 13, 2007. Regulatory expenses include professional and out-of-pocket expenses, which are billed to specific utilities under regulatory dockets to cover the expense of handling specific regulatory proceedings related to them. This order addresses the Commission's FY08 budget of administrative expenses.

WHEREAS, the administrative budget covers the Commission's administrative expenses, including staff, office facilities, Commissioner stipends and training, professional fees and other operational expenses;

WHEREAS, at a duly noticed and convened Commission meeting held on November 2, 2007, the Commission considered and adopted its FY08 administrative budget in the amount of \$140,000;

WHEREAS, the utilities subject to Commission regulation include Guam Power Authority [GPA], Guam Waterworks Authority [GWA] and Guam Telecom LLC [GTA];¹

¹ PUC finds that GTA has a regulatory status comparable to GWA and GPA because it is: a] the incumbent local exchange carrier; and b] subject to special regulatory oversight under P.L. 27-109 and 27-110 and under the *Asset Purchase Agreement* dated 8/3/04 between GTA and the Government of Guam. PUC further finds that its assessment of the Department of Public Works - solid waste management division [SWM] for a share of PUC administrative expenses should be deferred pending the Government's enactment of legislation to bring SWM activities into compliance with the Stipulated Order in Federal District Court Civil Case 1-02cv-00022. [See PUC Resolution dated 8/13/07 in Docket 07-9.] In February, 2007 PUC suspended regulatory activities for the reasons stated in its February 1, 2007 Order in Docket 06-2. Upon PUC's recommencement of regulatory activities over SWM, DPW will then be assessed a portion of PUC's FY08 administrative budget. In the interim, PUC will utilize the reserve in its administrative account to bridge the \$35,000 shortfall between its FY08 assessment [\$105,000] and its FY08 administrative budget [\$140,000].

WHEREAS, after due consideration, the Commission has resolved that its' FY08 administrative budget of \$140,000 should be allocated among the regulated utilities, as follows:

GTA	\$35,000
GPA	\$35,000
GWA	\$35,000
DPW	<i>assessment deferred</i>
Total	\$105,000

NOW, THEREFORE, in consideration of the above recitals and under authority vested by 12 GCA section 12024, the Commission hereby **ORDERS THAT:**

1. GTA, GPA and GWA shall pay the assessment allocated to them, as stated above, to the Commission not later than November 30, 2007. The regulated utilities are reminded that these assessed revenues are necessary to enable the Commission to have the staff and office facilities to entertain their requests for regulatory services. It is, therefore, essential that these assessments be paid in a timely manner.
2. The Commission's chairman, in consultation with ALJ, is authorized to determine the timing and amount of PUC's assessment of DPW for a share of the Commission's FY08 administrative budget, consistent with footnote 1 of this order.
2. A copy of this assessment order shall be served on each regulated utility.

Dated this 2nd day of November 2007.

Jeffrey C. Johnson

Joseph M. McDonald

Terrence M. Brooks

Filomena M. Cantoria

Rowena E. Perez

FY08 PUC ADMINISTRATIVE BUDGET
October 1, 2007 - September 30, 2008

Category	FY2007 AMENDED BUDGET	FY2007 ACTUAL (nearest 100)	FY2008 PROPOSED
Administrator	\$34,000.00	\$34,000.00	\$34,000.00
Office Rent	\$22,000.00	\$22,000.00	\$22,000.00
Commissioner Stipend	\$0.00	\$0.00	\$0.00
Naruc Membership	\$1,500.00	\$1,500.00	\$1,500.00
Commissioner Training	\$26,000.00	\$10,700.00	\$20,000.00
Office Supplies/Expenses	\$1,800.00	\$1,400.00	\$1,500.00
Utilities(power/phone/fax/int.)	\$8,600.00	\$7,700.00	\$9,000.00
Postage	\$200.00	\$100.00	\$200.00
Xerox	\$3,500.00	\$2,800.00	\$3,000.00
Professional Fees	\$54,000.00	\$54,200.00	\$46,800.00
Miscellaneous	\$1,000.00	\$0.00	\$1,000.00
Equipment	\$1,000.00	\$800.00	\$1,000.00
TOTAL	\$153,600.00	\$135,200.00	\$140,000.00

PUC FY07 ADMINISTRATION & OPERATIONS EXPENDITURE REPORT

CATEGORY	AMENDED BUDGET	OCT	NOV	DEC
ADMINISTRATOR	34,000.00	2,833.34	2,833.34	2,833.34
OFFICE RENT	22,000.00	1,789.41	1,789.41	1,789.41
PROFESSIONAL FEES	54,000.00	0.00	6,125.00	4,350.00
COMMISSIONERS TRAINING	26,000.00	0.00	0.00	0.00
NARUC MEMBERSHIP	1,500.00	0.00	0.00	0.00
UTILITIES	8,600.00	720.91	566.37	371.27
XEROX - Equipment Lease	3,500.00	295.57	214.73	214.73
EQUIPMENT	1,000.00	0.00	0.00	0.00
OFFICE SUPPLIES	1,800.00	267.15	0.00	0.00
POSTAGE	200.00	14.40	0.00	0.00
MISCELLANEOUS	1,000.00	0.00	0.00	0.00
SUB-TOTAL	153,600.00	5,920.78	11,528.85	9,558.75
TOTAL REMAINING	153,600.00	147,679.22	136,150.37	126,591.62

PUC FY07 ADMINISTRATION & OPERATIONS EXPENDITURE REPORT

CATEGORY	JUL	AUG	SEPT	YTD	BAL
ADMINISTRATOR	2,833.34	2,833.34	2,833.34	34,000.08	-0.08
OFFICE RENT	1,789.41	1,789.41	1,789.41	21,472.92	527.08
PROFESSIONAL FEES	3,975.00	3,495.21	5,475.00	53,416.21	583.79
COMMISSIONERS TRAINING	0.00	0.00	0.00	10,665.48	15,334.52
NARUC MEMBERSHIP	1,482.00	0.00	0.00	1,482.00	18.00
UTILITIES	807.14	662.41	373.12	7,414.18	1,185.82
XEROX - Equipment Lease	498.62	131.10	214.73	2,972.86	527.14
EQUIPMENT	0.00	0.00	0.00	570.95	429.05
OFFICE SUPPLIES	143.68	0.00	0.00	1,363.28	436.72
POSTAGE	0.00	47.40	0.00	61.80	138.20
MISCELLANEOUS	0.00	0.00	0.00	0.00	1,000.00
SUB-TOTAL	11,529.19	8,958.87	10,685.60	133,419.76	20,180.24
TOTAL REMAINING	39,824.71	30,865.84	20,180.24	20,180.24	

PUC FY07 ADMINISTRATION & OPERATIONS EXPENDITURE REPORT

	APR	MAY	JUN
CATEGORY			
ADMINISTRATOR	2,833.34	2,833.34	2,833.34
OFFICE RENT	1,789.41	1,789.41	1,789.41
PROFESSIONAL FEES	13,346.00	5,475.00	709.42
COMMISSIONERS TRAINING	5,167.06	1,916.56	0.00
NARUC MEMBERSHIP	0.00	0.00	0.00
UTILITIES	572.68	392.80	1,288.08
XEROX - Equipment Lease	299.23	429.46	0.00
EQUIPMENT	0.00	141.00	0.00
OFFICE SUPPLIES	0.00	217.70	31.60
POSTAGE	0.00	0.00	0.00
MISCELLANEOUS	0.00	0.00	0.00
SUB-TOTAL	24,007.72	13,195.27	5,942.43
TOTAL REMAINING	70,491.60	57,296.33	51,353.90

PUC FY07 ADMINISTRATION & OPERATIONS EXPENDITURE REPORT

CATEGORY	JAN	FEB	MAR
ADMINISTRATOR	2,833.34	2,833.34	2,833.34
OFFICE RENT	1,789.41	1,789.41	1,789.41
PROFESSIONAL FEES	4,350.00	6,825.00	0.00
COMMISSIONERS TRAINING	0.00	0.00	3,581.86
NARUC MEMBERSHIP	0.00	0.00	0.00
UTILITIES	308.82	615.65	734.93
XEROX - Equipment Lease	214.73	245.23	214.73
EQUIPMENT	0.00	429.95	0.00
OFFICE SUPPLIES	57.27	557.12	88.76
POSTAGE	0.00	0.00	0.00
MISCELLANEOUS	0.00	0.00	0.00
SUB-TOTAL	9,553.57	13,295.70	9,243.03
TOTAL REMAINING	117,038.05	103,742.35	94,499.32

PUBLIC UTILITIES COMMISSION OF GUAM
Administrative Account
 September 1, 2007 to September 30, 2007

Type	Date	Num	Name	Split	Amount	Balance
Checking - BankPacific - Admin						
Bill Pmt -Check	9/15/2007	775	GTA	Accounts Pay...	-266.67	105,458.58
Bill Pmt -Check	9/15/2007	776	Harry Boertzel	Accounts Pay...	-5,475.00	105,191.91
Bill Pmt -Check	9/15/2007	777	IT&E Overseas	Accounts Pay...	-42.05	99,716.91
Bill Pmt -Check	9/15/2007	778	Lourdes R. Palomo	Accounts Pay...	-1,416.67	99,674.86
Bill Pmt -Check	9/15/2007	779	Xerox Corporation	Accounts Pay...	-214.73	98,258.19
Bill Pmt -Check	9/30/2007	780	Guam Capital Inves...	Accounts Pay...	-1,789.41	98,043.46
Bill Pmt -Check	9/30/2007	781	Lourdes R. Palomo	Accounts Pay...	-1,416.67	96,254.05
Bill Pmt -Check	9/30/2007	782	Marianas Cablevision	Accounts Pay...	-64.40	94,837.38
Deposit	9/30/2007			Interest Income	62.81	94,772.98
Total Checking - BankPacific - Admin					-10,622.79	94,835.79
TOTAL					-10,622.79	94,835.79

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

GENERAL ADMINISTRATIVE
DOCKET - DESIGNATION OF
ACCOUNTABLE OFFICERS



ADMINISTRATIVE ORDER

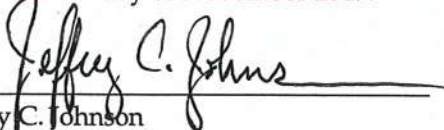
The Guam Public Utilities Commission [PUC] hereby finds that:

1. PUC is public corporation and autonomous instrumentality created by Chapter 12 of Title of the Guam Code Annotated within the Government of Guam and is separate from the Executive, Legislative and Judicial Branches.
2. 4 GCA 14107 requires that all government of Guam entities, including autonomous agencies designate a certifying officer.
3. As PUC is independent of the branches of government, no "Delegation of Authority" is required under 4 GCA 14107 to enable PUC to designate a Certifying Officer.

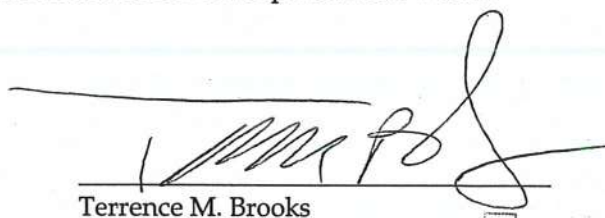
By reason of the above findings and on motion duly made, seconded and unanimously carried, the Guam Public Utilities Commission hereby **ORDERS THAT:**

1. PUC chairman Jeffrey C. Johnson is hereby designated as PUC's certifying officer for a two-year term, effective November 2, 2007. By his signature below, Chairman Johnson accepts this designation. Under PUC's November 2, 2007 bank resolution, the certifying officer is required to sign all PUC checks. This signature shall constitute a certification under 4 GCA §14106 (a) that the applicable payment voucher is correct and ready for payment.
2. Pursuant to 4 GCA 14104 (a)(2), PUC administrator Lourdes Palomo, who is responsible for the custody and disbursement of PUC funds, serves as it disbursing officer. By her signature below, Mrs. Palomo acknowledges this responsibility.
3. A copy of this Order shall be filed with the Treasurer of Guam pursuant to 4 GCA 14107.

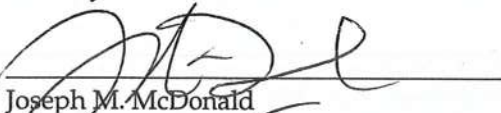
Dated this 2nd day of November 2007.



Jeffrey C. Johnson

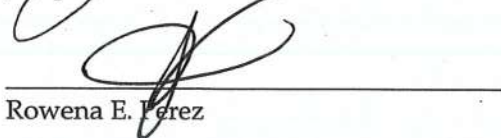


Terrence M. Brooks



Joseph M. McDonald

Filomena M. Cantoria

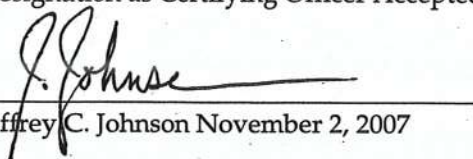


Rowena E. Perez

RECEIVED
NOV 02 11:11 AM '07
DIRECTOR'S OFFICE
DEPT. OF PUBLIC UTILITIES


Designation as Certifying Officer Accepted

Disbursing Officer acknowledgement



Jeffrey C. Johnson November 2, 2007



Lourdes R. Palomo November 2, 2007

Certificate of Resolution
Guam Public Utilities Commission



The undersigned chairman of the Guam Public Utilities Commission [Commission] which is established as an independent public corporation within the government of Guam by Public Law 17-74, as amended, hereby certifies that the following is a true copy of a certain resolution duly adopted by the Commission in accordance with law and recorded in the minutes of a special meeting duly held on November 2, 2007 and not subsequently rescinded or modified:

Resolved

1. The BankPacific [Bank] be and hereby is designated as depository of the Commission's funds and that the Chairman *and* any one of the other Commission members listed below are hereby authorized to sign for and on behalf of the Commission any and all checks, drafts or other orders with respect to any funds at any time to the credit of the Commission with the Bank and /or against any account of the Commission maintained at any time with the Bank and that the Bank be and hereby is authorized to pay the same to the debit of any account of the Commission then maintained with it; to receive for deposit to the Commission's credit and /or for collection for the Commission's account any and all checks, drafts, notes or other instruments for the payment of money, whether or not endorsed by the Commission, which may be received by it for such deposit and /or collection, it being understood that each such item shall be deemed to have been unqualifiedly endorsed by the Commission; and to receive as the Commission's act any and all stop-payment and /or account reconciliation instructions with respect to any such checks, drafts or other orders as aforesaid when signed by any one or more of the Commission's members.

2. That any and all withdrawals of money and /or other transactions heretofore had in behalf of the Commission with the Bank are hereby ratified, confirmed and approved and that the Bank may rely upon the authority conferred by this resolution until its receipt of a certified copy of a Commission resolution revoking or modifying the same.

We Further Certify that the following now serve as Commission members designated in the above-quoted resolution and that the same are duly qualified as such members:

<i>Name</i>	<i>Office</i>
Jeffrey C. Johnson	Chairman
Terrence M. Brooks	Commissioner
Joseph M. McDonald	Commissioner
Filomena M. Cantoria	Commissioner
Rowena E. Perez	Commissioner

In Witness Whereof, I have hereunto subscribed my name over my official title this November 2, 2007.

Jeffrey C. Johnson, Chairman

**PUBLIC UTILITIES COMMISSION
OF GUAM**

Jeffrey C. Johnson

Suite 207, GCIC Building
Post Office Box 862
Hagatna, Guam 96932

Harry M. Boertzel
Administrative Law Judge

Terrence M. Brooks
Joseph M. McDonald
Filomena M. Cantoria
Rowena E. Perez

Telephone: (671) 472-1907
Fax: (671) 472-1917
Email: info@guampuc.com

Lourdes R. Palomo
Administrator

October 30, 2007

SENT VIA HAND DELIVERY

The Honorable Felix P. Camacho

Governor of Guam

Office of the Governor of Guam

P.O. Box 2950

Hagåtña, Guam 96932

The Honorable Mark Forbes

Speaker, 28th Guam Legislature

155 Hesler Street

Hagåtña, Guam 96910

RE: Guam Public Utilities Commission FY07 Annual Report

Gentlemen:

In accordance with the mandate of 12 GCA § 12003, the Guam Public Utilities Commission respectfully submits its annual report for fiscal year 2007.

Attachment A summarizes the significant regulatory actions taken by PUC in FY07. Further information about these activities can be obtained from the referenced documents, which are available on PUC's website [guampuc.com].

PUC currently has two commissioner vacancies [one position requiring expertise in the field of power generation and one position requiring expertise in telecommunications, water or sewer utility management]. In addition, Commissioner Brooks has recused himself from considering any telecommunications regulatory matter. These commissioner vacancies and the recusal make it extremely challenging for PUC to secure a quorum to take action on the variety of regulatory matters before it. PUC's enabling legislation mandates that any PUC action requires the affirmative vote of four commissioners at a meeting with a quorum of four commissioners. It is essential that PUC's vacant commissioner positions be filled at the earliest opportunity.

Respectfully submitted,

Jeffrey Johnson
Chairman

Attachment
Significant regulatory action – FY07

<i>Date</i>	<i>Docket</i>	<i>Action</i>
Department of Public Works [solid waste management]		
2/1/07	06-2	Order making recommendations for institutional change necessary to enable government of Guam to comply with Consent Decree in District Court of Guam Civil Case 02-22.
8/13/07	07-9	Resolution declining membership in Solid Waste Law Review Commission.
Guam Power Authority		
2/1/07	02-4	Order establishing LEAC for period 2/1/07 through 7/31/07 and setting CIP ceiling.
5/26/07	02-4	Order approving procurements, regulatory asset, amendment of GPA contract review protocol and amendment of Navy customer service agreement.
8/13/07	02-4	Order establishing LEAC for period 8/13/07 through 1/31/08; procurement approvals; establishment of regulatory review protocol for integrated resource plan; and examination of GPA line losses.
Guam Waterworks Authority		
2/1/07	07-2	Investigation of GWA violation of PUC orders.
5/11/07	07-5	Dismissal of GWA rate petition due to failure to comply with prefiling notice requirements under 12 GCA § 12001.2.
8/13/07	05-10	Order authorizing GWA to access interest on bond proceeds.
8/13/07	07-4	Decision awarding GWA FY07 rate relief.

Telecommunications

10/4/06	05-11	Review and approval of negotiated pricing terms in interconnection agreement between PDS and GTA pursuant to PUC's authority under Federal law.
11/20/06	06-9	Issuance of certificate of authority to Guam Telecom LLC under 12 GCA § 12103[c].
2/1/07	05-1	Adoption of rules relating to detariffing of private line service for non-dominant carriers.
2/1/07	05-1	Adoption of affiliate transaction rules.
2/1/07	06-8	Order designating Pulse Mobile, LLC as an eligible telecommunications carrier under section 214[e][6] of the federal Communications Act of 1934, as amended.
8/13/07	07-5	Arbitration decision regarding interconnection arrangements between GTA Telecom LLC and Guam Cellular and Paging, Inc. under federal Communications Act of 1934, as amended.
8/13/07	07-6	Approval of negotiated interconnection agreement between GTA Telecom LLC and IT&E Overseas Inc. under federal Communications Act of 1934, as amended.
8/13/07	05-1	Adoption of rules governing interconnection implementation between GTA and other telecommunications companies.

**PUBLIC UTILITIES COMMISSION
OF GUAM**

Jeffrey C. Johnson

Suite 207, GCIC Building
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Harry M. Boertzel
Administrative Law Judge

Terrence M. Brooks
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Lourdes R. Palomo
Administrator

October 30, 2007

SENT VIA HAND DELIVERY

Honorable Alicia Limtiaco
Attorney General of Guam
Office of the Attorney General
287 West O'Brien Drive
Hagåtña, Guam 96910

RE: Freedom of Information Act [FOIA] Annual Report [FY07]

Dear General Limtiaco:

Pursuant to the requirements of 5 GCA § 10107, the Guam Public Utilities Commission [PUC] respectfully submits the following FOIA annual report for FY07:

1. During the fiscal year, PUC made no determination not to comply with an FOIA request for records.
2. As of September 30, 2007 there were no FOIA requests for records pending with PUC.
3. During the fiscal year, PUC received no formal FOIA requests for records. PUC regularly receives informal requests to inspect or obtain copies of PUC records, which are normally processed within several business days of request.
4. PUC has only one staff person who is responsible for PUC's administration and day to day operations, including the task of responding to FOIA requests. The expense incurred by PUC for processing FOIA requests is nominal.

Cordially,

Lourdes R. Palomo
Administrator

**PUBLIC UTILITIES COMMISSION
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Lourdes R. Palomo
Administrator

October 26, 2007

VIA ELECTRONIC TRANSMISSION

Joaquin C. Flores, P.E. General Manager
Guam Power Authority
Post Office Box 2977
Hagåtña, Guam 96932

Jamshed K. Madan, Principal
Georgetown Consulting Group, Inc.
716 Danbury RD.
Ridgefield, CT 06877

RE: October 24, 2007 GPA Regulatory Conference

Gentlemen:

The purpose of this letter is to summarize the decisions made during the conference.

1. Docket 07-10 [Base rate petition].

You have agreed to the following schedule for the rate proceeding:

<i>Action</i>	<i>Deadline</i>
GPA petition	October 4, 2007
GCG – Navy discovery deadline	December 12, 2007
GCG – Navy testimony	January 11, 2008
GCG staffing pattern report	January 11, 2008
12 GCA § 12016 public notice	January 16, 2008
Prehearing conference [2:00 p.m.]	January 31, 2008
Public hearings	
Hagatna [6:00 p.m.]	February 6, 2008
Village [5:00 & 7:00 p.m.]	February 7, 2008

GPA should provide me with the contact information for Navy's point person for this rate proceeding.

With regard to our discussion about my 10/22/07 memorandum order: a] I have determined that PUC has established a 1.75x coverage ratio benchmark for GPA; b] either party may assert for good and sufficient cause that the benchmark should not apply in this proceeding; c] either party may assert that for good and sufficient cause the benchmark should be amended; and d] the issue of how the ratio should be calculated in this rate proceeding will be briefed in the parties' testimony and resolved under the above schedule.

GPA's 8/2/07 request to revise its rate schedules F and H will be considered as part of this rate proceeding.

2. Docket 02-4 [LEAC].

The following schedule shall apply to the LEAC proceeding:

<i>Action</i>	<i>Deadline</i>
GPA petition	December 12, 2007
GCG report	January 25, 2008
Public hearing	February 6, 2008

3. Procurement review.

a. **Excess bond funds approval conditions.** In its 8/13/07 order, PUC approved GPA's petition on this subject to three conditions:

1. GPA obtains legal comfort the uses of the excess bond funds is permissible under the indenture. On or before 11/2/07, GPA should file a copy of the legal opinion with PUC.
2. The scope of the load research/cost of service study, which will be funded by excess bond funds, shall be subject to regulatory review and approval. GPA filed proposed scopes with PUC on June 29, 2007. GCG should review and report on these proposed scopes by October 31, 2007.
3. The scope of the long range transmission study, which will be funded by excess bond funds shall be subject to regulatory review and approval. PUC awaits a GPA petition on this scope review and is cautioned that it should not proceed with a procurement for the study until regulatory approval is obtained.

- b. **TECP drawdown petition.** GPA has advised that it has not been successful in procuring TECP financing. Accordingly, the petition is at this point moot. GPA should keep GCG informed of its further procurement efforts to procure TECP.
- c. **CIP budget and ceiling.** GCG has recommended that its examination of these petitions should occur as part of its rate review in Docket 07-10 and that in the interim the FY06 ceiling should apply. GPA agrees with this approach, subject to PUC consideration of its procurement petitions for the Agana/Tamuning underground project and for Dededo CT repairs. GCG has agreed to review and report on these two projects by October 31, 2007.
- d. **Lube oil contract extension.** GCG, by letter dated October 10, 2007 has recommended retroactive approval of the contract extension, subject to the following conditions: a] a PUC finding that GPA violated the contract protocol by failing to obtain regulatory approval prior to entering into the extension; and 2] the protocol should be amended to prevent the reoccurrence of this problem. PUC will consider these recommendations at its business meeting.
- e. **Contract protocol amendments.** By letter dated October 16, 2007, GCG has proposed eight amendments to the protocol. GPA and GCG have agreed that these amendments should be considered during the February 2008 regulatory session. On or before January 11, 2008, GPA should file comments regarding the proposed GCG amendments and may propose further amendments, with analysis, in that filing.

4. [Docket 08-6] Integrated Resource Plan.

Consistent with the findings on this subject made in PUC's 8/13/07 regulatory order, GCG should begin filing quarterly reports with PUC for the purpose of: a] keeping PUC informed of the planning process; and b] identifying points of concern, which require discussion with GPA during the quarterly regulatory sessions. The first such GCG report should be filed on or before January 25, 2008.

GPA has agreed to conduct a public workshop for PUC at 6:00 p.m. on February 8, 2008 [*approximately an hour to an hour and a half*], which would provide: a] a high level summary of the purpose and scope of the IRP process; b] progress to date; and c] how the planning process interfaces with PUC's regulatory responsibilities. It would be useful if on or before January 18, 2008 GPA filed an outline of its presentation on these points. In its January 25, 2008 quarterly

report, GCG may address any concerns, which it has with GPA's January 18, 2008 filing. PUC will issue a public notice of this workshop.

5. Line loss benchmarks and monitoring.

GPA and GCG have submitted their points of disagreement regarding line loss benchmarking to PUC for resolution at PUC's November 2, 2007 business meeting. Both parties have waived the right to an evidentiary hearing.

Please let me know if you have any questions regarding this letter.

Cordially,



Harry M. Boertzel

cc: Graham Botha
William Blair
Simon Sanchez
Jeff Johnson
Terrence Brooks

GEORGETOWN CONSULTING GROUP, INC.

716 DANBURY RD.
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October 30, 2007

Harry Boertzel, Esq. ALJ
The Guam Public Utilities Commission
Suite 207, GCIC Building
Hagatna, Guam 96932

Re: Excess Bond Funds/Load Research Project—Docket 94-04

Dear Harry,

This letter is in response to Guam Power Authority's petition seeking Public Utilities Commission ("PUC") approval of the work scope for a load research project.

Regulatory Background

On May 15, 2007 the Consolidated Commission on Utilities (CCU) approved the funding of Guam Power Authority's (GPA) load research project. The CCU "authorized the GPA General Manager to petition the Public Utilities Commission for the use of up to \$1.0 million of excess bond funds for the purposes of completing critical engineering and financial studies required to facilitate GPA's planning and *its next petition* (emphasis added) for a base rate increase." On June 28, 2007 GPA filed with the PUC a petition to approve the use of excess bond funds and the work scope associated with the load research project.

On July 27, 2007 Georgetown Consulting Group, Inc. (GCG) GCG recommended approval of this source of capital for the load research project and further recommended that any comments on the scope be deferred to the next regulatory session.

On August 13, 2007 the PUC in its Regulatory Order stated "the scope of the load and cost of service studies should be subject to regulatory review..." GPA did not object to this conclusion. The GPA use of excess bond proceeds petition was approved subject to this and other conditions. On October 4, 2007 GPA filed with the PUC a petition for a base rate increase on the basis of across-the-board allocations of capacity costs without consideration to the use of load research data.

Load Research Project

GPA originally entered into a task order contract with Economist.com to perform the load research and other technical and financial consulting projects in September 2005. The load research work scope included in the 2005 task order contract is similar to the work scope

proposed today. No task orders were ever authorized under the September 2005 task order contract due to GPA funding constraints.

As with any load research the proposed GPA project is designed to acquire actual data on patterns of customer energy consumption and demand based on specified time periods, usually hourly. Load research data can be collected at three different levels: system, customer, and end-use. System load data are collected at points along the transmission system and account for the hourly loads in a utility's service/planning area. Generally speaking, GPA already collects this type of load data via its computerized control system. Customer or end-use load data has never been collected systematically on the GPA system.

GPA proposes to collect customer load data through recording meters which would be installed on the revenue meters of a small sample of customers. By collecting customer data it will be able to develop a series of data which can be used to define its load profile both at the system and customer class level. Customer class data could then be used on a coincident basis to identify the contribution of each customer class to GPA's system peak load for specified time period. Customer class data would be developed for the residential, demand and non-demand general service, large power, demand and non-demand government, and transmission level service. GPA proposes that the samples used to estimate the coincident loads for each of its customer classes be designed to an accuracy of plus/or minus 10 percent of the class load coincident with GPA's system peak, within a 90% confidence level. Customer class coincident peak load estimates could then be used by GPA to allocate its generation, transmission and distribution capacity costs to individual customer classes in lieu of assigning such cost on an across-the-board basis as has been done in recent rate proceedings. Based on discussions with GPA personnel and GPA consultants we believe that the proposed scope of the study if undertaken is appropriate but is subject to concerns that we voice below.

At this time, GPA has no intent as part of its load research efforts to collect any end-use load data, such as air conditioning load, which could also be collected through recording meters installed on individual appliances.

Discussion

GPA has indicated that its primary objective in undertaking the load research project is to develop customer class coincident peak load data that could be used to allocate capacity cost in future rate proceedings. Certainly our review of the scope of activities to be undertaken supports a finding that this would be the primary objective achieved (i.e., no end-use data is to be collected and GPA already collects system data). The May 15, 2007 resolution passed by the CCU supports this objective. In fact, as passed, the CCU resolution indicates that the load research data would be used in GPA's next petition for a base rate increase (which based upon the CCU approval date would be the rate application recently filed by GPA).

Currently, GPA does not have customer class load data for the allocation of capacity related costs to individual customer classes. This means that irrespective of the language in the CCU resolution GPA is not in a position to establish new rates in the recently filed rate proceeding based upon cost causation by customer class, but instead only on an across-the-board system

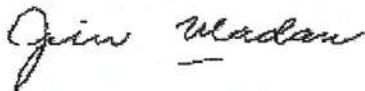
basis or some other basis that does not rely on load study data. This approach will only exacerbate the current disparity between rate classes and increase the inter-class subsidies. Currently, it is believed that residential customers are enjoying an inter-class rate subsidy due to the improper allocation of capacity cost to all GPA customer classes. Obtaining the type of load research data necessary to allocate properly capacity costs to customer classes has not been undertaken since the early 1990s. It is worth noting that in the past GPA has been reluctant to petition to adjust inter-class rate disparities between customer classes because of the potential negative impact to residential customers. In this case, while the CCU resolution indicates that the data from the study could be used facilitate the next rate proceeding, nothing in the resolution indicates a willingness to put into place a policy which will remove or move in the direction of removing the existing inter-class rate subsidies existing in GPA's base rates. We are concerned that at a time GPA has repeatedly indicated its financial resources are strained that an expenditure of hundreds of thousands of dollars for a load research project may not be warranted in the sense that the information would not be acted upon. Generally accepted ratemaking principles state that it is appropriate to move in a direction of removing inter-class rate subsidies and this should be the focus of efforts after the study is undertaken. GPA should be required to address in the upcoming rate case their view of the process by which this should be accomplished given the considerable expense being devoted to this effort.

Conclusions and Recommendations

While we believe that customer class load research data should be used in the establishment of electric rates, nothing in GPA's petition or the CCU resolution proposes a process to move in the direction of reducing existing inter-class subsidies and put in place more cost based rates. Given the resources proposed to be devoted to this project we believe the load research project should be proceed with the proposed scope with a requirement that GPA propose a process to reduce to the extent possible inter-class rate subsidies and move to more cost based rates.

If you wish to discuss any and all of the above, please do not hesitate to call.

Cordially,



Jamshed K. Madan

Cc: Lou Palomo, PUC
Graham Botha, Esq. (GPA)
Lou Sablan, CCU
William J. Blair, Esq.
Randy Wiegand, GPA
Kin Flores, GPA

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October 10, 2007

Harry Boertzel, Esq. ALJ
The Guam Public Utilities Commission
Suite 207, GCIC Building
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Re: FY 2008 Contract Review - Lubricant Contract Extension – Docket 94-04

Dear Harry,

This letter is in response to Guam Power Authority's ("GPA") September 14, 2007 petition seeking Public Utilities Commission ("PUC") approval of the extension of the lubricant oil contract with Shell for supply of lubricant oil to be used at the Cabras #3 and #4 units. This is the only item in the FY2008 Operating Budget for which GPA has sought PUC approval. Under the terms and conditions of the contract review protocol ("protocol") GPA states that the filing is required since the total cost of the entire contract including annual extensions will be greater than the threshold amount of \$1.5 million.¹

Background

The Fiscal 2008 extension is the second of a possible three extensions of the original contract with Shell for the purchase of lubricant. The original contract that began in October 2005 was retroactively approved by the PUC in its order dated February 02, 2006 after a PUC finding that GPA was in violation of the contract review protocol ("protocol") under the terms and conditions of the multiyear provisions of that protocol at paragraph four (4). This contract was also a result of a single bid. GPA had not brought the original contract to the PUC even though the total cost would exceed the \$1.5 million threshold. Specifically the protocol states that with regard to multi-year contracts:

- a) *The term of a contract or obligation (procurement) will be the term stated therein, including all options for extension or renewal.*
- b) *The test to determine whether a procurement exceeds the \$1,500,000 threshold for PUC review and approval (the review threshold) is the total estimated cost of the procurement, including cost incurred in any renewal options.*

¹ We note here that the contract as originally presented to the PUC for approval has been amended twice. We regard a change in contract from that presented for approval to the PUC as being a new contract. We recommend that the Contract Review Protocol should be amended to specifically address this issue.

c) For a multi-year procurement with fixed terms and fixed annual costs, GPA must obtain PUC approval if the total costs over the entire procurement term exceed the review threshold. No additional PUC review shall be required after the initial review process.

d) For multi-year procurements with fixed terms and variable annual costs, GPA shall seek PUC approval of the procurement if the aggregate cost estimate for the entire term of the procurement exceeds its review threshold. On each anniversary date during the term of the procurement, GPA will file a cost estimate for the coming year of the procurement. GPA shall seek PUC approval in the event a procurement [that is] subject to this paragraph should exceed 120% of the aggregate cost initially approved by PUC.

e) Unless for good cause shown, any petition for PUC approval of a multi-year procurement must be made sufficiently in advance of the commencement of the procurement process to provide PUC with reasonable time to conduct its review.

In our recommendation letter of January 24, 2006 we not only recommended retroactive approval of this contract, but also indicated that GPA need not return for future PUC approvals since the basic terms and conditions were constant for the extensions and the prices for these extensions were known at the time of the contract. At that time, the price per gallon for the initial contract was \$4.37 per gal. The price then escalated for each extension: First extension (Fiscal 2007) was \$4.80 per gallon, the second extension (Fiscal 2008) \$5.30 per gallon and for the third extension (Fiscal 2009) \$6.00 per gallon.

GPA apparently exercised the option for the renewal of the contract for one-year (Fiscal 2007), but the price was not \$4.80 per gallon as originally filed with the PUC, but was rather negotiated to \$5.20 per gallon. While the CCU approved this price increase,² no PUC approval was sought. If we are correct that any change in an initial contract is to be considered a new contract then PUC approval should have been sought since that value of the entire contract is in excess of \$1.5 million. At a minimum an annual update would be required under the terms of the protocol.

The Consolidated Commission on Utilities ("CCU") approved a further negotiated change and an increase in the price per gallon from the new price of \$5.20 per gallon to \$5.90 per gallon that was negotiated in March 2007.³ GCG has no record of any filing made by GPA regarding this resolution and is uncertain whether these increases have exceeded the 120% threshold in total costs. Regardless whether or not GPA contract costs exceeded the 120% margin GPA is required to file annual updates to this multiyear contract on the anniversary of the contract which it has not done. We are also concerned on what precedent may be set by renegotiating prices in a contract to which the parties had agreed. GCG does not know why the CCU permitted the re-opening of the terms of the contact. Perhaps, the CCU permitted this since from a cost perspective the net result actually improved the overall costs of GPA. It is also for this reason, GCG did not pursue the matter further.

Current Filing

The current filing before the PUC is for the amendment for Fiscal 2008 that apparently was negotiated and approved by the CCU in March 2007 (see above). The filing indicates that GPA is purchasing and will continue to purchase lubricant for the Cabras 3 and Cabras 4 units at a price of \$5.90 per gallon for the remainder of Fiscal 2008. Attachments to the current filing suggest that this increase in price will result in an annual cost for Fiscal 2007 to GPA from \$1,314,000 to \$1,450,000 due to the increase to \$5.90 per gallon in March or April 2007. For justification of the necessity of the contract, GPA has provided a copy of its justification to the CCU

² CCU Resolution #2006-33, September 19, 2006.

³ CCU Resolution #2007-10, March 27, 2007

of August 8, 2007 and cites the necessity of keeping the Cabras #3 and #4 units operational and avoiding the time and expenses of an IFB for an alternate contract and the potential to lose supply should no response result from that IFB. That justification sheet shows the same annual cost of \$1,450,000 for Fiscal 2007 for Fiscal 2008. Since the cumulative annual costs for this contract and approved extensions (and potentially the last renewal option for Fiscal 2009) easily exceed the \$1.5 million threshold a filing for PUC approval is required if the PUC agrees that these are new contracts.

While the justification sheet quantifies the increase in the contract as a result of the increased price of the lubricant, it is unclear as to how the price increase was quantified and whether or not the increase was net of a credit to the price of the diesel fuel purchased by GPA proposed by Shell. Shell has agreed to provide a credit (see attached memo) to the purchases of diesel fuel (from Shell) that is 10% more than the \$0.70 per gallon increase in the lubricant oil for the portion that applies to Fiscal 2007 and all of Fiscal 2008. Shell has been discounting its price for diesel fuel for the Tenjo unit by 110% of the lubricant increase or a \$0.77 per gallon credit times the ratio of diesel fuel to cylinder fuel to keep the overall cost of the lube oil increase from the original contract at less than zero. While this offset is somewhat confusing, the computed diesel fuel discount is applied to the purchase price of diesel such that the increase in the lubricant purchases is offset dollar-for-dollar by the decrease in diesel purchases plus an additional credit of 10% of the diesel fuel costs as computed in the following table:

Table 1

	Lubricant	Diesel
Monthly Gallons	20,000	120,000
Change in Price	0.700	0.128
Monthly Change	\$ 14,000	(\$ 15,400)

As stated earlier, this contract was a result of a single bid. The protocol for the single bid contract was included in the protocol in May 2007, but was not included in the protocol at the time the original contract was approved and the two extensions were ratified by the CCU. Therefore, the new addition to the protocol should not be applied. The new protocol established by the PUC in May 2007 at paragraph 5 indicates that:

In the event GPA receives only one bid for procurement, which is subject to this contract review protocol, GPA shall obtain prior CCU approval of the prudence of accepting the single bid. GPA shall file with PUC the documentation regarding this CCU prudence review within ten days of CCU action. PUC reserves the authority, after monitoring this prudence review process to reconsider the need for additional regulatory oversight over single bid procurements. In addition, in the event GPA determines to award a contract after receiving only a single bid, GPA shall provide PUC with the determination made by GPA pursuant to section 3102(c) (1) of Chapter 2, Division 4, Title 2 of the Guam Administrative Rules and Regulations, relating to single bid procurements.

The above requires PUC notice and CCU approval. In this instance, with the offset to the diesel fuel price the issue of prudence of the extension on the basis of price and increased costs to GPA appears to be moot.

Conclusion

1. The extension of the contract through Fiscal 2008 requires PUC approval and should therefore be retroactively approved;
2. GPA should be found in violation of the contract review protocol on this matter; and
3. To prevent the hurried review of this contract and future extensions to existing and approved contracts the contract review should be amended as follows:

e) Unless for good cause shown, any petition for PUC approval of a multi-year procurement must be made ~~sufficiently~~ a minimum of sixty (60) days in advance of the commencement of the procurement process to provide PUC with reasonable time to conduct its review.

If you wish to discuss any and all of the above, please do not hesitate to call.

Cordially,



Jamshed K. Madan

C: Lou Palomo, PUC
Graham Botha, Esq. (GPA)
Lou Sablan, CCU
William J. Blair, Esq.
Randy Wiegand, GPA
Kin Flores, GPA



Joaquin Flores
General Manager
Guam Power Authority

March 7, 2007
Our Ref: Cylinder oil

Dear Mr. Flores,

Thank you for meeting with us yesterday to discuss our request for an adjustment in cylinder oil price. To recap our discussion, our proposed arrangement for the requested price increase in Shell Alexia Oil 50 is as follows:

Amendment to Price (from \$5.20 to \$ 5.90) = \$ 0.70/gal. For the remaining FY 2007 & FY 2008 option term of contract.

Shell is willing to give GPA 10% more than the "Effect of Price Increase". This will be reflected by way of a discount in the delivered price of ADO for the Tenjo power plant, or another plant designated by GPA. Tenjo was chosen as, historically, it is the most used among the units running on ADO.

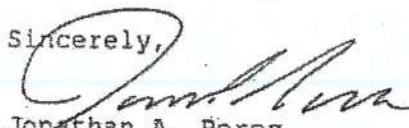
Assuming GPA uses 20,000 gallons of cylinder oil per month, GPA will receive a credit of
 $20,000 \text{ gal} \times 0.77 = \$15,400$ towards diesel purchases.

Assuming Tenjo uses 120,000 gallons of Diesel fuel per month, Shell will adjust its selling price to GPA Tenjo reflecting the following discount:

$\$15,400 / 120,00 \text{ gal} = \$0.128/\text{gallon}$ discount on diesel sold to GPA.

The idea is to keep GPA whole plus a little benefit. The contract for Cylinder oil is in its first option year with 2 more option years remaining and the Diesel supply contract is for 3 years, sufficient terms for both should make it work. We trust you will find the above fair to both parties and hope GPA and CCU will approve our request on the next meeting scheduled on March 27th.

Sincerely,


Jonathan A. Perez
Business Development Manager

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Islands
Shell Guam Inc.
Shell Mariana's
Shell Pacific
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BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

GUAM POWER AUTHORITY
REGULATORY REVIEW

DOCKET 02-4



Administrative Law Judge Report

Background

For the past five years, the Guam Public Utilities Commission [PUC] has emphasized the need for Guam Power Authority [GPA] management to take a proactive role in reducing its line losses to reasonable levels¹. Although GPA established a line loss program in 2004, its implementation has been obstructed by lack of funds and necessary studies.

In its August 13, 2007 Regulatory Order, PUC determined that:

In its February 1, 2007 Regulatory Order, PUC emphasized its continuing concern regarding line losses, which impose additional rate burden on GPA customers. GPA is directed to fully comply with ALJ directives, which will prepare this subject for regulatory action in the May 2007 regulatory session. Notwithstanding this directive and the history of this regulatory issue, as recounted in ALJ's October 25, 2006 letter, GPA and GCG have not been able to agree to a regulatory benchmarking and monitoring protocol for line losses. *[Each percentage of reduction in line losses would reduce fuel expenses by \$1.5 million dollars.]*

This lack of progress requires the commencement of formal regulatory proceedings to establish these important benchmarks. Accordingly, ALJ should be authorized and directed to oversee further proceedings, including an evidentiary hearing if necessary, which will enable PUC to take definitive action on this regulatory issue during the October 2007 regulatory session.

In response to PUC's August 13, 2007 Order, GPA and Georgetown [GCG] have made meaningful progress in crafting a line loss reduction program.

¹ On 9/17/03, GPA stipulated that in future determinations of prudently incurred fuel costs for inclusion in LEAC calculation, GPA shall be required to demonstrate that its power supply and delivery resources have met reasonable performance standards. In its October 14, 2004 Order, PUC ordered GPA on or before 12/4/04 to file an action plan to reduce its line losses to FY01 levels. By its 4/22/05 Order, PUC reminded GPA of its duty under the 10/14/04 Order to file quarterly reports regarding its plan and efforts to reduce line losses. In its 4/20/06 Order, GPA was again reminded of its duty under the 10/14/04 Order to file quarterly reports regarding its efforts to reduce line losses. In its 9/20/06 Order, PUC directed ALJ to oversee the development of GPA and GCG's position on line loss benchmarks for PUC consideration during the January 2007 LEAC proceeding.

In its October 10, 2007 report [*Attachment A*], GCG represents that it and GPA are in general agreement regarding line loss performance and monitoring standards, except for two principles. Attachment A includes a summary of the points of agreement between GPA and GCG. *Attachment B* in paragraphs 8 and 9 contain GCG's position on what should be the consequence of GPA failing to meet the performance standards set forth in paragraph 7. The GPA position on these two points is explained in its July 27, 2007 letter as supplemented by an October 16, 2007 memorandum from its consultant R.W. Beck [*Attachments C*].

The purpose of this ALJ report is to review the dispute between GPA and GCG on the appropriate consequences of GPA's failure to meet performance standards and to make recommendations for PUC action.

The GCG-GPA Dispute

1. Failure to meet performance standards.

GCG's position on this principle is set forth in paragraph 8 of Attachment C:

In the event GPA's line losses and unaccounted energy performance does not meet the performance standards set under item 7, the PUC during subsequent LEAC rate proceedings shall consider the specific circumstances surrounding GPA's failure to meet the performance standard and determine what action, if any, it may pursue including the potential to disallow from recovery any of the excess fuel costs included in any LEAC rate proposed to be charged consumers. Any disallowance would be a penalty for poor performance.

GPA, in its July 27, 2007 letter, indicates that it would be willing to consider the GCG position subject to the following conditions: a] the performance standards would be diluted by 0.5%; b] there would be no enforcement of the standards for 24 months; and c] GPA would be rewarded with credits in the event it over achieves the standards. GPA argues that a 24 month enforcement delay is necessary in order for GPA to: a] test and analyze loss data; b] model and simulate the T&D system to identify reasonable line losses and mitigation levels; c] implement and evaluate mitigation programs; and d] identify long-term standards. These are the very tasks, which PUC directed GPA to undertake several years ago. GPA's inability to do so has caused its ratepayers to incur excessive fuel expenses. GPA also asserts that it lacks cash reserves to implement a line loss mitigation program. GCG should be directed to examine this assertion within the context of its review of GPA's rate petition in Docket 07-10.

The undersigned finds GCG's position on this issue to be persuasive. Paragraph 8 simply recognizes PUC's statutory authority to disallow unreasonable expenses².

GCG documents in its October 10, 2007 letter that a 0.5% bandwidth would be unreasonable given that: a] GPA is currently exceeding the proposed performance standards; and b] its performance is measured on a generous 24 month trailing average. Moreover, GCG is persuasive in its point that the purpose of the performance standards is not to reward GPA in the face of historic excessive line losses, which have been borne by its ratepayers.

Accordingly, the undersigned supports the inclusion of paragraph 8 of Attachment C in PUC's order, which establishes line loss benchmarks.

2. Operational adjustments.

GCG's position on this principle is set forth of paragraph 9 of Attachment C:

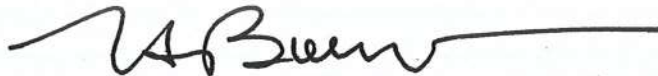
It is recognized that a disallowance of excess fuel costs may have a detrimental impact on cash flow potentially resulting in GPA making adjustments to its operations. Any such operational adjustments made by GPA adversely impacting ratepayers due to cuts in areas such as delivery system or poor plant maintenance shall be deemed by the PUC to be imprudent action on behalf of GPA and may result in additional penalties including further allowances.

GPA asserts that paragraph 9 would constitute regulatory micromanagement. In contrast, GCG asserts that PUC's adoption of the paragraph would merely reaffirm GPA's duty under both statute and indenture covenant to properly maintain its generation plants and delivery system. The undersigned supports the inclusion of the paragraph in PUC's order.

Summary

ALJ recommends that PUC consider and adopt the attached order [Attachment D] to establish a GPA line loss performance and monitoring program.

Respectfully submitted this 31st day of October 2007.



Harry M. Boertzel
Administrative Law Judge

² See, for example, 12 GCA § 12001.2[d] which provides that: *Any public utility that has received an order from the PUC to reduce expenditures in any area of operations shall comply with such order, and failure to do so is grounds for disapproval of a rate increase proposal.*

A

Memo

To: Harry Boertzel, Esq. ALJ
Guam Public Utilities Commission

From: Jim Madan/Larry Gawlik

Date: October 10, 2007

RE: GPA Line Loss Performance Position

The memo is provided to you as Georgetown Consulting Group, Inc.'s (GCG) position concerning GPA line losses and the development of line loss performance benchmarks. Both GPA and GCG agreed that we would provide you with our positions in lieu of briefs and reply briefs as the issues have been well laid out to you previously.

Pursuant to your earlier direction GPA and GCG did attempt to develop a joint recommendation (stipulation) concerning line loss performance. Several draft documents outlining the positions of the parties were developed, telephone conferences held and emails exchanged. Progress has been made and both parties have accommodated many of the concerns of the other party; however, we have not been able to reach successful closure on the final two items. These two items we view as critical and moreover consistent with the Commission's existing authority to insure ratepayers that they are not saddled with unnecessarily high line losses in the LEAC rate.

Two relevant documents are attached to this memo. The first attachment, in redline and strikeout format, compares the latest GCG and GPA positions. As can be seen very minor differences in language exist with the exceptions of paragraphs 8 and 9, which are shown in strikeout text on the attachment. Paragraph 8 as proposed by GCG (and opposed by GPA) states that if GPA fails to meet the line loss performance benchmarks in paragraph 7 for two consecutive LEAC rate periods, the Commission **may** exercise certain ratepayer remedies (a disallowance of fuel expenses in the LEAC) to protect ratepayers from imprudent line loss levels. Paragraph 9 states (opposed by GPA) that if the Commission were to disallow certain imprudent expenses due to high line losses and GPA were to circumvent such disallowance by cutting back on delivery system or generator maintenance that any excessive LEAC expenses which resulted as a consequence of such cutbacks could produce even further ratepayer remedies (disallowances of cost recovery to GPA). The second document is a copy of our July 27 report outlining our earlier position on the matters contained in paragraphs 8 and 9. Our position today is identical to our earlier position on these two paragraphs.

Given that we have accommodated many of GPA's earlier concerns, have agreed to putting in place ratepayer remedies after GPA misses its line loss performance benchmarks for two (2) consecutive LEAC periods and that GPA most likely will exceed the line loss performance benchmarks in paragraph 7 for at least the first year¹ we believe our current position to be fair

¹ The current LEAC filing shows that GPA is projection to be above the line loss standard for the period August 2007 through February 2008. Therefore even if GPA misses the target for the next 6 month period there would not be any penalty under our proposal.

and reasonable. In fact, we feel that the two paragraphs do nothing more than express the rights the Commission already has pursuant to its existing statutory authority. Meanwhile, GPA indicates that it can't accept paragraph 9 and that paragraph 8 would need to be revised to include performance dead-bands and bonuses, which we have previously indicated in our July 27 report are unacceptable. GPA's position could be that it does not want to expend cash for line loss projects given its tight cash position even though the line loss projects would provide a significant payback to ratepayers. In the past GPA has spurned offers by GCG to include the cost of such projects in the LEAC as a method of funding and not funded the projects. This approach has resulted in higher costs for ratepayers with no cost to GPA since all excess fuel costs have been passed through the LEAC. We do not believe that this position should continue.

It is our recommendation that the Commission at its October regulatory session approve an order putting in place the line loss performance and monitoring protocol consistent with the GCG version of Attachment 1. This will provide a transparent protocol for protecting ratepayers from the unnecessarily high line losses that have been included in recent LEAC rate proceedings. Alternatively, if GPA is agreeable to binding mediation and the acceptance of all paragraphs of the latest GCG draft stipulation except paragraphs 8 and 9, we would propose that the administrative law judge act as a mediator for the purpose of mediating paragraph 8 and 9. This approach may be more administratively efficient and ultimately reduce the efforts required by all parties.

cc: GPA

Attachment 1

—Discussion Outline—

GPA Line Loss and Unaccounted For Energy Performance and Monitoring Principles

1. Establishing minimum line loss and unaccounted for energy performance benchmarks will protect GPA ratepayers from LEAC rates containing fuel costs associated with line loss and unaccounted for energy levels above prudent levels.
2. Reducing line loss and unaccounted for energy levels is in best interest of GPA and ratepayers and will result in a lowering of the LEAC rate charged ratepayers. Reducing line loss and unaccounted for energy to the levels previously exhibited by GPA is consistent with prudent electric power industry practices.
3. In recent years, GPA's line loss and unaccounted for energy performance has increased peaking at 10.2 percent when measured as a percentage of net power production. GPA has responded by initiating implementation of a comprehensive program in 2004 for managing excessive losses and unaccounted for energy. This program has improved line loss and unaccounted for energy performance; however there is potentially more that can be done to improve performance.
4. At current fuel oil prices the LEAC rate impact of each percent of GPA line losses is estimated to cost ratepayers an additional \$1.5 million per year. Changes in fuel oil prices will have a corresponding impact on the LEAC rates charged ratepayers.
5. In its November 30, 2006 report entitled "Projected Target for the Reduction of Unaccounted for Energy (System Losses)" GPA identified a preliminary line loss and unaccounted for energy performance target of less than six (6) percent by FY 2008; however, GPA believes it prudent to conduct a study of its system characteristics prior to establishing definitive long-term line loss and unaccounted for energy performance benchmark for use in setting future LEAC rates. This study will be initiated no later than September 1, 2007 and is expected to be completed no later than June 30, 2008.
6. Prior to establishing a definitive long-term line loss and unaccounted for energy performance standard GPA shall be provided an extra year beyond the FY 2008 target identified in its earlier November 30, 2006 report on system losses for the purpose of completing previously identified line loss mitigation measures. Until July 2009, a 24-month line loss performance phase-in period will be used by the PUC to monitor actual GPA line loss performance and verify system modeling assumptions.
7. Interim line loss and unaccounted for energy performance standards shall be effective starting with the August 2007-January 2008 LEAC rate period. These interim performance standards shall be calculated on a (i) net power generation basis, (ii) 24-month trailing average basis, and (iii) shall be phased-in over a 24-month period enabling GPA to make the any system modifications in accordance with its November 2004 report. The interim phase-in performance standards for the periods identified below are as follows:

- a. Six-month period ending January 2008—7.6 percent
- b. Six-month period ending July 2008—7.3 percent
- c. Six-month period ending January 2009—7.0 percent
- d. Six-month period ending July 2009—6.5 percent*

The interim standard for the six-month period ending July 2009 is subject to review of the line loss reduction study to be completed and provided to the PUC no later than June 2008. The review of the February-July 2009 interim performance standard and the establishment of a definitive long-term line losses and unaccounted for energy performance standard for all future LEAC rate proceedings shall then be completed collaboratively by GPA and GCG and reported to the PUC for final action no later than October 31, 2008.

8. GPA currently does not have the cash resources necessary for continued implementation of its line loss mitigation program. The key line loss mitigation activities identified by GPA as requiring additional funding include:
 - a. Computer modeling of the GPA delivery system network.
 - b. Simulation analysis and studies optimizing improvements to the delivery system.
 - c. Consulting assistance and temporary staff augmentation to conduct modeling, analysis, and capital improvement studies.
 - d. Capital improvements to the GPA delivery system including but not limited to the addition of capacitors, transformer replacements, circuit phase balancing and economic conductor sizing.
9. GPA in its upcoming base rate proceeding shall include in its revenue requirement filing adequate human and capital resources necessary to provide the funding to support all required line loss mitigation activities (computer modeling, simulation, studies, operation, maintenance, and construction activities) prudently performed by an electric utility in the course of its day-to-day business. Upon PUC approval of new base rates GPA's line loss mitigation program shall be fully implemented and continue to produce ongoing ratepayer benefits.
10. At any time in the future GPA determines it cannot adequately provide the human or financial capital or other resources necessary to meet the performance standards set under this stipulation, it has the obligation to notify the PUC and seek rate relief. Failure to do so may result in the disallowance of fuel expenses determined not to be prudently incurred.
11. Until final action is taken by the PUC on GPA's upcoming base rate case filing, GPA in its LEAC rate filings may include a cumulative allowance of up to \$1.5 million (\$500k in any single LEAC rate period) which shall be collected from ratepayers and used by GPA exclusively for the line loss mitigation activities contained in its "Quality Management Plan for the Cost-Effective Reduction of Unaccounted for Energy." All line loss related LEAC revenues collected and expended by GPA to control line losses shall be repaid (credited back to ratepayers through the LEAC rate) by GPA within a 2-year period beginning February 1, 2009. GPA may use future bond funds, lines of credit, internally generated capital, or other unencumbered sources available for repayment of this obligation.

12. Until that time GPA meets the performance standards outlined in item 7 GPA shall provide the PUC for monitoring purposes a quarterly loss reduction compliance report. The report should be (i) in a format approved by the PUC, (ii) present relevant information concerning production, sales, and losses and unaccounted for energy, (iii) present line loss performance data in a manner that provides for each of the three months covered by the quarterly report the actual trailing 24-month average, 12-month average, and current month line loss performance, (iv) status update of its "Quality Management Plan for the Cost-Effective Reduction of Unaccounted For Energy", and (v) address actions being taken to bring it into compliance with the performance standards. The quarterly loss reduction compliance report may also be posted on the GPA website no later than 21 days after the end of the quarter.

Larry Gawlik

Memo

To: Harry Boertzel, Esq. ALJ
Guam Public Utilities Commission

From: Larry Gawlik

Date: July 27, 2007

RE: GPA Line Loss Performance and Monitoring

The purpose of this memo is to provide an update on the status of discussions between Guam Power Authority (GPA) and Georgetown Consulting Group, Inc. (GCG) concerning GPA line losses and the development of line loss performance benchmarks. Pursuant to your direction GPA and GCG have been engaged in the development of a joint recommendation (stipulation) concerning line loss performance. GPA's line loss performance data has been analyzed as well as telephone conferences held and numerous emails exchanged for the purpose of developing line loss performance objectives for the PUC's use in future LEAC rate proceedings. While progress has been made we have not yet arrived at a successful conclusion. We anticipate further discussion prior to the GPA regulatory conference. While we are optimistic that we may be able to successfully conclude these discussions, it would be prudent to plan the regulatory session on the basis that GPA and GCG will not reach a mutual agreement on this matter.

The latest draft of the proposed stipulation principles can be found attached as Exhibit A to the July 27, 2007 memo from GPA. While there is agreement on many of the principles there is no agreement on the most critical of the line loss principles. Specifically, item 7 which identifies line loss benchmarks that are proposed to be phased-in over a 24-month period (i.e., the next four (4) LEAC rate proceedings). It proposes that GPA line loss performance be measured on a 24-month trailing average basis. In other words, each monthly value over the past 24-months would be averaged together. As we go forward in time the line loss value for the next month would be added and the line loss value for the then 25th month would be dropped from the calculation.

The performance benchmark proposed in item 7 for the LEAC period ending January 2008 is 7.6 percent. As a critical point of reference, on a 24-month trailing average basis GPA is currently operating at a line loss level of 7.46 percent and has been below the 7.6 percent benchmark since March. The proposed line loss performance benchmark decreases to a 7.3 percent level at July 2008. At that time all of the performance benchmarks going forward will then be re-evaluated in the June-October 2008 timeframe following the completion of a GPA transmission loss study.

GPA has indicated that it will be performing a transmission loss study and would like for this new information to be included in the establishment of the later phase-in performance benchmarks and the final long-term line loss performance benchmark. GCG proposed this re-evaluation period for the purpose of considering new information such as the type that may come out of such a study.

While we understand that GPA would like to wait until its transmission study is completed before it agrees to the use of performance benchmarks for the purpose of measuring its line loss performance and any potential penalty situation, we must point out that GPA completed its report entitled "Projected Target for the Reduction of Unaccounted for Energy (System Losses)" in November 2004. It was in that study that GPA proposed a line loss performance target of less than six (6) percent by FY 2008 and indicated the need to conduct a transmission loss study as part of its loss mitigation program. Now 33-months later the transmission loss study has yet to be authorized by GPA and it now proposing that the PUC wait an additional 24-months before it consider implementing performance benchmarks and potential penalties should GPA fail to meet a line loss performance benchmark (it should be understood that GPA does not oppose having targets—only the potential penalties that may be associated with non-performance).

In its filing on Friday, July 27, 2007 GPA indicates that it would be willing to consider application of performance benchmarks and the potential imposition of penalties should it fail to meet a performance benchmark. Any such agreement by GPA would be dependent upon a performance standard and penalty mechanism that would allow:

- (a) Application of a 0.5% bandwidth where no penalty or bonus will be applied; and
- (b) Creation of a system of rewarding a bonus for over achievement that can be banked for future use to credit any performance shortcomings.

On its face (a) is simply equivalent to changing the proposed performance standard contained in item 7 of the proposed stipulation principles for the six-month period ending January 2008 from 7.6 percent to 8.1 percent. This doesn't seem to be reasonable since GPA on a 24-month trailing average basis has demonstrated during the course of the past year that it consistently exceeded this level of performance and today is operating at a 7.46 percent level. Such a proposal does not demonstrate the level of improvement needed to mitigate the line loss risk to consumers and should be rejected. While it is not our intent to slam the door entirely on the concept of a bandwidth, we believe a 0.5 percent bandwidth to be far too liberal.

As for the condition contained in (b) we believe GPA fails to appreciate the excessive line loss burden its consumers have carried for the past five years. Now as GPA starts to more aggressively tackle its excessive line losses it proposes to institute a bonus program if it over achieves by someone unknown amount the proposed line loss performance benchmarks. Meanwhile, all of the capital that will be required to achieve such over performance will be supplied by or financed by GPA consumers. Since GPA consumers will bear the total burden of the capital required to invest in line loss projects and have picked up 100 percent of liability of excessive line losses to date it simply is not equitable to reward GPA as proposed. This aspect of the GPA proposal should be rejected.

As to GPA's second point, GCG long ago recognized that GPA was withholding capital investments in line loss programs and extended a proposal to GPA to use the LEAC rate mechanism as a short-term funding mechanism to accelerate investments in line loss reduction projects. We reaffirm our willingness to support the use of the LEAC rate process for this purpose; however, it has never been our intent that these additional consumer revenues would simply be given to GPA. While we can appreciate GPA's desire that ratepayers give it funds, it has always been our intent that these funds would be repaid by GPA within a reasonable period from other available cash resources (i.e., revenue generated from interest coverage above 1.0x, capital financing, lines of credit or other sources). We believe this is simply a misunderstanding on GPA's behalf of our original proposal.

As for GPA's third point, item 9 was written to specifically avoid setting up a situation of micro management. It is designed to emphasize to GPA that if it intentionally withholds maintenance funds for generator maintenance and such actions result in adverse consequences to consumers that it would be our intent to view these actions the same way viewed by regulatory commissions throughout the world. In other words, if maintenance dollars were withheld and the impact is lower availability or efficiency adversely impacting consumers, GPA would find itself subject to financial penalties (hence the incentive is not to incur such disallowance--the purpose of this regulatory tool). Item 9 is meant to act as a balance to encourage GPA not to cut back on maintenance and purposely shift the burden of such cut backs to consumers by increasing their LEAC rates. Such action can't be tolerated by any regulatory authority when a utility clearly makes all of the decisions concerning its operations and has countless other avenues available (i.e., pursue a rate increase, short-term borrowing, cut back in less critical areas, reduce employee levels, freeze wages, and so forth). So in order to avoid telling GPA how to manage its cash resources (i.e., what to cut, how to finance, whether to seek a rate increase, and so forth) the intent is to tell GPA that intentionally cutting maintenance funds and shifting the impact to consumers thru the LEAC rate would not be viewed as an acceptable practice and would have consequences.

GPA's fourth point will of course be addressed by the transmission loss study that it proposes to shortly authorize and no action is required at this time. However, we would like to correct the misconception about holding GPA accountable to its historical line loss levels. It is not GCG that proposed a long-term target by FY 2008 of less than 6 percent. At this point in time, GCG has not suggested a definitive line loss value lower than 7.0 percent and has stated that for the six-month period ending July 2009 and beyond that the performance benchmark be subject to review of the line loss reduction study and that the establishment of a definitive long-term line losses and unaccounted for energy performance standard should be collaboratively developed by GPA and GCG and reported to the PUC for final action no later than October 31, 2008. To the contrary, it was GPA in its report entitled "Projected Target for the Reduction of Unaccounted for Energy (System Losses)" completed in November 2004 that stated a target line loss performance standard of less than six (6) percent by FY 2008.

In conclusion, our intent is to continue to strive for a successful stipulation. However, it would be prudent to assume that this will not happen prior to the GPA regulatory session.

cc: Jim Madan

—Discussion Outline—
**GPA Line Loss and Unaccounted For Energy
Performance and Monitoring Principles**

1. Establishing minimum line loss and unaccounted for energy performance benchmarks will protect GPA ratepayers from LEAC rates containing fuel costs associated with line loss and unaccounted for energy levels above prudent levels.
2. Reducing line loss and unaccounted for energy levels is in best interest of GPA and ratepayers and will result in a lowering of the LEAC rate charged ratepayers. Reducing line loss and unaccounted for energy to the levels previously exhibited by GPA is consistent with prudent electric power industry practices.
3. In recent years, GPA's line loss and unaccounted for energy performance has deteriorated, peaking at 10.2 percent when measured as a percentage of net power production. GPA has responded by initiating implementation of a comprehensive program in 2004 for managing excessive losses and unaccounted for energy. This program has improved line loss and unaccounted for energy performance; however, GPA line loss performance remains above GPA's historical performance and there is considerably more that can be done to improve performance.
4. At current fuel oil prices the LEAC rate impact of each percent of GPA line losses is estimated to cost ratepayers an additional \$1.5 million per year. Changes in fuel oil prices will have a corresponding impact on the LEAC rates charged ratepayers.
5. In its November 30, 2006 report entitled "Projected Target for the Reduction of Unaccounted for Energy (System Losses)" GPA identified a preliminary line loss and unaccounted for energy performance target of less than six (6) percent by FY 2008; however, GPA believes it prudent to conduct a study of its system characteristics prior to establishing definitive long-term line loss and unaccounted for energy performance benchmark for use in setting future LEAC rates. This study will be initiated no later than September 1, 2007 and is expected to be completed no later than June 30, 2008.
6. Prior to establishing a definitive long-term line loss and unaccounted for energy performance standard GPA shall be provided an extra year beyond the FY 2008 target identified in its earlier November 30, 2006 report on system losses for the purpose of completing previously identified line loss mitigation measures. Until July 2009, a 24-month line loss performance phase-in period will be used by the PUC to monitor actual GPA line loss performance and to hold GPA accountable.
7. Interim line loss and unaccounted for energy performance standards shall be effective starting with the August 2007-January 2008 LEAC rate period. These interim performance standards shall be calculated on a (i) net power generation basis, (ii) 24-month trailing average basis, and (iii) shall be phased-in over a 24-month period enabling GPA to make the any system modifications in accordance with its

November 2004 report. The interim phase-in performance standards for the periods identified below are as follows:

- a. Six-month period ending January 2008—7.6 percent
- b. Six-month period ending July 2008—7.3 percent
- c. Six-month period ending January 2009—7.0 percent
- d. Six-month period ending July 2009—6.5 percent*

The interim standard for the six-month period ending July 2009 is subject to review of the line loss reduction study to be completed and provided to the PUC no later than June 2008. The review of the February-July 2009 interim performance standard and the establishment of a definitive long-term line losses and unaccounted for energy performance standard for all future LEAC rate proceedings shall then be completed collaboratively by GPA and GCG and reported to the PUC for final action no later than October 31, 2008.

8. In the event GPA's line loss and unaccounted for energy performance does not meet the performance standards set under item 7, the PUC during subsequent LEAC rate proceedings shall consider the specific circumstances surrounding GPA's failure to meet the performance standard and determine what action, if any, it may pursue including the potential to disallow from recovery any of the excess fuel costs included in any LEAC rate proposed to be charged consumers. Any disallowance would be a penalty for poor performance.
9. It is recognized that that a disallowance of excess fuel costs may have a detrimental impact on cash flow potentially resulting in GPA making adjustments to its operations. Any such operational adjustments made by GPA adversely impacting ratepayers due to cuts in areas such as delivery system or power plant maintenance shall be deemed by the PUC to be imprudent action on behalf of GPA and may result in additional penalties including further disallowances.
10. GPA currently does not have the cash resources necessary for continued implementation of its line loss mitigation program. The key line loss mitigation activities identified by GPA as requiring additional funding include:
 - a. Computer modeling of the GPA delivery system network.
 - b. Simulation analysis and studies optimizing improvements to the delivery system.
 - c. Consulting assistance and temporary staff augmentation to conduct modeling, analysis, and capital improvement studies.
 - d. Capital improvements to the GPA delivery system including but not limited to the addition of capacitors, transformer replacements, circuit phase balancing and economic conductor sizing.
11. GPA in its upcoming base rate proceeding shall include in its revenue requirement filing adequate human and capital resources necessary to provide the funding to support all required line loss mitigation activities (computer modeling, simulation, studies, operation, maintenance, and construction activities) prudently performed by

an electric utility in the course of its day-to-day business. Upon PUC approval of new base rates GPA's line loss mitigation program shall be fully implemented and continue to produce ongoing ratepayer benefits.

12. At any time in the future GPA determines it cannot adequately provide the human or financial capital or other resources necessary to meet the performance standards set under this stipulation, it has the obligation to notify the PUC and seek rate relief. Failure to do so may result in the disallowance of fuel expenses determined not to be prudently incurred.
13. Until final action is taken by the PUC on GPA's upcoming base rate case filing, GPA in its LEAC rate filings may include a cumulative allowance of up to \$1.5 million (\$500k in any single LEAC rate period) which shall be collected from ratepayers and used by GPA exclusively for the line loss mitigation activities contained in its "Quality Management Plan for the Cost-Effective Reduction of Unaccounted for Energy." All line loss related LEAC revenues collected and expended by GPA to control line losses shall be repaid (credited back to ratepayers through the LEAC rate) by GPA within a 2-year period beginning February 1, 2009. GPA may use future bond funds, lines of credit, internally generated capital, or other unencumbered sources available for repayment of this obligation.
14. Until that time GPA meets the performance standards outlined in item 7 GPA shall provide the PUC for monitoring purposes a quarterly loss reduction compliance report. The report should be (i) in a format approved by the PUC, (ii) present relevant information concerning production, sales, and losses and unaccounted for energy, (iii) present line loss performance data in a manner that provides for each of the three months covered by the quarterly report the actual trailing 24-month average, 12-month average, and current month line loss performance, (iv) status update of its "Quality Management Plan for the Cost-Effective Reduction of Unaccounted For Energy", and (v) address actions being taken to bring it into compliance with the performance standards. The quarterly loss reduction compliance report may also be posted on the GPA website no later than 21 days after the end of the quarter.

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**GPA Line Loss and Unaccounted For Energy
Performance and Monitoring Principles**

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5. In its November 30, 2006 report entitled "Projected Target for the Reduction of Unaccounted for Energy (System Losses)" GPA identified a preliminary line loss and unaccounted for energy performance target of less than six (6) percent by FY 2008; however, GPA believes it prudent to conduct a study of its system characteristics prior to establishing definitive long-term line loss and unaccounted for energy performance benchmark for use in setting future LEAC rates. This study will be initiated no later than September 1, 2007 and is expected to be completed no later than June 30, 2008.
6. Prior to establishing a definitive long-term line loss and unaccounted for energy performance standard GPA shall be provided an extra year beyond the FY 2008 target identified in its earlier November 30, 2006 report on system losses for the purpose of completing previously identified line loss mitigation measures. Until July 2009, a 24-month line loss performance phase-in period will be used by the PUC to monitor actual GPA line loss performance and to hold GPA accountable.
7. Interim line loss and unaccounted for energy performance standards shall be effective starting with the August 2007-January 2008 LEAC rate period. These interim performance standards shall be calculated on a (i) net power generation basis, (ii) 24-month trailing average basis, and (iii) shall be phased-in over a 24-month period enabling GPA to make the any system modifications in accordance with its

November 2004 report. The interim phase-in performance standards for the periods identified below are as follows:

- a. Six-month period ending January 2008—7.6 percent
- b. Six-month period ending July 2008—7.3 percent
- c. Six-month period ending January 2009—7.0 percent
- d. Six-month period ending July 2009—6.5 percent*

The interim standard for the six-month period ending July 2009 is subject to review of the line loss reduction study to be completed and provided to the PUC no later than June 2008. The review of the February-July 2009 interim performance standard and the establishment of a definitive long-term line losses and unaccounted for energy performance standard for all future LEAC rate proceedings shall then be completed collaboratively by GPA and GCG and reported to the PUC for final action no later than October 31, 2008.

8. In the event GPA's line loss and unaccounted for energy performance does not meet the performance standards set under item 7, the PUC during subsequent LEAC rate proceedings shall consider the specific circumstances surrounding GPA's failure to meet the performance standard and determine what action, if any, it may pursue including the potential to disallow from recovery any of the excess fuel costs included in any LEAC rate proposed to be charged consumers. Any disallowance would be a penalty for poor performance.
9. It is recognized that that a disallowance of excess fuel costs may have a detrimental impact on cash flow potentially resulting in GPA making adjustments to its operations. Any such operational adjustments made by GPA adversely impacting ratepayers due to cuts in areas such as delivery system or power plant maintenance shall be deemed by the PUC to be imprudent action on behalf of GPA and may result in additional penalties including further disallowances.
10. GPA currently does not have the cash resources necessary for continued implementation of its line loss mitigation program. The key line loss mitigation activities identified by GPA as requiring additional funding include:
 - a. Computer modeling of the GPA delivery system network.
 - b. Simulation analysis and studies optimizing improvements to the delivery system.
 - c. Consulting assistance and temporary staff augmentation to conduct modeling, analysis, and capital improvement studies.
 - d. Capital improvements to the GPA delivery system including but not limited to the addition of capacitors, transformer replacements, circuit phase balancing and economic conductor sizing.
11. GPA in its upcoming base rate proceeding shall include in its revenue requirement filing adequate human and capital resources necessary to provide the funding to support all required line loss mitigation activities (computer modeling, simulation, studies, operation, maintenance, and construction activities) prudently performed by

an electric utility in the course of its day-to-day business. Upon PUC approval of new base rates GPA's line loss mitigation program shall be fully implemented and continue to produce ongoing ratepayer benefits.

12. At any time in the future GPA determines it cannot adequately provide the human or financial capital or other resources necessary to meet the performance standards set under this stipulation, it has the obligation to notify the PUC and seek rate relief. Failure to do so may result in the disallowance of fuel expenses determined not to be prudently incurred.
13. Until final action is taken by the PUC on GPA's upcoming base rate case filing, GPA in its LEAC rate filings may include a cumulative allowance of up to \$1.5 million (\$500k in any single LEAC rate period) which shall be collected from ratepayers and used by GPA exclusively for the line loss mitigation activities contained in its "Quality Management Plan for the Cost-Effective Reduction of Unaccounted for Energy." All line loss related LEAC revenues collected and expended by GPA to control line losses shall be repaid (credited back to ratepayers through the LEAC rate) by GPA within a 2-year period beginning February 1, 2009. GPA may use future bond funds, lines of credit, internally generated capital, or other unencumbered sources available for repayment of this obligation.
14. Until that time GPA meets the performance standards outlined in item 7 GPA shall provide the PUC for monitoring purposes a quarterly loss reduction compliance report. The report should be (i) in a format approved by the PUC, (ii) present relevant information concerning production, sales, and losses and unaccounted for energy, (iii) present line loss performance data in a manner that provides for each of the three months covered by the quarterly report the actual trailing 24-month average, 12-month average, and current month line loss performance, (iv) status update of its "Quality Management Plan for the Cost-Effective Reduction of Unaccounted For Energy", and (v) address actions being taken to bring it into compliance with the performance standards. The quarterly loss reduction compliance report may also be posted on the GPA website no later than 21 days after the end of the quarter.

MEMORANDUM

ORIGINAL



To: Mr. Harry Boertzel, ALJ
Public Utilities Commission

From: Dr. Youssef Hegazy

Subject: **GPA Line Loss Performance Issues**

Date: October 15, 2007



This memo summarizes R. W. Beck, Inc.'s review of the issue regarding GPA's line losses related to the utility's performance and quality of service. We have reviewed Georgetown Consulting Group, Inc.'s (GCG) memo and attachments dated October 15, 2007 (GCG Line Loss Stipulation Status.doc) pertaining to the subject matter. Following are our observations:

- Based on our knowledge, a conversation with Bob Burns (a regulatory expert with more than 25 years of experience, and until recently with NRRI), and several industry surveys,¹ we found no evidence to suggest that line-loss is a practice used by any public utility commission in the United States to measure the performance of a utility or to index the quality of service that a utility is providing to its customers.
- By increasing the incentive to cut costs, performance-based rate (PBR) regimes have been accused of causing service quality to deteriorate. As a result, most utility PBRs are supplemented with some sort of service quality incentive mechanism. However, the balance between the service quality incentive and the primary incentive is somewhat ad hoc, so it is difficult to say whether the supplemental incentive ensures an adequate quality of service. Based on industry surveys, most of the mechanisms to measure quality of performance include the use of customer surveys. The next most common measure used in these mechanisms is some measure of service outages. We are not aware of use of system losses as an explicit PBR benchmark.
- The following are some interesting indicators highlighted by the referenced survey:²
 - Forty states (80 percent) had no plans for PBRs for electric power utilities. A few state utility commission officials reported that only minor changes or no changes at all had been made to the rate plans once put into place.
 - Thirty nine PUCs (78 percent) had no plans for using penalty-based rates, while 11 state-level PUCs indicated having implemented some form of electric distribution/customer service penalty-based rate structure.

¹ "Performance-Based Rates For U.S. Electric Utilities: A 2007 Status Report, June 2007," Prepared by: Newton-Evans Research Company, Inc., Ellicott City, Maryland USA.

² Ibid.



- **Criteria on which PBRs should be based:** 100 percent of the utility respondents indicated “duration of sustained interruptions” as forming the basis for measuring quality or performance. Seventy-one percent indicated that the frequency of sustained interruptions was also a criterion on which PBRs are based. A second group of criteria centered around customer service. “Customer satisfaction surveys” was the most significant factor in this category. “Volume of complaint calls” and “wait time per call” were also being used, although to a lesser extent. Seventy-one percent of the respondents further stated PBR statistics did not or *would not* include interruptions caused by storms.
- **Perception of relationship between development of PBRs and capital spending:** Sixty percent of respondents who had reported use of, or plans to use PBRs, indicated a relationship between the development of PBRs and an increase in capital spending.
- **Perception of relationship between development of PBRs and O&M spending:** Eighty percent of responding utility officials see a relationship between PBR use and an increase in O&M spending.
- Line loss benchmarks are proposed to be phased-in over a 24-month period. GCG proposes that GPA’s line loss performance be measured on a 24-month trailing average basis. In other words, each monthly value over the past 24 months would be averaged together. Comparison or benchmark to a peer group is preferable to the use of past performance because the latter is more susceptible to ratcheting.³ Line losses are functions of a multitude of variables (load, transmission and distribution topology, transmission and distribution mileage, etc.). Utilities can reduce losses by investing in T&D infrastructure and maintenance. However, losses could also increase due to unforeseen and uncontrollable factors (e.g., weather, theft, unforeseen accidents). Benchmarking to a peer group would eliminate such bias. However, designing a peer group in the case of GPA might be difficult.
- GCG proposed to penalize GPA if GPA fails to meet the line loss performance benchmarks for two consecutive LEAC rate periods by disallowing fuel expenses related to losses above the benchmark level and to penalize GPA further if the utility relies on cutting back of the delivery system or generator maintenance as a consequence of such cutbacks. This approach exposes both the utility and its customers to unnecessary risks. By straining the non-for-profit utility’s revenues below the cost-based revenue level, the utility will end-up with a weaker ability to finance its O&M and investment needs. Based on the GCG proposal, the utility may be punished further as its ability to improve performance and

³ The ratchet effect occurs when a utility benchmark is set based on past performance. If a utility improves its performance in one period, attaining its incentive in the next period becomes all the more difficult because the performance standard will be raised. The net effect is to dilute the incentive of improving performance in the current period.



finance its obligations deteriorate further, and so on. This could also lead to increasing cost of capital and less ability to raise funds.

Based on the above observations, it is our recommendation that PUC/GPA:

1. Index performance measurements on customer satisfaction rather than on arbitrary, complicated and expensive-to-measure indices.
2. Benchmark the utility's performance based on a comparable peer group rather than on historical performance.
3. Consider a PBR mechanism that will give GPA the incentive to reduce costs and maintain service quality, while at the same time maintaining the utility's ability to finance its own obligations. .

YAH:bb

c: Angelo Muzzin, R. W. Beck
John J. Cruz, GPA
Melinda R. Camacho, GPA
A.E. Balajadia, GPA

Angelo Muzzin
for yourself & company



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUAHAN
P.O. BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

July 27, 2007

ORIGINAL

Mr. Harry Boertzel, Esq. ALJ
Guam Public Utilities Commission
Suite 207, GCIC Building
Hagatna, Guam 96932



Dear Harry:

RE: GPA and GCG Stipulation on Line Loss Performance and Monitoring

This letter provides the reasons why the Authority has not stipulated with Georgetown Consulting Group (GCG) regarding a program to reduce system losses and unaccounted for energy. Exhibit A provides the GCG's latest position on this issue.

The Authority and GCG agree on many of the line loss principles. The Authority accepts the following points without reservation:

- Establishing minimum line loss and unaccounted for energy performance benchmarks will protect GPA ratepayers from LEAC rates containing fuel costs associated with line loss and unaccounted for energy levels above prudent levels.
- Reducing line loss and unaccounted for energy levels is in best interest of GPA and ratepayers and will result in a lowering of the LEAC rate charged ratepayers. Reducing line loss and unaccounted for energy is consistent with prudent electric power industry practices.

- At current fuel oil prices the LEAC rate impact of each percent of GPA line losses is estimated to cost ratepayers an additional \$1.5 million per year. Changes in fuel oil prices will have a corresponding impact on the LEAC rates charged ratepayers.
- In its November 30, 2006 report entitled "Projected Target for the Reduction of Unaccounted for Energy (System Losses)" GPA identified a preliminary line loss and unaccounted for energy performance target of less than six (6) percent by FY 2008; however, GPA believes it prudent to conduct a study of its system characteristics prior to establishing definitive long-term line loss and unaccounted for energy performance benchmark for use in setting future LEAC rates. This study will be initiated no later than September 1, 2007 and is expected to be completed no later than June 30, 2008.
- GPA currently does not have the cash resources necessary for continued implementation of its line loss mitigation program. The key line loss mitigation activities identified by GPA as requiring additional funding include:
 - ◆ Computer modeling of the GPA delivery system network.
 - ◆ Simulation analysis and studies optimizing improvements to the delivery system.
 - ◆ Consulting assistance and temporary staff augmentation to conduct modeling, analysis, and capital improvement studies.
 - ◆ Capital improvements to the GPA delivery system including but not limited to the addition of capacitors, transformer replacements, circuit phase balancing and economic conductor sizing.

First, the Authority will accept a performance standard for system losses and unaccounted for energy, wherein, if it does not meet these standards, then the Guam Public Utilities (PUC) may consider penalizing the Authority by denying portions of LEAC recovery. However, the Authority does not believe that punitive actions by the PUC should commence immediately with the period ending January 2008. The Authority

will agree to penalties for poor performance after the 24 month interim period, but under the following conditions:

- (a) Application of a % bandwidth where no penalty or bonus will be applied;
- (b) Creation of a system of rewarding a bonus for over achievement that can be banked for future use to credit any performance shortcomings.

The Authority may submit to an earlier adoption of the above system during the interim period under the following conditions:

- (a) Application of a 0.5% bandwidth where no penalty or bonus will be applied;
- (b) Creation of a system of rewarding a bonus for over achievement that can be banked for future use to credit any performance shortcomings.

The Authority believes that there is significant variance in month-to-month performance due to the varying nature of system loads. This is an even greater concern as Guam approaches a period of rapid load growth due to the activities of the military buildup. Additionally, models created for the purpose of analysis will have variances and errors as is typical for all such models. Therefore project results for reducing these losses may not reach expected targets.

The Authority considers that the 24 month interim period is a trial period to test and analyze the losses data, to model and simulate the T&D system to help identify reasonable line losses and mitigation levels, to implement and evaluate certain mitigation programs, and to determine what reasonable performance levels that are to be applied in the long term. Its position is that it will accept the interim period targets as benchmarks on progress and validation of study projections if there are no penalties associated with under-performance.

The Authority will agree to a post-interim period benchmark and bandwidth based on detailed analysis made collaboratively during the interim period.

Second, the Authority agrees that LEAC funds should be used as a mechanism to accelerate progress to reduce losses. However, the Authority had the prior understanding that access to these funds was to accelerate efforts because the long-term benefit that to

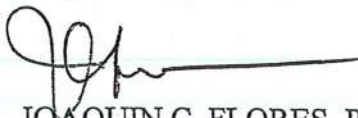
ratepayers merits this special treatment of the LEAC mechanism. In this case, the Authority does not believe it necessary to repay these funds out of base rates.

Third, the Authority believes that the provision of # 9 in Exhibit A is not workable and has the potential for micromanagement of the Authority. The Authority does not understand how the provisions of item 9 can be implemented without excessive review by the PUC.

Fourth, the Authority has considered the effect of distributed generation on system losses. The Authority believes that historic system loss and unaccounted for energy performance prior to Typhoon Pongsona may have significant performance gains over current operations through the use of distributed generation in place of baseload energy production. Therefore, the Authority does not believe that holding these historical numbers as a paragon for existing performance is relevant to the degree GCG posits.

In conclusion, the Authority believes that there is still room to find common ground and would like an extension in order to stipulate.

Respectfully,



JOAQUIN C. FLORES, P.E.

GENERAL MANAGER

GUAM POWER AUTHORITY

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



GUAM POWER AUTHORITY
REGULATORY REVIEW

DOCKET 02-4

ORDER

[GPA line loss performance and monitoring]

The Guam Public Utilities Commission [PUC] having considered the October 31, 2007 report of its administrative law judge [ALJ], including: a) the history of regulatory efforts to induce Guam Power Authority [GPA] to establish and implement a line loss reduction program; and b) the positions of GPA and Georgetown Consulting Group [GCG], which are attached to the ALJ report; pursuant to its authority under 12 GCA § 12001.2[d], for good cause shown and on motion duly made, seconded and adopted by the affirmative vote of the undersigned commissioners **HEREBY DETERMINES AND ORDERS THAT:**

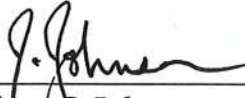
1. The establishment of line loss and unaccounted for energy performance standards [*line loss standards*] will protect GPA ratepayers from LEAC rates containing fuel costs associated with imprudent line loss and unaccounted for energy levels [*line loss levels*].
2. A reasonable reduction of line loss levels is consistent with industry practices and is in the best interests of GPA and its ratepayers, as it would result in a reduction of fuel expenses.
3. In recent years, GPA line losses peaked at 10.2 percent, when measured as a percentage of net power production. Although GPA established a line loss program in 2004, its implementation has been obstructed by lack of funding. In its November 2006 report, *Projected Target for the Reduction of Unaccounted for Energy*, GPA identified an interim line loss goal of less than six percent by FY08.
4. At current fuel oil prices, each percent of line loss costs ratepayers an additional \$1.5 million per year in fuel expenses.
5. The following interim line loss standards are adopted by PUC, commencing with the February – July 2008 LEAC cycle, which shall remain in place through July 31, 2009 when long term standards will be established by PUC. These interim standards shall be calculated on a net power generation and on a 24 month trailing average basis:

- Six month period ending July 2008 – 7.3 percent.
 - Six month period ending January 2009 – 7.0 percent.
 - Six month period ending July 2009 – 6.7 percent.
6. The purpose of establishing interim standards is to enable GPA to complete previously identified line loss mitigation measures¹ and to conduct a study of its system characteristics prior to PUC establishing long term line loss standards for use in LEAC proceedings. GPA shall complete this study not later than October 31, 2008. Under ALJ's oversight, GPA and GCG shall file on or before January 15, 2009 positions regarding long-term line loss standards for use in LEAC proceedings commencing with the August 2009 – January 2010 LEAC cycle.
 7. In the event GPA does not meet the interim standards set forth in paragraph 5 above, PUC will examine as part of its LEAC review the specific circumstances surrounding GPA's failure to meet the standard and will determine what regulatory action would be appropriate, including the potential disallowance of associated fuel expenses.
 8. The disallowance of excess fuel costs under paragraph 7 above may have an impact on cash flow potentially resulting in GPA making detrimental adjustments to its operations. Operational adjustments, such as deferral of delivery system and plant maintenance, which adversely impact quality of service shall be subject to review by PUC in LEAC proceedings.
 9. GPA does not have adequate cash resources to implement its line loss mitigation program. In its testimony in Docket 07-10, GPA shall include in its revenue requirement adequate human and capital resources to fund the key line loss mitigation activities described in footnote 1 below during the next two fiscal years.
 10. As part of each semi-annual LEAC filing, commencing with the filing due December 12, 2007 for the LEAC period February through July 2008, GPA shall file a loss reduction compliance report. The report shall contain: a] relevant information concerning production, sales and losses and unaccounted for energy; b] line loss performance data in a manner that provides for each of the six months covered by the report the actual

¹ GPA has identified the following key line loss mitigation activities: a] computer modeling for its delivery system network; b] simulation analysis and studies optimizing delivery system improvements; c] consulting assistance and temporary staff augmentation to conduct modeling, analysis and capital improvement studies; and d] capital delivery system improvements, such as capacitors, transformer replacements, circuit phase balancing and economic conductor sizing.

trailing 24 month average, the 12 month average and the current month line loss performance; c] a status update of its *Quality Management Plan for the Cost-Effective Reduction of Unaccounted for Energy*; d] a description of mitigation activities during the report period to comply with the performance standards; and e] whether adequate funding is available to enable it to comply with this Order. GPA shall post each report on its website within five business days after it is filed with PUC.


Dated this 2nd day of November 2007.




Jeffrey C. Johnson



Joseph M. McDonald



Rowena E. Perez



Terrence M. Brooks

Filomena M. Cantoria

**PUBLIC UTILITIES COMMISSION
OF GUAM**

Jeffrey C. Johnson

Suite 207, GCIC Building
Post Office Box 862
Hagatna, Guam 96932

Harry M. Boertzel
Administrative Law Judge

Terrence M. Brooks
Joseph M. McDonald
Filomena M. Cantoria
Rowena E. Perez

Telephone: (671) 472-1907
Fax: (671) 472-1917
Email: info@guampuc.com

Lourdes R. Palomo
Administrator

October 29, 2007

SENT VIA ELECTRONIC TRANSMISSION

John Benavente
Interim General Manager
Guam Waterworks Authority
Post Office Box 3010
Hagatna, Guam 96932

Jamshed K. Madan, Principal
Georgetown Consulting Group, Inc.
716 Danbury RD.
Ridgefield, CT 06877

RE: October 25, 2007 GWA Regulatory Conference

Gentlemen:

This letter summarizes our brief but productive meeting concerning open GWA regulatory issues.

1. Georgetown reports.

Of particular significance is Mr. Benavente's commitment that the flow of information will resume to enable Georgetown to complete the following assignments given it by PUC: a) a probable cause report on estimated billing; and b) status reports on GWA's progress in the AMR meter program and in bringing line losses under control. CFO Greg Cruz has been designated as the contact point for Georgetown access to this information.

I want to confirm my oral advice during the conference that GWA's motion for a protective order in Docket 08-2 is denied for the reasons quite clearly presented in Georgetown's October 24, 2007 brief.

The Georgetown reports should be completed and filed with PUC not later than January 11, 2008.

Georgetown is in the process of finalizing its report on water well rates. It is unclear whether the report will be ready for PUC consideration at its scheduled November 2, 2007 business meeting.

2. Staffing study report.

12 GCA § 12001.2(d) requires PUC to conduct an annual review of GWA's staffing patterns. Georgetown should undertake and complete this report by January 11, 2008.

3. GWA reports.

In its July 19, 2007 stipulation in Docket 07-~~10~~⁴, GWA committed that it would make the following filings with PUC not later than September 15, 2007:

a) The record of CCU's review and disposition of issues relating to conflicts between its rules and practice of charging new customers for the installation of meters [*Stipulation § 8*]. A revised date of January 11, 2008 is established for PUC's receipt of this record. Attached to this letter is an August 2006 background memo on this subject.

b) A plan, which has been approved by CCU and bond counsel, for bringing GWA into compliance with indenture reserve and fund flow requirements [*Stipulation § 4*]. A revised date of January 11, 2008 is established for PUC's receipt of this approved plan. I will rely upon GWA and Georgetown to work collaboratively to assure that the plan addresses all relevant aspects of compliance.

At the conclusion of our October 25 meeting, we concluded that the scheduled October 29, 2007 conference was no longer necessary. The next GWA regulatory conference will be held at PUC's office at 2:00 p.m. on February 4, 2008.

Please let me know if you have any questions.

Cordially,


Harry M. Boertzel

cc: Greg Cruz, CFO
encl: Georgetown 8/06 memo

INTEROFFICE MEMORANDUM

TO: HARRY M BOERTZEL, ALJ
FROM: ED MARGERISON
SUBJECT: GWA SERVICE RULES AND RATES FOR CONNECTION
DATE: AUGUST 2006
CC: BILL BLAIR AND JIM MADAN

This memo is being provided to you at your request. In a July 22, 2006 Email to GCG you asked whether it was our informal opinion that the question of whether GWA is improperly charging customers for new meters is nothing more than "a conflict between GWA's PUC approved tariff...and its service rules..."

The possible conflict that you perceive is between the tariff which provides that "meter installation" will be "at cost" and GWA's service rules (which define "cost of service connection" to exclude the cost of the meter and the meter box). You note that the term "meter installation" is nowhere defined.

In our view, there is no conflict or inconsistency. We think that the only reasonable interpretation of the tariff and service rules is to read "meter installation" and "service connection" as being synonymous. In this regard, we note that there is no tariff charge for a "service connection" although there is one for a "service reconnection."

The service rules provide that a prospective consumer must apply for water service. 28 GAR 2104(a). The consumer is responsible for payment of all charges for water service. 28 GAR 2104(b). The *cost of the service connection* must be paid by the applicant before the connection is installed. 28 GAR 2104(c). *Installation charges* are to be based on the cost of such installation as established by GWA and as set forth in the Schedule of Rates and Charges and in effect on the date of installation. Id. For a service reconnection the customer must also pay a charge for reconnection as set forth in the Schedule of Rates and Charges and Services. 28 GAR 2104(g). The Schedule of Rates and Charges is now the PUC-approved tariff. The tariff provides, as noted by ALJ Boertzel, that a "meter installation" is to be "at cost."

The Service Rules define "the cost of service connection" as the "sum of the cost of the labor, materials, transportation, equipment and road repair, if any, and other incidental charges necessary for the complete installation of a *service connection*, but *excluding the cost of the meter and meter box.*" 28 GAR 2101(12). In other words, the Service Rules provide that an applicant for water service will not be charged for the meter and meter box. There is no other way to read the rules.

It is beyond dispute that a "service connection" includes the installation of a meter and meter box. Thus, the reference to meter installation in the Schedule of Rates and Charges (aka the tariff) must refer to a service connection. There is no other way the rules and tariff can be reasonably interpreted or reconciled, in our opinion.

In recent informal discussions with GWA personnel it is alleged that the connection fee is a flat fee of \$500 per installation including the cost of the meter. The flat fee may or may not be the equivalent of the cost for each of the new customers. We have requested a breakdown of the components of the \$500 flat fee, but as of the date of this memo we have not received that break out. The PUC has never approved that fee and it is unclear how long GWA has been charging that fee.

Let us further discuss this matter next week.



GCG Exhibit D
GUAM WATERWORKS AUTHORITY Page 3 of 3

"Good Water Always"

Post Office Box 3010, Hagatna, Guam 96932

Phone: (671) 647-7849 Fax: (671) 649-0369

February 10, 2006

To: Becky Ballajadia, Customer Service
Don Antrobus, Engineering & Permits

Fr: General Manager

Subject: AMR Meter Price

Effective immediately, the charges for AMR water meters are as follows:

Size	Meter	Meter Box	Fittings	Inspection Cost	Administrative Processing/Installation/Vehicle Fee	Deposit	Selling Price
5/8" x 3/4" x 7.7"	\$193.95	\$98.00	\$130.00	\$75.00	\$108.00	\$32.00	\$636.95
5/8" x 3/4" x 9"	\$194.57	\$98.00	\$130.00	\$75.00	\$108.00	\$32.00	\$637.57
1"	\$374.10	\$115.50	\$130.00	\$75.00	\$108.00	\$37.00	\$839.60
1.5"	\$781.50	\$252.86	\$133.83	\$75.00	\$108.00	\$55.00	\$1,406.19
2"	\$1,029.70	\$547.43	\$162.00	\$75.00	\$216.00	\$97.00	\$2,127.13
3"	\$1,419.45	\$0.00	\$0.00	\$75.00	\$216.00	\$123.00	\$1,833.45
3"	\$1,915.65	\$0.00	\$0.00	\$75.00	\$216.00	\$123.00	\$2,329.65
4"	\$1,922.39	\$0.00	\$0.00	\$75.00	\$216.00	\$178.00	\$2,391.39
4"	\$4,473.00	\$0.00	\$0.00	\$75.00	\$216.00	\$178.00	\$4,942.00
6"	\$4,562.80	\$0.00	\$0.00	\$75.00	\$264.00	\$313.00	\$5,214.80
6"	\$5,379.90	\$0.00	\$0.00	\$75.00	\$264.00	\$313.00	\$6,031.90
8"	\$6,636.18	\$0.00	\$0.00	\$75.00	\$264.00	\$378.00	\$7,353.18

Should you have any questions, please call me at 647-7838.

David R. Craddick

**GUAM PUBLIC UTILITIES COMMISSION
BUSINESS MEETING
NOVEMBER 16, 2007**



The Guam Public Utilities Commission [PUC] conducted a business meeting at noon on November 16, 2007 at Suite 207, GCIC Building Hagatna pursuant to due and lawful notice. Commissioners McDonald, Johnson, Perez and Cantoria were in attendance. The following matters were considered at the meeting under the agenda made *Attachment A*.

1. Administration.

After discussion and on motion duly made, seconded and unanimously carried, the commissioners resolved to adopt the assessment order in form made *Attachment B*.

2. Telecommunications.

- a. In his 11/13/07 memorandum, ALJ reviewed three pending GTA tariff amendments, which had been filed with PUC. Georgetown's review of the amendments is reflected in its letters dated 4/6/07 [#8 – DID number reservation]; 9/20/07 [#9 – late fees]; and by its verbal support for #10 [ethernet transport services]. While the amendments became effective 30 days after filing [12 GCA § 12106[b] , GTA has agreed to amend transmissions ## 8 and 9, consistent with Georgetown recommendations. After discussion and on motion duly made, seconded and unanimously carried, the commissioners resolved to approve the tariff amendments, provided that GTA submit revised tariff sheets, evidencing that it has incorporated the Georgetown recommendations.
- b. After discussion, the commissioners resolved to ratify Chairman Johnson's annual certification of GTA and Pulse Mobile's entitlement to federal support. By letters dated 9/7/07 and 9/20/07, Georgetown had recommended that the

certifications be made. ALJ was directed to revise the schedule for regulatory review of these annual filings to enable Georgetown adequate time to review them prior to the annual October 1 certification deadline.

- c. Agenda item 2[c] was tabled, pending completion of Georgetown's review of the petition in Docket 08-5 [*PTI petition for ETC status*]. On motion duly made, seconded and unanimously carried, the chairman was authorized to issue an ETC certification upon a favorable recommendation by ALJ, Georgetown, without objection by PTI and after due consideration of any public comments which are filed in response to PUC notice of the petition.
- d. The commissioners next reviewed ALJ's 11/13/07 report regarding Guamcell's 8/23/07 petition for rehearing on PUC's ruling in its 8/13/07 Decision in Docket 07-5 that pricing for entrance facilities under the interconnection agreement between Guamcell and GTA would be established under Guam law rather than under Federal pricing standards. After due consideration of the ALJ report and its attachments, on motion duly made, seconded and unanimously carried, the commissioners resolved to deny the petition and to adopt the order made *Attachment C* hereto. ALJ was further directed to initiate enforcement proceedings under 12 GCA § 12108 in the event Guamcell fails to bring itself into compliance with PUC Rule 40[a][ii] by January 1, 2008.

There being no further business, the meeting was adjourned.



Jeffrey Johnson
Chairman

GUAM PUBLIC UTILITIES COMMISSION

**BUSINESS MEETING
SUITE 207 GCIC BUILDING
414 W SOLEDAD AVE. HAGATNA
Noon, Friday November 16, 2007**

AGENDA

1. Administration:

- Assessment Order

2. Telecommunications matters:

a. Docket 05-3 [GTA tariff amendments]:

- Tariff transmission #8 [DID number reservation]
- Tariff transmission #9 [late fees]
- Tariff transmission #10 [Ethernet transport services]

b. USAC certifications:

- GTA
- Pulse Mobile

c. Docket 08-5 [PTI petition for ETC status]

d. Docket 07-5 [Guamcell interconnection]

- Guamcell 8/23/07 petition for rehearing
- Guamcell regulatory fees

3. Other business.

Memorandum

To: Commissioners
From: ALJ Boertzel
Date: November 13, 2007

RE: November 16, 2007 noon business meeting

The purpose of this memo is to provide you with an overview of the agenda items for our brief November 16 noon meeting on telecommunications regulatory matters. I will participate in the meeting via telephone.

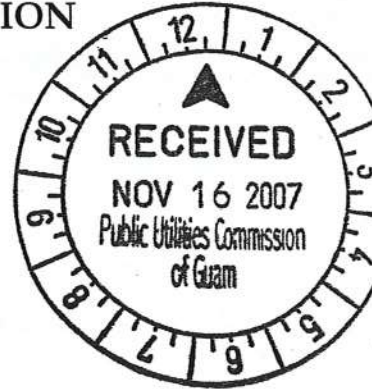
1. At your November 2, 2007 meeting you tabled your consideration of PUC's FY08 assessment order until this meeting at Commissioner Brooks' request. He has voluntarily recused himself from participating in any decision regarding telecommunications. As GTA would be assessed by the proposed order, he did not want to participate in the decision. You approved PUC's FY08 administrative budget at the November 2 meeting. The assessment order distributes this budget among the regulated utilities, as is further explained in the proposed order.
2. Under Guam law [12 GCA §12106(b)], GTA is required to provide PUC with 30 days notice before making any rate change. Tab 2[A] addresses three such GTA notices. Included in your briefing package are Georgetown letters, which review GTA transmissions # 8 and 9. GTA has accepted and has agreed to implement the Georgetown recommended changes in these tariff filings. At the November 1, 2007 GTA regulatory conference before me, Georgetown informed me that it has reviewed and has no objection to GTA's tariff transmission # 10. Accordingly, it would be appropriate for you to adopt a resolution, which approves the three proposed tariff amendments, subject to GTA's implementation of the Georgetown recommendations regarding transmissions # 8 and 9, as stated in its reports.
3. PUC is required by Federal law, on or before October 1 of each year, to review and certify GTA and Pulse Mobile's eligibility for USAC funding. Under PUC's established protocol, Georgetown conducts a review and issues a report on the petitions. Enclosed in your briefing package are Georgetown's reports. In order to meet the October 1 deadline, the chairman issued the certifications to USAC. It would be appropriate for you by resolution to ratify the chairman's certifications.

4. PTI's petition for certification as an eligible telecommunications carrier under Federal law is still under review by Georgetown. Accordingly, this matter should be tabled. I encourage you to consider whether you would like to authorize the chairman to grant the petition upon a favorable recommendation by Georgetown in order to avoid the need for another special PUC meeting to act on the petition.

5. Under Tab 2[D] is my ALJ report in Docket 07-5. The report reviews Guamcell's 8/23/07 petition under PUC Rule 37 for your reconsideration of your August 13, 2007 decision that in the interconnection arrangements between GTA and Guamcell, the rates for entrance facilities will be established under Guam law rather than under Federal TELRIC standards. In my report, I have recommended that you deny Guamcell's petition upon a finding that it has not established good and sufficient cause for rehearing. You will note that in my report, I also find that Guamcell is in violation of PUC Rule 40, by having failed to pay for regulatory fees, which have been incurred in this docket [*shared equally between Guamcell and GTA by PUC rule*] since March 2007. In my report, I recommend that further proceedings in this docket be suspended until Guamcell complies with Rule 40, whereupon I would be authorized to issue a scheduling order for further proceedings, consistent with your August 13, 2007 order.

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

COMMISSION ADMINISTRATIVE)
DOCKET)
)
)
_____)



ASSESSMENT ORDER

WHEREAS, the Commission's operational expenses can be divided into two categories and are budgeted and collected under the following protocols: i] general administrative expenses, which are budgeted each fiscal year by the Commission and divided and assessed among the regulated utilities; and ii] regulatory expenses, which are incurred pursuant to the Commission's Administrative Order dated August 13, 2007. Regulatory expenses include professional and out-of-pocket expenses, which are billed to specific utilities under regulatory dockets to cover the expense of handling specific regulatory proceedings related to them. This order addresses the Commission's FY08 budget of administrative expenses.

WHEREAS, the administrative budget covers the Commission's administrative expenses, including staff, office facilities, Commissioner stipends and training, professional fees and other operational expenses;

WHEREAS, at a duly noticed and convened Commission meeting held on November 2, 2007, the Commission considered and adopted its FY08 administrative budget in the amount of \$140,000;

WHEREAS, the utilities subject to Commission regulation include Guam Power Authority [GPA], Guam Waterworks Authority [GWA] and Guam Telecom LLC [GTA];¹

¹ PUC finds that GTA has a regulatory status comparable to GWA and GPA because it is: a] the incumbent local exchange carrier; and b] subject to special regulatory oversight under P.L. 27-109 and 27-110 and under the *Asset Purchase Agreement* dated 8/3/04 between GTA and the Government of Guam. PUC further finds that its assessment of the Department of Public Works - solid waste management division [SWM] for a share of PUC administrative expenses should be deferred pending the Government's enactment of legislation to bring SWM activities into compliance with the Stipulated Order in Federal District Court Civil Case 1-02cv-00022. [See PUC Resolution dated 8/13/07 in Docket 07-9.] In February, 2007 PUC suspended regulatory activities for the reasons stated in its February 1, 2007 Order in Docket 06-2. Upon PUC's recommencement of regulatory activities over SWM, DPW will then be assessed a portion of PUC's FY08 administrative budget. In the interim, PUC will utilize the reserve in its administrative account to bridge the \$35,000 shortfall between its FY08 assessment [\$105,000] and its FY08 administrative budget [\$140,000].

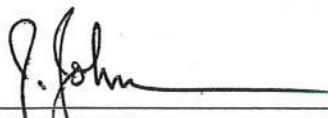
WHEREAS, after due consideration, the Commission has resolved that its' FY08 administrative budget of \$140,000 should be allocated among the regulated utilities, as follows:

GTA	\$35,000
GPA	\$35,000
GWA	\$35,000
DPW	<i>assessment deferred</i>
Total	\$105,000

NOW, THEREFORE, in consideration of the above recitals and under authority vested by 12 GCA section 12024, the Commission hereby **ORDERS THAT**:

1. GTA, GPA and GWA shall pay the assessment allocated to them, as stated above, to the Commission not later than November 30, 2007. The regulated utilities are reminded that these assessed revenues are necessary to enable the Commission to have the staff and office facilities to entertain their requests for regulatory services. It is, therefore, essential that these assessments be paid in a timely manner.
2. The Commission's chairman, in consultation with ALJ, is authorized to determine the timing and amount of PUC's assessment of DPW for a share of the Commission's FY08 administrative budget, consistent with footnote 1 of this order.
2. A copy of this assessment order shall be served on each regulated utility.

Dated this 2nd day of November 2007.



Jeffrey C. Johnson

Terrence M. Brooks



Rowena E. Perez



Joseph M. McDonald



Filomena M. Cantoria

FY08 PUC ADMINISTRATIVE BUDGET

October 1, 2007 - September 30, 2008

Category	FY2007 AMENDED BUDGET	FY2007 ACTUAL (nearest 100)	FY2008 PROPOSED
Administrator	\$34,000.00	\$34,000.00	\$34,000.00
Office Rent	\$22,000.00	\$22,000.00	\$22,000.00
Commissioner Stipend	\$0.00	\$0.00	\$0.00
Naruc Membership	\$1,500.00	\$1,500.00	\$1,500.00
Commissioner Training	\$26,000.00	\$10,700.00	\$20,000.00
Office Supplies/Expenses	\$1,800.00	\$1,400.00	\$1,500.00
Utilities(power/phone/fax/int.)	\$8,600.00	\$7,700.00	\$9,000.00
Postage	\$200.00	\$100.00	\$200.00
Xerox	\$3,500.00	\$2,800.00	\$3,000.00
Professional Fees	\$54,000.00	\$54,200.00	\$46,800.00
Miscellaneous	\$1,000.00	\$0.00	\$1,000.00
Equipment	\$1,000.00	\$800.00	\$1,000.00
TOTAL	\$153,600.00	\$135,200.00	\$140,000.00

GEORGETOWN CONSULTING GROUP, INC.
716 DANBURY RD.
RIDGEFIELD, CT. 06877

Jamshed K. Madan
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Edward R. Margerison
Jean Dorrell

April 6, 2007

Harry M. Boertzel, Esq.
Administrative Law Judge
The Guam Public Utilities Commission
Suite 207, GCIC Building
Hagatna, Guam 96932

Re: Docket No. 05-03 GTA Tariff Transmittal No. 8

Dear Judge Boertzel:

As requested in your e-mail message dated April 2, 2007, this is the response of Georgetown Consulting Group (GCG) to the comments filed March 8, 2007 by GTA in connection with Tariff Transmittal No. 8.

Discrimination

GCG's January 17, 2007 report expressed concern regarding whether GTA's proposed rates for DID number reservation for the Department of Defense discriminated against other similarly situated customers. In response to our inquiry, GTA determined that 47 customers for DID number reservation service held 91 DID number blocks of 100 numbers each (charged at \$200 per number block) and another 21 customers held 65 additional number blocks of 100 each (charged at \$100 per number block).

GTA now argues that the contract rates (\$0.10 per number in blocks of 100, or \$10 per number block) are not discriminatory. Three reasons are advanced in GTA's comments:

1. The military would pay about the same amount of money under the contract as it would if it reduced its usage to a more efficient level.
2. The other customers for DID number reservation service are not similarly situated as the military.
3. Even if the tariff was discriminatory, public policy and the fact that the military is GTA's largest customer argue that such discrimination is not unreasonable.

GCG believes the above arguments are unconvincing. With regard to GTA's first point, GTA claims the military did not use number blocks efficiently because no bills were ever sent prior to the acquisition of GTA by TeleGuam. If they had, they would have "groomed" (presumably reduced) their requirements to a level where the revenue would equal to that which would have been produced under the General Exchange Tariff. This is pure speculation on GTA's part. In no way does the failure of the military to use services efficiently justify a reduction in price to 1/10th of the rate paid by other subscribers.

Regarding whether all DID number reservation service customers are similarly situated, there is no debate that the military is GTA's largest customer for that service. However, the relative size of customers has little or no corresponding effect on the costs of reserving numbers. This matter is discussed more fully in the section on cost support below. Moreover, GTA's argument that the military would dramatically reduce the number of reserved number blocks if it had to pay the existing tariff rates supports the view that it is not different from other DID customers who operate more efficiently.

GTA's third point is irrelevant, even if it were true. Public policy may indeed favor settlement of disputes between a service provider and its customer. Certainly commerce will benefit from an atmosphere wherein all disputes are settled amicably. However, it is a matter of law and not just policy preferences that rates must be just, reasonable and non-discriminatory between similarly situated customers.¹ As noted above, GTA's argument that the Department of Defense is different from other customers is unpersuasive. There is no evidence that any other customers of this service are not similarly situated. GTA says its "ability to deal effectively with the Military is important to the economy of Guam as well as to the Military's own mission." While undoubtedly true, GTA's ability to retain and serve other business customers is also important to Guam.

GTA has not proposed a rate reduction for its other customers. Instead, GTA said it "perceives no market reason to change number assignment charges for non-DOD numbers, who purchase numbers in vastly fewer volumes than DOD."² Perceived market conditions alone cannot justify discriminatory rates.

Cost Support

In our January 17, 2007 report, we proposed that GTA should be required by Commission rule to submit cost support with its tariff filings for any rate reduction to protect against anti-competitive conduct. We also noted that GTA's filings did not contain sufficient evidence to demonstrate the distinct volume of the Department of Defense's DID numbers versus other customers of DID numbers and any cost justification for the difference in rates for DID numbers based on such volume purchases.

¹ See Section 12105(c) of the Guam telecommunications Act

² *Ibid.*

The service under discussion here is DID number reservation service. Once reserved, numbers are blocked in the service provisioning system to prevent their assignment to other customers.³ Since little or no labor or plant equipment is involved in ongoing maintenance of a reserved number block, the on-going cost of each block of reserved numbers is likely the same. GTA should bear the burden of proof to demonstrate that a volume or term discount is justified. In response to an inquiry from GCG, GTA said it could neither confirm nor deny our cost assumptions since it had not conducted a cost study.⁴

A quick Google search showed that the average charge on the US mainland is about 10-20 cents per number, the equivalent of \$10.00 to \$20.00 per block of 100 numbers and in range of the rates offered the Department of Defense.⁵ The magnitude of the difference between these rates and the current regular tariff rates suggests the tariff is not cost-based. However, there is also a possibility that the Department of Defense rates are below cost, resulting in an unjustified subsidy from other regulated services.

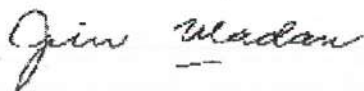
Recommendation

In our January 17, 2007 report, we recommended that GTA be required to either (a) demonstrate to the Commission that the rate reduction for the Department of Defense does not unreasonably discriminate between similarly situated customers or (b) submit a corresponding rate reduction for similarly situated customers of DID numbers. We also recommended that such a rate reduction be supported by an appropriate cost study.

Since GTA failed to demonstrate that its contract rates do not discriminate against other customers, we recommend that the Commission order GTA to reduce its normal rates for DID number reservation to the same level as given to the Department of Defense. We do not believe a full cost study is necessary in this instance since it is likely to show that the cost of number reservation are below the rates charged to the military.

If you have any questions concerning this report or require any additional information, please let us know.

Cordially,



Jamshed K. Madan

³ The costs of making the reservations should be recovered in the initial nonrecurring charge.

⁴ GTA e-mail January 12, 2007 *Re GTA Tariff Transmittal No. 8*

⁵ Indeed, it was this disparity that was at the root of the refusal by the military to pay its back bills.

cc: Richard J. Metzger
John N. Ingram, Esq.
Walt Schweikert



624 North Marine Corps Drive
Tamuning, Guam 96913

September 29, 2007

VIA HAND DELIVERY AND ELECTRONIC MAIL

Public Utilities Commission of Guam
GCIC Building, Suite 207
Hagatna, Guam 96932



**Re: Tariff Transmittal No. 10
General Exchange Tariff No. 1
Introduction of New Services Section 7 Metro Ethernet Transport Services**

GTA Telecom LLC d/b/a GTA ("GTA") files the enclosed original Tariff for the introduction of a new product offering.

- Section 7, Original Page No(s). 85 - 99

The introduction of Metro Ethernet Transport Services is to provide private high speed 5 Megabit to 1 Gigabit connectivity of local area network connectivity for various multipoint business and offices on the island of Guam. As part of its continuing effort to enhance telecommunication services on Guam, this new Tariff filing is respectfully being submitted to the Public Utility Commission for consideration.

In accordance with the notice provisions of Section 12106(b) of the Guam Telecom Act, GTA requests that the Commission approve this filing to be effective 30 days hence, on October 28, 2007. An original and one (1) copy of the tariff revisions are enclosed.

Respectfully submitted,

Eric N. Votaw
Vice President, Regulatory

Enclosures

Cc: ALJ Harry M. Boertzel, Guam PUC
Jamshed Madan, Guam PUC

Enclosure(s)

XII. METRO ETHERNET TRANSPORT SERVICES (ETS)

A. GENERAL

Ethernet Transport Service (ETS) is a high speed data transport service that provides end-to-end transmission using Ethernet packet technology at transport speeds ranging from 5 Mbps to 1 Gbps, where available. ETS is ideal for transport of broadband multimedia traffic (i.e., voice, data and video) using variable length Ethernet packets with the ability to interconnect multiple locations using GTA's network. Ethernet packets generated by Ethernet-compatible customer premises equipment (CPE) are transmitted using available capacity on shared transmission paths through GTA's network to a pre-specified destination. The ETS customer may use ETS to: (1) interconnect customer designated premises (CDPs) served by GTA's ETS Point-to-Point network and/or (2) interconnect with its local area network (LAN) to GTA's ETS Point-to-Point network.

B. SERVICE DESCRIPTION

1. ETS is provided using a combination of ETS Channel Terminations (ETS CTs), ETS Ports, ETS Ethernet Virtual Connections (ETS EVCs, and ETS Extended Ethernet Virtual Connection (ETC E-EVCs). ETS may be used in conjunction with Special Access High Capacity DS3 and Synchronous Optical Services OC-3 and OC-12 Services as specified in this Section 7 preceding.
2. An ETS Port is required to provide the interface GTA's ETS Point-to-Point network. ETS EVCs establish a shared transmission path between any two ETS Ports on GTA's ETS Point-to-Point network.
3. The transmission quality of ETS is not guaranteed and is offered to ETS Customers at the best effort level. GTA's ETS Point-to-Point network will attempt to deliver all Ethernet packets received; however, network congestion may result in a loss of Ethernet packets. Transmission speeds may be affected by facilities and by distance from GTA's Central Office (CO) and other technical limitations in the GTA network and are not guaranteed.

XII. METRO ETHERNET TRANSPORT SERVICES (ETS) (cont'd)

B. SERVICE DESCRIPTION (cont'd)

4. Rates and charges for ETS are specified in Section 7, following. The application of rates and charges for ETS is described later in this Section.

C. OBLIGATIONS OF THE CUSTOMER

In addition to the regulations described in other Section of this Tariff, the following provisions apply to ETS:

1. When placing an order, the customer must specify:
 - i. Customer designated premises
 - ii. Type(s) of ETS Port Interfac(s)
 - iii. Speed for each ETS Port
 - iv. Number and bandwidth capacity required from the GTA Ethernet oint-to-Point network.
 - v. Options desired.
2. When connecting to the ETS Port of another Customer, the ordering Customer must obtain authorization from the other Customer and provide such authorization to GTA.
3. The ETS Customer is responsible for providing and maintaing all required Customer Premises Equipment (CPE), which is compatible with ETS and complies with the standards specified in the Tehnical Reference IEEE Standard 802.3, Part 3.

D. RATE CATEGORIES

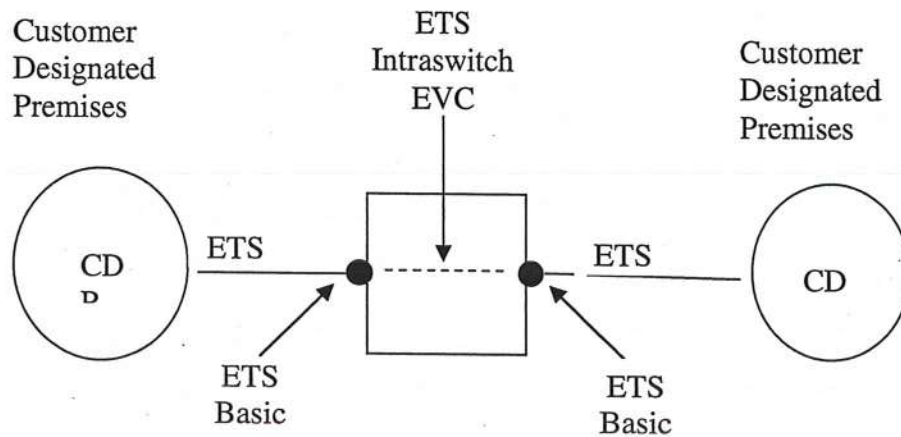
This section contains the regulations governing the rates and charges that aply for ETS. Regulations governing the rates and charges for Special Access provided under this tariff are used in conjunction with ETS are specified in this Tariff proceeding.

The following diagrams depict generic views of the elements of ETS. In the first figure, the ETS customer's CDPs are served by a single ETS SWC. ETS EVCs ordered between two ETS Intraswitch EVCs. The ETS customer orders the applicable ETS elements from GTA pursuant to the provisions specified in this section.

XII. METRO ETHERNET TRANSPORT SERVICES (ETS) (cont'd)

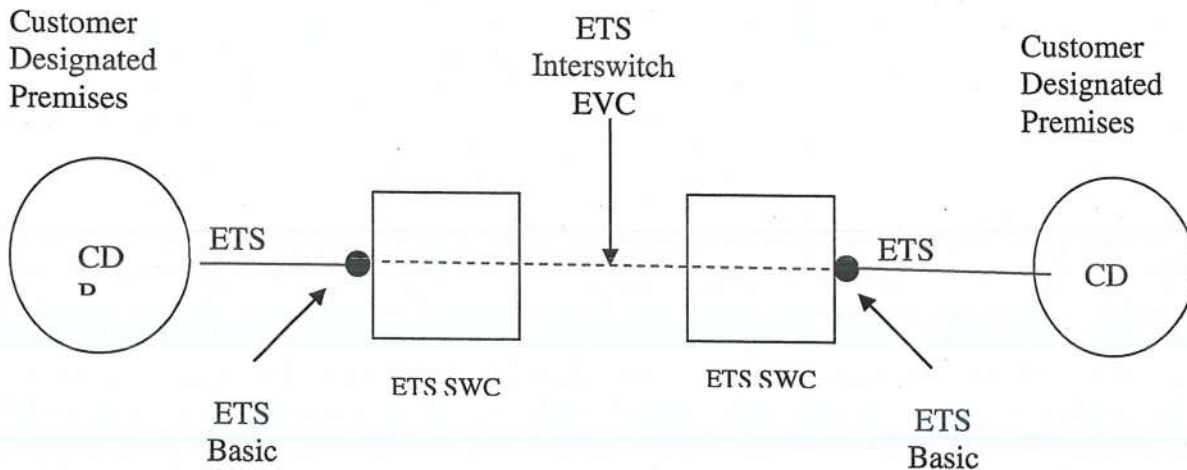
D. RATE CATEGORIES (cont'd)

Figure 1



In the second figure, the ETS customer's CDPs are served by two different ETS SWCs. ETS EVCs ordered between two ETS Ports in different SWC are classified as ETS Interswitch EVCs. The ETS customer orders the applicable ETS elements from GTA pursuant to the provisions specified in this section.

Figure 2

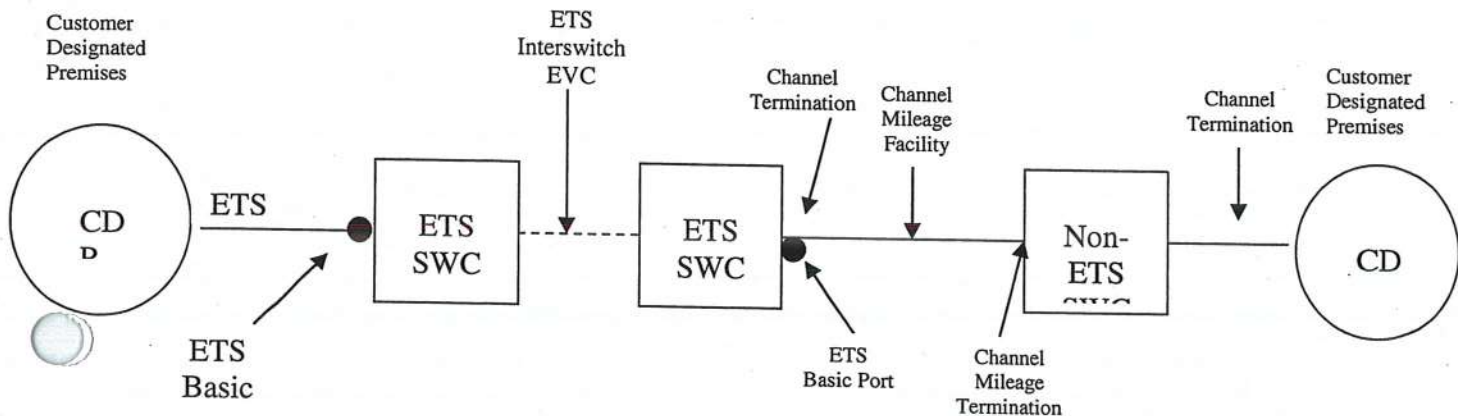


XII. METRO ETHERNET TRANSPORT SERVICES (ETS) (cont'd)

D. RATE CATEGORIES (cont'd)

In the third figure, one of the ETS customer's CDPs is served by a non-ETS SWC. The ETS customer orders the applicable ETS elements from GTA pursuant to the provision specified in this Section and the applicable Special Access facilities pursuant to the provision specified in this Tariff, preceding.

Figure 3



1. ETS Channel Terminations (CTs)

An ETS CT provides the transport facility between the customer's designated premises and an ETS Basic Port at the GTA ETS Serving Wire Center (SWC).

ETS CTs are available at bandwidth speeds from 10 Mbps, to 1 Gbps. The ETS customer orders the type of ETS CT it needs based on its bandwidth requirements. Bandwidth speeds of 50 Mbps and above require use of a fiber loop facility, where such fiber facilities exist. ETS CTs are available only from suitably equipped ETS SWC for connection to ETS Basic Ports. A Special Access High Capacity DS3 or Synchronous Optical Channel Service OC3 or OC12 Channel Termination may also be used to connect a CDP to GTA's ETS SWC for connection to an ETS Interconnection Port. The provisions for Special Access Channel Terminations are specified in this Section 7.

XII. METRO ETHERNET TRANSPORT SERVICES (ETS) (cont'd)

D. RATE CATEGORIES (cont'd)

1. ETS Channel Terminations (CTs) (cont'd)

Monthly and nonrecurring charges apply for each ETS CT ordered. The monthly rate is based upon the bandwidth capacity ordered and whether the CDP is located within 300 feet of the ETS SWC or more than 300 feet from the ETS SWC. Rates and charges are specified in Section 8.E following

2. ETS Ports

ETS Ports provide the interface at GTA's ETS SWC for data traffic to and from the customer premises equipment as well as for connecting the GTA's ETS Point-to-Point network to an Ethernet network outside of GTA's ETS Point-to-point network. An ETS Port receives Ethernet packets from the ETS customer's Ethernet-compatible CPE, validates the addressing parameters contained in the packet headers, and transmits the packets into the ETS network. The ETS Port also receives Ethernet packets from the GTA's ETS Point-to-Point network or from an Ethernet network located outside of the GTA's ETS Point-to-Point network, validates the addressing parameters contained in the packet headers, and transmits the packets to the pre-designated CDP.

There are two types of ETS ports available, i.e., ETS Basic Port and ETS Interconnection Ports.

- i. **ETS Basic Ports** provide the interface to GTA's ETS Point-to-Point network and do not include the required transport facility between the CDP and GTA's ETS SWC. ETS Basic Ports are available with bandwidth speeds of 10 Mbps to 1 Gbps. Required transport to the ETS Basic Port is provided using an ETS CT as described above. Each ETS Basic Port must be associated with a minimum of one ETS EVC, or one ETS E-EVC. An ETS Basic Port may be associated with more than one ETS EVC or ETS E-EVC. The bandwidth speed of an ETS Basic Port must be equal to or greater than the bandwidth speed of the associated ETS CT.
- ii. **ETS Interconnection Ports** also provide the interface to GTA's ETS Point-to-Point network and do not include the required transport facility between the CDP and the GTA's ETS SWC. Used in conjunction with Special Access DS3, OC3 and/or OC12 Services, ETS Interconnection Ports permit the ETS customer to:

XII. METRO ETHERNET TRANSPORT SERVICES (ETS) (cont'd)

D. RATE CATEGORIES (cont'd)

2. ETS Ports (cont'd)

1.) connect a CDP served by an ETS or non-ETS SWC to the GTA's ETS network. ETS Interconnection Ports are available at bandwidth speeds of 44.736 Mbps (DS3), 155.52 Mbps (OC3) and 622.08 Mbps (OC12).

Required transport to the ETS Interconnection Port is provided using Special Access DS3, OC3 and/or OC12 Service facilities as described in this Section 7, preceding. Each ETS Interconnection Port must be associated with a minimum of one ETS EVC or one ETS E-EVC. An ETS Interconnection Port may be associated with more than one ETS EVC or ETS E-EVC. The bandwidth speed of an ETS Interconnection Port must be equal to the bandwidth speed of the associated Special Access Service Channel Termination.

Monthly and nonrecurring charges apply for each ETS Port ordered. The monthly recurring charge is determined by the capacity and type of ETS Port ordered. Rates and charges are specified in Section(s) 7.D and 7.E, following.

3. ETS Ethernet Virtual Connections (ETS EVCs)

ETS EVCs are logical associations established by GTA across a shared transmission path that allow the ETS customer to transmit packets between any two ETS Ports located on GTA's ETS Point-to-Point network. ETS EVCs are available in fixed bandwidth amounts of 5 Mbps to 1 Gbps. GTA will establish ETS EVCs used upon the bandwidth capacity specified by the ETS customer on its Access Order. When ETS EVCs are ordered between two ETS Ports in the same SWC, the ETS customer will be charged the ETS Intraswitch EVC rate. When ETS EVCs are ordered between ETS Ports that are in different SWCs within GTA's serving territory, the ETS customer will be billed the ETS Interswitch EVC rate.

XII. METRO ETHERNET TRANSPORT SERVICES (ETS) (cont'd)

D. RATE CATEGORIES (cont'd)

3. ETS Ethernet Virtual Connections (ETS EVCs) (cont'd)

Monthly and nonrecurring charges apply for each ETS EVC ordered. The monthly recurring charge is based upon the bandwidth capacity ordered and whether the associated ETS Ports are located within one SWC (Intraswitch) or between different SWCs (Interswitch). Rates and charges are specified in Section 8.E following.

4. RESERVED FOR FUTURE USE

5 Types of Rates and Charges

There are two types of rates and charges. They are monthly rates and nonrecurring charges. The rates and charges are described below:

i. Monthly Rates

Monthly rates are recurring rates that apply each month or fraction thereof when an ETS service element is provided. For billing purposes, each month is considered to have 30 days.

XII. METRO ETHERNET TRANSPORT SERVICES (ETS) (cont'd)

D. RATE CATEGORIES (cont'd)

5 Types of Rates and Charges (cont'd)

ii. Nonrecurring Charges

Nonrecurring charges are one-time charges that apply for specific work activity (i.e., installation or change to an existing service). The types of nonrecurring charges that apply for ETS are installation of service, service rearrangements, moves and design changes.

Except as specified below, these charges are in addition to the Access Order Charge as specified in Section 8.E, following.

(a) Installation of Service

Nonrecurring charges apply for installation of ETS CTs, ETS Ports, ETS EVCs, and ETS Optional Features and functions ordered by the ETS customer.

(b) Service Rearrangements

Service rearrangements are changes to existing (i.e., installed) services, which may be administrative only in nature as set forth below or, that involve an actual physical change to the service.

When the ETS customer elects to decrease the bandwidth capacity on existing ETS Ports, and associated ETS CTs, the request will be considered a discontinuance of service for the former capacity and start of service for the new capacity. Associated nonrecurring (i.e., installation) charges will apply. New minimum period requirements will be established for the new ETS elements. The ETS customer will also remain responsible for satisfying all outstanding minimum period charges for the discontinued ETS elements.

XII. METRO ETHERNET TRANSPORT SERVICES (ETS) (cont'd)

D. RATE CATEGORIES (cont'd)

5 Types of Rates and Charges (cont'd)

ii. Nonrecurring Charges (cont'd)

(b) Service Rearrangements (cont'd)

When the ETS customer elects to increase the bandwidth capacity on existing ETS Ports and associated ETS CTs, the request will be considered a discontinuance of service for the former capacity and start of service for the new capacity. Associated nonrecurring (i.e., installation) charges will apply. New minimum period requirements will be established for the new ETS elements. Any outstanding minimum period charges associated with the discontinued ETS elements that would otherwise be applicable for the bandwidth capacity upgrades described in this paragraph will be waived.

When the ETS customer elects to change the bandwidth capacity on existing ETS EVCs, (i.e., the customer requests an increase or decrease in capacity), the ETS Design Change Charge described in (d), below, will apply per ETS element changed.

When the ETS customer elects to remove existing ETS EVCs, the ETS Design Change Charge described in (d), below, will apply per ETS EVC removed.

Administrative changes are as follows:

- Change of customer name,
- Change of customer or customer's end user premises address when the change of address is not a result of physical relocation of equipment,
- Change in billing data (name, address, or contact name or telephone number),
- Change of agency authorization,
- Change of customer circuit identification,

- Change of billing account number,
- Change of customer or customer's end user contact name or telephone number.

XII. METRO ETHERNET TRANSPORT SERVICES (ETS) (cont'd)

D. RATE CATEGORIES (cont'd)

6 Types of Rates and Charges (cont'd)

ii. Nonrecurring Charges (cont'd)

(b) Service Rearrangements (cont'd)

(c) Moves

A move involves a change in the physical location of one of the following:

- The Point of Termination at the customer's premises
- The customer's premises

The charges for moving ETS elements are dependent on whether the move is to a different location within the same building, to a different building within the same SWC, or to a different building in a different SWC. The charges specified below apply in addition to any applicable charges for moving any applicable Special Access Services as specified in this Tariff preceding.

XII. METRO ETHERNET TRANSPORT SERVICES (ETS) (cont'd)

D. RATE CATEGORIES (cont'd)

5. Types of Rates and Charges (cont'd)

(c) Moves (cont'd)

(i) Moves Within the Same Building

ETS Basic and Interconnection Ports, and ETS EVCs are not impacted when an ETS customer moves its Point of Termination to a different location within the same building. The charge for moving an ETS CT within the same building will be an amount equal to one half of the nonrecurring (i.e., installation) charge for the ETS CT. There will be no change in the minimum period requirements.

(ii) Moves To a Different Building Within the Same SWC

ETS Basic and Interconnection Ports, and ETS EVCs are not impacted when an ETS customer moves its Point of Termination to a different building within the same SWC. The move of an ETS CT will be treated as a discontinuance and start of service. Associated nonrecurring (i.e., installation) charges will apply. New minimum period requirements will be established for the new services. The ETS customer will also remain responsible for satisfying all outstanding minimum period charges for the discontinued service.

(iii) Moves to a Different Building in a Different SWC

A move to a different building in a different SWC will be treated as a discontinuance and start of service of all associated ETS elements. Associated nonrecurring (i.e., installation) charges will apply. New minimum period requirements will be established for the new services. The ETS customer will also remain responsible for satisfying all

outstanding minimum period charges for the discontinued service.

XII. METRO ETHERNET TRANSPORT SERVICES (ETS) (cont'd)

D. RATE CATEGORIES (cont'd)

5. Types of Rates and Charges (cont'd)

d) ETS Design Changes

As described in (b), above, the ETS Design Change Charge specified in Section 8.E following, will apply when the ETS customer elects to: (1) change the bandwidth capacity of existing ETS EVCs, or (2) remove existing ETS EVCs.

When applicable, the ETS Design Change Charge applies in lieu of the ETS EVC nonrecurring charge. The Access Order Charge will not apply when the ETS Design Change Charge is applicable.

XII. METRO ETHERNET TRANSPORT SERVICES (ETS) (cont'd)

E. RATES AND CHARGES

1. ETS Channel Terminations

- (a) Per termination when customer designated premises located within 300 feet of ETS SWC

Capacity	Monthly Rate	Nonrecurring Charge
10 Mbps	ICB	ICB
20 Mbps	ICB	ICB
50 Mbps	ICB	ICB
100 Mbps	ICB	ICB
500 Mbps	ICB	ICB
1 Gbps	ICB	ICB

- (b) Per termination when customer designated premises located more than 300 feet from ETS SWC

Capacity	Monthly Rate	Nonrecurring Charge
10 Mbps	ICB	ICB
20 Mbps	ICB	ICB
50 Mbps	ICB	ICB
100 Mbps	ICB	ICB
500 Mbps	ICB	ICB
1 Gbps	ICB	ICB

XII. METRO ETHERNET TRANSPORT SERVICES (ETS) (cont'd)

E. RATES AND CHARGES (cont'd)

2 Ports

(a) Per ETS Basic Port

Capacity	Monthly Rate	Nonrecurring Charge
10 Mbps	ICB	ICB
20 Mbps	ICB	ICB
50 Mbps	ICB	ICB
100 Mbps	ICB	ICB
500 Mbps	ICB	ICB
1 Gbps	ICB	ICB

(b) Per ETS Interconnection Port

Capacity	Monthly Rate	Nonrecurring Charge
44.736 Mbps	ICB	ICB
155.52 Mbps	ICB	ICB
622.08 Mbps	ICB	ICB

3. ETS Ethernet Virtual Connection (EVCs)

(a) Per Intraswitch ETS EVC

Capacity	Monthly Rate	Nonrecurring Charge
10 Mbps	ICB	ICB
20 Mbps	ICB	ICB
50 Mbps	ICB	ICB
100 Mbps	ICB	ICB
500 Mbps	ICB	ICB
1 Gbps	ICB	ICB

XII. METRO ETHERNET TRANSPORT SERVICES (ETS) (cont'd)

E. RATES AND CHARGES (cont'd)

3. ETS Ethernet Virtual Connection (EVCs) (cont'd)

(b) Per Interswitch ETS EVC

Capacity	Monthly Rate	Nonrecurring Charge
10 Mbps	ICB	ICB
20 Mbps	ICB	ICB
50 Mbps	ICB	ICB
100 Mbps	ICB	ICB
500 Mbps	ICB	ICB
1 Gbps	ICB	ICB

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Edward R. Margerison
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September 7, 2007

Harry Boertzel, Esq. ALJ
The Guam Public Utilities Commission
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Hagatna, Guam 96932

Re: USAC Certification – Guam Telephone Authority

Dear Harry:

As you requested, this letter presents GCG's recommendations in response to Guam Telephone Authority's (GTA) June 26, 2007 letter to you requesting certification from the Public Utilities Commission that GTA is in compliance with Section 254(e) of the federal Telecommunications Act of 1996.

GTA receives monies from interstate funds that are designated to support local services. The purposes of the Universal Service Fund (USF) are described more fully in the GTA letter. Each year the PUC is required to certify (by September 30) that those funds are being used for the designated purposes described by the Federal Communications Commission (FCC). In our letter of November 21, 2003, we proposed a process that would be required in order for the PUC certifying the usage of these funds. We recommended and the PUC adopted a protocol for submission of these certifications. Specifically

- During the annual June regulatory session GTA provide an accounting of the monies received through these vehicles for the current year for which the certification is required; for each source from which monies are provided GTA should indicate the provisions, maintenance and upgrading of facilities and services for which the funds are intended and demonstrate that the funds were spent accordingly;
- GTA should provide to the PUC the coverage (Total Company) for the prior year and year to date; and
- GCG provide a response and evaluation of the information received from GTA before the PUC is required to sign the next certifications.

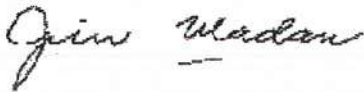
Harry M. Boertzel, ALJ
September 7, 2007
Page 2 of 2

The protocol above was developed a year before the assets of the Guam Telephone Authority were sold to TeleGuam. The new GTA has a different financial structure and is no longer required to maintain a specific coverage ratio (Times Interest Earned Ratio or TIER). Therefore, in lieu of the TIER requirement, we recommend that the Commission require GTA to provide income statements for the two previous years for the regulated entity. These income statements are already required under the Accounting Safeguards and Affiliate Transactions rules. GTA is required to submit its audited financial statements promptly after the audit is completed and in sufficient granularity for the Commission to assess financial results. We believe these reports should be sufficient for the Commission to evaluate GTA's compliance with Section 254(e) in the future.

GTA indicated that it received \$5.1 million in calendar year 2005, \$4.1 million in 2006 and \$557 thousand through May 2007. To demonstrate that these funds were used as required by the FCC, GTA states it froze local rates when it purchased the assets of the Guam Telephone Authority. At that time, local revenues were insufficient to meet the coverage requirement of the Guam Telephone Authority's bonds. GTA has not provided detailed and usable financial reports since that time, despite actions by the PUC. Nevertheless, it is reasonable to assume that the total revenue requirement for local services is well in excess of the amounts received from the universal service funds. GTA has also provided information on its capital improvement program indicating substantial progress on projects that support the provision of local telephone services. These factors support the view that the universal service funds are, in fact, being used in compliance with Section 254(e). In view of the limited time before the report is due and the potentially significant loss of revenue to GTA if we were to recommend withholding approval, GCG accepts GTA's representations and recommends that the PUC certify the uses of these funds by September 30, 2007.

We remain concerned, however, about our ability to certify the uses of universal service funds in the future. GTA has yet to provide the financial information it was required to provide under the Commission's Accounting Safeguards and Affiliate Transactions rules. This information would have been helpful in our performing a more rigorous analysis of GTA's compliance with the federal rules. GTA's failure to produce adequate financial data is an agenda item for the October regulatory conference. We recommend that future PUC USF certifications be denied unless GTA is in compliance with the Commission's financial reporting requirements.

Cordially,



Jamshed K. Madan

Cc: Tim Roberts, Esq.
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September 20, 2007

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Re: USAC Certification – Pulse Mobile

Dear Harry:

This letter presents GCG's recommendations in response to GTA Telecom's September 7, 2007 letter to you requesting certification from the Public Utilities Commission that its affiliate, Pulse Mobile, is in compliance with Section 254(e) of the federal Telecommunications Act of 1996 and Commission requirements as contained in the Order Approving Designation.

Background

Pulse Mobile was granted designation as an "Eligible Telecommunications Carrier" (ETC) by the Guam Public Utilities Commission by an Order Approving Designation dated February 1, 2007. ETCs are service providers eligible to receive federal support of local services from Universal Service Funds (USF). Each year the PUC is required by the Federal Communications Commission (FCC) to certify (by September 30) that those funds are being used as intended.

In granting the designation of ETC, the Commission imposed certain conditions including a requirement for certifications and other evidence to show whether Pulse Mobile was in compliance with the federal standards. GTA Telecom filed a report on behalf of Pulse Mobile on September 7, 2007. GCG, in its review of this response raised a number of questions which were sent GTA Telecom on September 13. GTA Telecom responded on September 19. Among other matters, the September 19 response clarified that the GTA Telecom officer who signed the September 7 report was authorized to certify on behalf of Pulse Mobile.

Standards for Review

The FCC has designated nine core services that must be provided by a carrier receiving USF:

- (1) Voice grade access to the public switched network;
- (2) Local usage, an amount of minutes of use of exchange service provided free of Charge to end users;

- (3) Dual tone multi-frequency signaling or its functional equivalent;
- (4) Single-party service or its functional equivalent;
- (5) Access to emergency services such as 911 and enhanced 911, provided by local governments or other public safety organizations;
- (6) Access to operator services;
- (7) Access to interexchange service;
- (8) Access to directory assistance; and
- (9) Toll limitation for qualifying low-income consumers.

To be eligible to receive USF a telecommunications carrier must offer each of these services. An otherwise eligible carrier may be granted additional time by the state commission to complete network upgrades in order to complete the network upgrades needed to provide single-party service, access to enhanced 911 service, or toll limitation. If such petition is granted, the otherwise eligible telecommunications carrier will be permitted to receive universal service support for the duration of the period designated by the state commission. According to the FCC, state commissions should grant such a request only upon a finding that exceptional circumstances prevent an otherwise eligible telecommunications carrier from providing single-party service, access to enhanced 911 service, or toll limitation. The period should extend only as long as the relevant state commission finds that exceptional circumstances exist and should not extend beyond the time that the state commission deems necessary for that eligible telecommunications carrier to complete network upgrades. An otherwise eligible telecommunications carrier that is incapable of offering one or more of these three specific universal services must demonstrate to the state commission that exceptional circumstances exist with respect to each service for which the carrier desires a grant of additional time to complete network upgrades.

The ETC designation was conditioned on Pulse Mobile's compliance with the following Commission requirements:

- (a) Pulse Mobile must comply with any local usage requirements prescribed by the FCC;
- (b) Pulse Mobile must comply with any FCC requirements concerning E911 service when implemented in the Territory of Guam;
- (c) Pulse Mobile must certify to the Commission on October 1 of each year, beginning October 1, 2007, that Pulse Mobile (i) offers all of the services designated by the FCC for support pursuant to Section 254(c) of the Federal Act either using its own facilities or a combination of its own facilities and resale and (ii) advertises the availability of supported services and the charges there for using medial of general distribution as described in its petition;
- (d) Pulse Mobile must notify the Commission within thirty (30) days of any determination that it cannot provide service to a requesting customer in accordance with the FCC's requirements;
- (e) Pulse Mobile must file a detailed build-out plan satisfying the FCC's requirements no later than October 1, 2007;
- (f) Pulse Mobile must file with the Commission a copy of each annual certification made by Pulse Mobile under Section 54.314(b) of the FCC's rules;

(g) Pulse Mobile must submit to the Commission on October 1 of each year, beginning October 1, 2007 the following records and documentation: (i) Pulse Mobile's progress towards meeting its build-out plans; (ii) information on any outage lasting at least 30 minutes and potentially affecting either at least 10 percent of the end users served or 911 facilities; (iii) the number of requests for service from potential customers within Pulse Mobile's service area that were unfulfilled for the past year; (iv) the number of complaints per 1,000 handsets; (v) Pulse Mobile's compliance with the CTIA Consumer Code; (vi) Pulse Mobile's certification that it is able to function in emergency situations; (vii) Pulse Mobile's certification that it is offering a local usage plan comparable to that offered by the incumbent local exchange carrier; and (viii) Pulse Mobile's certification that it acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access in the service area.

(h) Pulse Mobile must promptly submit to the Commission any additional information or reports that that Commission may reasonably request from time to time.

Pulse Mobile Compliance with Standards

(a) Compliance with FCC local usage requirements

Pulse Mobile certified "that it is in compliance with the nine core services that are eligible for USF." It says it provides unlimited local calling throughout Guam. In support, Pulse Mobile provided coverage maps showing the reach of its two wireless networks. Also, in its response to GCG's questions, it provided a list of the estimated current coverage of each village in Guam. This list disclosed that coverage in the more heavily populated areas was at or close to 100% for both the GSM and TDMA networks. We consider coverage in the rural villages to be adequate on both systems at this time given that Pulse Mobile has committed to major expansion by mid-2008.

Pulse Mobile certified that it currently provides an unlimited local calling plan to its TDMA customers and a 3,000 minute per month local calling plan to its GSM customers. These plans cover wireless to wireless and wireless to landline calling. GCG is satisfied that these plans satisfy the FCC requirements for local coverage.

Pulse Mobile asserts that it does not currently provide access to operator services because it lacks the billing software required for collect calls. It anticipates providing operator service within the next two years. However, it says "if a customer dials *611, they will reach a live operator at the GTA call center who can provide assistance to the subscriber." Based on the assurance that this capability is being addressed in Pulse Mobile's planning and in view of the existing work-around, GCG does not believe the lack of operator assistance is a material deficiency in compliance with the FCC's rules.

Pulse Mobile says it provides directory assistance to its subscribers through contractual arrangements with GTA Services. Directory assistance is available for customers on both wireless systems. Consequently, GCG is satisfied that this FCC requirement is met.

(b) Compliance with FCC requirements concerning E911 service

Pulse Mobile certified that it continues to support 911 services and is ready to support E911 when implemented by the appropriate government agency. We believe this certification is sufficient to show compliance with FCC requirements.

Pulse Mobile asserts it is currently capable of supporting Phase 1 of E-911 and would not require any further network upgrades. It plans a software solution for Phase 2 and could implement it within one year after the Government of Guam decides to move ahead. It further states that it would be premature to deploy that solution now but will continue to work with the government to ensure successful implementation. Recognizing the need for close coordination with the responsible government agencies, GCG accepts this assertion as reasonable in the short term for purposes of the USAC certification.

(c) Certification of services and advertisement of supported services

Subject to the limitations discussed in paragraphs (a) and (b) above, GCG believes Pulse Mobile has made an appropriate certification that it offers all of the services designated by the FCC for support pursuant to Section 254(c) of the Federal Act either using its own facilities or a combination of its own facilities and resale.

Pulse Mobile has provided copies of advertisements which run in the Pacific Daily News and occasionally on television advertising the availability of supported services and the charges for those services. It also advertises these services on its website and through direct mail. Pulse Mobile offers a lifeline/link-up program to eligible low income subscribers and has advertised it through flyers distributed through various government agencies. We believe these advertisements satisfy the Commission's requirement.

(d) Notification of inability to provide service

Pulse Mobile certified that it "has been able to fulfill services to all requesting customers in accordance with FCC requirements." Since the Commission does not have jurisdiction over Commercial Mobile Radio Service (CMRS), it cannot independently confirm or deny this certification. Therefore, the requirement is considered satisfied.

(e) Filing of detailed build-out plan

Pulse Mobile filed its detailed five year build-out plan, under confidentiality, as an attachment to the GTA TeleGuam letter. We have reviewed this plan and determined that the projects described therein support the provision of the core services for which service was intended.

(f) Filing of annual certification

Section 54.314(b) refers to carriers not subject to State jurisdiction. "A rural incumbent local exchange carrier not subject to the jurisdiction of a state or an eligible telecommunications carrier not subject to the jurisdiction of a state serving lines in the service area of a rural incumbent local exchange carrier that desires to receive support pursuant to Sec. Sec. 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter shall file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Support provided

pursuant to Sec. Sec. 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter shall only be provided to the extent that the carrier has filed the requisite certification pursuant to this section.”

The Guam Public Utilities Commission asserted jurisdiction over Pulse Mobile for the limited purpose of its designation as an eligible telecommunications carrier (ETC). Accordingly, Pulse Mobile must file its annual certification letter with the Commission rather than with the FCC.

Pulse Mobile made appropriate certifications in the TeleGuam letter dated September 7, 2007. Additional certifications were contained in its September 19, 2007 responses to GCG's interrogatories. Therefore, GCG believes this requirement has been met.

(g) Filing of documentation

Pulse Mobile has made appropriate certifications that it is in compliance with each of the requirements under condition (g) of the Order Approving Designation. These certifications were contained in TeleGuam's September 7, 2007 letter and were supported by the responses to GCG's interrogatories.

(h) Prompt submission of information or reports

Pulse Mobile's request for certification by the Commission was submitted before the deadline imposed by the Order Approving Designation. Pulse Mobile responded to GCG's requests for information in a timely manner.

Although this requirement was technically “met” by Pulse Mobile, we are very concerned that the deadline for Commission certification as contained in the Order does not permit any time for due diligence. We were only able to perform our review because Pulse Mobile's request was filed three weeks before the deadline, September 30. If there were any unresolved issues, even three weeks may not have been enough. We believe at least one month is needed for a reasonable review. Consequently, we recommend that the Commission should modify the timeline to require submission of the request for certification not later than August 31. Since Commission certification is required for GTA and any other ETC over which the Commission has jurisdiction, we recommend that the timeline for any Commission certification be established through an administrative order that applies to all regulated carriers rather than on a case-by-case basis.

Conclusion

The Commission is required to certify that universal service funds provided to an ETC subject to its jurisdiction are used for their intended purposes. Pulse Mobile has filed information indicating that 2007 universal service funds received to date are far less than its operating expenses for local services. It is clear, therefore, that the funds are being used to support the services designated by the FCC. Pulse Mobile has also demonstrated a commitment to further build-out and upgrading of its wireless local networks and, except as noted above in connection with operator services, has satisfied each of the requirements in the Order Approving Designation. Therefore, we recommend that the Commission certify to the FCC that Pulse Mobile has used universal service funds for the purpose intended.

Harry M. Boertzel, ALJ
September 20, 2007
Page 6 of 6

If you have any questions concerning this report or require any additional information, please let us know.

Cordially,

Jamshed K. Madan

Jamshed K. Madan

Cc: Eric Votaw
Lucy Perez
Walter Schweikert
John Ingram

**GCG REPORT PENDING
IN
DOCKET 08-5
*PETITION OF PTI PACIFIC INC.***

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

ARBITRATION PROCEEDING
INTERCONNECTION AGREEMENT
BETWEEN GTA TELECOM LLC
AND GUAM CELLULAR AND
PAGING, INC.

DOCKET 07-5



Administrative Law Judge Report

This report reviews and makes recommendations to the Guam Public Utilities Commission [PUC] regarding Guam Cellular and Paging, Inc.'s [Guamcell] August 23, 2007 petition for rehearing under PUC Rule 37 of PUC's ruling in its August 13, 2007 Decision [Decision] that pricing for entrance facilities under the interconnection agreement shall be established under Guam law rather than under Federal pricing standards.

The issue currently before PUC is whether Guamcell's petition has shown good and sufficient cause for PUC to conclude that its determinations and ruling regarding the establishment of entrance facility pricing¹ were based on an erroneous conclusion of law. The parties' positions on the points addressed by these determinations were thoroughly briefed and were carefully considered by PUC in making its Decision.²

¹ In its August 13, 2007 Decision, PUC adopted the following determinations, proposed on pages 6 and 7 of ALJ's 7/25/07 report: a) It is within PUC's authority under 12 GCA §12105[c] to require GTA to provide Guamcell with entrance facilities, including both the connection from Guamcell's switching location to GTA's Tumon serving wire center and the dedicated trunk transport facilities between Tumon and the POI at the Agana tandem location, under tariffed rates; b) Federal law does not mandate that entrance facility rates be established under a TELRIC or FLEC pricing standard; c) both GTA and Guamcell's rate proposals for entrance facilities should be rejected as unreasonable... d) Guamcell currently leases an interstate OC-12 transmission facility from GTA under the NECA tariff. Guamcell asserts that this facility should be included as part of entrance facilities. However, the OC-12 circuit in question is used for a number of different applications unrelated to interconnection. It is not a "shared facility" as described in the NECA tariff. Therefore, it cannot be brought under the rate of entrance facilities in this proceeding. Guamcell should continue to be charged for this facility under regular NECA rates; e) GCG's entrance facilities pricing proposal [408.49 per T-1 circuit] should be adopted on an interim basis, subject to true-up with interest, pending a PUC initiated tariff proceeding under 12 GCA § 12105[c] to establish permanent charges for entrance facilities. This is a preferable venue to baseball arbitration for examining and resolving the growing and complex list of technical issues, which have been raised in the parties' filings, relating to the pricing of these facilities; and f) entrance facility rates should be prorated between the parties based on the traffic factor.

² See the *Background* section of Georgetown Consulting Group's [GCG] 9/12/07 Response to Guamcell's Petition [pages 1 and 2] for a discussion of these filings.

GTA and GCG oppose the Guamcell petition on the grounds that it merely repeats Guamcell arguments,³ which were previously considered and rejected by PUC in its Decision⁴. Accordingly, the petition fails to establish good and sufficient cause for PUC to grant the petition. The undersigned agrees with the GTA and GCG position and recommends that PUC deny Guamcell's motion by the proposed order, which is attached to this report.

Respectfully submitted this 13th day of November 2007.

Harry M. Boertzel / LRP

Harry M. Boertzel
Administrative Law Judge

³See Guamcell's 8/6/07 Objections to the ALJ's Report.

⁴ As a supplement to this report, PUC commissioners are being provided with: a] Guamcell's 8/23/07 petition for rehearing; b] GTA's 9/12/07 response to the petition; and c] GCG's 9/12/07 response to the petition. ALJ has denied Guamcell's 10/17/07 motion to respond to GCG's response and GTA's 10/29/07 motion to reply to Guamcell's 10/17/07 motion on the grounds that such supplemental filings are not contemplated by PUC Rule 38. In similar fashion, ALJ has also refused to consider Guamcell's 11/09/07 "informal response" to GTA's 10/29/07 motion.

The ALJ recognized that the Commission has a measure of discretion in resolving the open issues only in the absence of an “applicable federal standard.” ALJ Report, Docket 07-5, at 2-3 (July 25, 2007). Nevertheless, the ALJ determined that GTA is entitled to charge tariffed rather than either TELRIC or FLEC-based rates for the entrance facilities it provides between Guamcell’s premises and the point of interconnection. *See id.* at 6. However, there is a “federal standard” that expressly applies to entrance facility rates and the standard conflicts with the ALJ’s determination.¹

In August 2003, the FCC recognized that § 251(c)(2) of the Act, 47 U.S.C. § 251(c)(2), affords requesting carriers access to entrance facilities that are needed to interconnect with an ILEC’s network. *See Review of the Section 251 Unbundling Obligations of ILECs*, 18 FCC Rcd 16978, 17204 (2003) (“*Unbundling Order*”), *remanded on other grounds for further consideration, United States Telecom Ass’n v. FCC*, 359 F.3d 554 (D.C. Cir.), *cert. denied*, 543 U.S. 925 (2004). In February 2005, the FCC affirmed that requesting carriers have the right to obtain entrance facilities at TELRIC rates under § 251(c)(2) even though they have no right to unbundled access to entrance facilities under § 252(c)(3) of the Act. *See Unbundled Access to Network Elements*, 20 FCC Rcd 2533, 2609 (2005) (“*UNE Order*”), *petition for review denied, Covad Communications Co. v. FCC*, 450 F.3d 528 (D.C. Cir. 2006). The FCC stated:

We note ... that our finding of non-impairment with respect to entrance facilities does not alter the right of competitive LECs to obtain interconnection facilities pursuant to [§] 251(c)(2) for the transmission and routing of telephone exchange service and exchange access service. Thus, *competitive LECs will have access to*

¹ Guamcell objected to the ALJ’s fundamental determination that the Commission has the authority under 12 GCA § 12105(c) to require GTA to provide Guamcell with entrance facilities under tariffed rates. *See Guamcell’s Objections to the ALJ’s Report, Docket 07-5, at 1 (Aug. 6, 2007) (“Objections”).* The Objections are incorporated herein by this reference.

*these facilities at cost-based rates to the extent that they require them to interconnect with the incumbent LEC's network.*²

The FCC's interpretation of § 251(c)(2) means that that the just and reasonable rates that GTA charges for the entrance facilities that Guamcell uses to interconnect must be determined by the Commission under the pricing standards of § 252(d)(1) of the Act. *See* 47 U.S.C. §§ 251(c)(2)(D), 252(d)(1). Specifically, the rates for the "interconnection of facilities and equipment" must be "based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection." *Id.* § 252(d)(1)(A)(i). In short, the Commission cannot determine the rates for the entrance facilities in a tariff proceeding under 12 GCA § 12105(c).

Neither GTA, Georgetown Consulting Group, Inc. ("GCG"), nor the ALJ addressed Guamcell's oft-repeated argument that the *UNE Order* confirmed that it was entitled to obtain entrance facilities at TELRIC rates.³ Instead, GTA cited three unreported state commission decisions for the proposition that CLECs are not entitled to purchase entrance facilities at TELRIC rates.⁴ However, it is the federal courts, not state commissions, which have the

²*UNE Order*, 20 FCC Rcd at 2611 (emphasis added) (footnote omitted). The FCC has taken a technology-neutral approach to the issue by applying its treatment of entrance facilities to intermodal competitors, including CMRS carriers. *See Unbundling Order*, 18 FCC Rcd at 17206. All telecommunications carriers, including CMRS providers, have access to entrance facilities to interconnect pursuant to § 251(c)(2). *See id.*

³ *See* Guamcell's Comments on GCG's Supplemental Report, Docket 07-5, at 5-6 (July 12, 2007); Guamcell's Comments on GCG's Report, Docket 07-5, at 6-7 (June 13, 2007) ("Guamcell Comments"); Guamcell's Supplemental Brief, Docket 07-5, at 4-6 (June 29, 2007).

⁴ *See* Comments of GTA on the ALJ Report, Docket 07-5, at 2-3 (Aug. 4, 2007) ("GTA Comments"). Guamcell notes that in *Verizon Pennsylvania, Inc.*, 2006 WL 2336459 (Pa. P.U.C. 2006), the Pennsylvania Public Utility Commission ("PPUC") did not reject requests by CLECs that "they be permitted to purchase entrance facilities at TELRIC rates." GTA Comments, at 3. The proceeding was to provide guidance to signatories of existing interconnection agreements in renegotiating their agreements to bring them in conformance with the *UNE Order*. *See Verizon*, 2006 WL 2336459 at *2. The PPUC recognized that the *UNE Order* clearly gave CLECs access to entrance facilities for interconnection purposes at cost-based rates "with TELRIC-compliant costing determinative." *Id.* at *5. However, the

“ultimate power to interpret” the provisions of §§ 251 and 252 of the Act. *Iowa Network Services, Inc. v. Qwest Corp.*, 363 F.3d 683, 692 (8th Cir. 2004). Only one federal court has interpreted §§ 251(c)(2) and 252(d)(1) as they apply to the provision of entrance facilities, and that court followed the FCC’s *UNE Order*.

In *Southwestern Bell Tel., L.P. v. Missouri Public Service Comm’n*, 461 F.Supp.2d 1055 (E.D. Mo. 2006), the court affirmed an arbitration order issued by the Missouri Public Service Commission (“MPSC”) that required an ILEC to provide CLECs with entrance facilities at TELRIC rates. See 461 F.Supp.2d at 1071. Relying on the *UNE Order*, the court held that “if a CLEC needs entrance facilities to interconnect with an ILEC’s network ... the CLEC has the right to obtain such facilities from the ILEC, at cost-based rates, under § 251(c)(2) of the Act.” *Southwestern Bell*, 461 F.Supp.2d at 1072.

The court in *Southwestern Bell* rejected the ILEC’s contention that the *UNE Order* “only requires an ILEC to allow CLECs to interconnect with its network and does not require that it lease the interconnection facilities themselves to CLECs.” *Id.* The court concluded that the ILEC was “required by the Act and FCC regulations to provide access to entrance facilities necessary for interconnection.” *Id.* The court’s holding is consistent with the FCC’s requirement that an ILEC provide two-way trunking to a requesting carrier for interconnection if it is technically feasible to do so. See 47 C.F.R. § 51.305(f); *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499, 15612-13 (1996) (“*Local Competition Order*”). See also *MCImetro Access Transmission Services LLC v. BellSouth Telecommunications, Inc.*, 352 F.3d 872, 883 (4th Cir. 2003).

PPUC found that its record was inadequate for it to determine whether the entrance facilities were used for interconnection or transport. See *id.* at *5-6. It did find that “all transport previously provided under the rubric of entrance facilities should not be presumed to be priced as special access.” *Id.* at *6.

Finally, the *Southwestern Bell* court affirmed the MPSC's determination that an ILEC must allow access to entrance facilities at TELRIC rates when the facilities are used for interconnection under § 251(c)(2). See *Southwestern Bell*, 461 F.Supp.2d at 1072. Citing the *UNE Order* and the *Local Competition Order*, the court held that the FCC implemented the pricing standard of § 252(d)(1) by requiring the use of TELRIC rates for interconnection. See *id.* at 1072-73. Thus, it held that the MPSC "correctly adhered to the FCC's mandate when it directed the use of TELRIC rates for entrance facilities" provided by the ILEC for use as "interconnection facilities." *Id.* at 1073.

Southwestern Bell directly refutes the ALJ's determination 2[b] that "[f]ederal law does not mandate that entrance facility rates be established under a TELRIC or FLEC pricing standard." ALJ Report, at 7. In fact, the parties and GCG could not find any FCC or federal court authority to support the ALJ's contention and he cited none. See *id.* at 6-7. Significantly, GCG'S's analysis of the issue, which the ALJ adopted, was based entirely on its interpretation of the FCC's rules.⁵ That interpretation of federal law has been adopted by the Commission, but it conflicts on its face with that of the FCC in its *UNE Order* and the court in *Southwestern Bell*. Because the FCC's interpretation controls, see *MCI*, 271 F.3d at 516, the Commission should reconsider the matter and apply the *UNE Order* standard.

Guamcell represented that it uses the entrance facilities to interconnect with GTA⁶ and GCG specifically found that to be the case.⁷ Since it uses the entrance facilities as its "method[]

⁵See Letter of Jamshed Madan to ALJ Harry Boertzel, Docket 07-5, at 2-3 (July 9, 2007); Letter of Jamshed Madan to ALJ Harry Boertzel, Docket 07-5, at 12-14 (June 8, 2007) ("GCG Rep.").

⁶See Brief for Petitioner, Docket 07-5, at 18 n.44 (June 1, 2007); Guamcell Comments, at 2.

⁷See GCG Rep., at 2-4.

of obtaining interconnection,”⁸ Guamcell has the right to obtain the entrance facilities pursuant to § 251(c)(2) at cost-based rates under § 252(d)(1)(A)(i). *See UNE Order*, 20 FCC Rcd at 2611. The FCC implemented the statutory cost-based pricing standard by adopting the TELRIC methodology. *See Southwestern Bell*, 461 F.Supp.2d at 1073. *See also Local Competition Order*, 11 FCC Rcd at 15844; 47 C.F.R. §§ 51.501, 51.503(b)(1), 51.505, 51.511 (applying TELRIC to the pricing of interconnection and the methods of obtaining interconnection). Thus, the Commission must hold that Guamcell is entitled to pay TELRIC rates for the entrance facilities. *See Southwestern Bell*, 461 F.Supp.2d at 1073.

While the *UNE Order* is controlling, other elements of federal law also prohibit the Commission from initiating a tariff proceeding to establish permanent entrance facilities rates on the basis of a “fully distributed cost study.” *See Decision*, at 3 & n.1. Four of those elements are listed below in summary fashion.

1. *Tariffs are disfavored under § 252(d)(1)*. “The Act’s clear preference is for ... negotiated agreements.” *MCI*, 271 F.3d at 500. *See Pacific Bell v. Pac-West Telecomm, Inc.*, 325 F.3d 1114, 1127 (9th Cir. 2003). By providing that rates be set “without reference to a rate-of-return or other rate-based proceeding,” 47 U.S.C. § 252(d)(1)(A)(i), and prohibiting state commissions from conducting “any rate regulation proceeding to establish with particularity the additional costs of transporting or terminating calls,” *id.* § 252(d)(2)(B)(ii), the pricing standards of § 252(d) constitute an “explicit disavowal of the familiar public-utility model of rate regulation” that calls for tariffed rates. *Verizon Communications, Inc. v. FCC*, 535 U.S. 467, 489 (2002). Similarly, the FCC’s FLEC-based standard represented a “significant departure” from rate regulation under the “just and reasonable” standard which relied on historic costs. *UNE Order*, 20 FCC Rcd at 2563.

⁸47 C.F.R. § 51.501(b).

2. *Tariffs are disfavored by the FCC.* Expressly exercising its “plenary authority” to regulate ILEC-CMRS interconnection under §§ 201 and 332 of the Act, 47 U.S.C. §§ 201, 332, the FCC added § 20.11(d) to its rules “to prohibit the use of tariffs to impose intercarrier compensation obligations with respect to non-access CMRS traffic.” *Developing a Unified Intercarrier Compensation Regime*, 20 FCC Rcd 4855, 4856, 4863 (2005) (“*T-Mobile Declaratory Ruling*”). See 47 C.F.R. § 20.11(d). By its action, the FCC codified both its “preference for contractual arrangements for non-access CMRS traffic” and the “pro-competitive process and policies” reflected in §§ 251 and 252 of the Act. *T-Mobile Declaratory Ruling*, 20 FCC Rcd at 4863. See also *Iowa Network Services, Inc. v. Qwest Corp.*, 466 F.3d 1091, 1098 (8th Cir. 2006).

3. *The FCC prohibits the imposition of tariffed rates for intraMTA interconnection facilities.* Section 20.11 of the FCC’s rules specifically applies to CMRS “[i]nterconnection to facilities of [LECs].” 47 C.F.R. 20.11. The FCC added the ban on tariffed rates for non-access CMRS “traffic” to § 20.11 pursuant to its authority under § 332(c)(1)(B) of the Act to order a LEC to “establish a physical connection” with a CMRS carrier. See *T-Mobile Declaratory Ruling*, 20 FCC Rcd at 4863-64. For the purposes of § 20.11, the FCC defines the term “interconnection” to mean “[d]irect or indirect connection through automatic or manual means (by wire, microwave, or other technologies such as store and forward) to permit the transmission or reception of messages or signals to or from points in the public switched network.” 47 C.F.R. § 20.3. Because the rule requires a LEC to provide a direct wire connection to its network upon the reasonable request of a CMRS provider, see *id.* § 20.11(a), the § 20.11(d) ban on tariffed “intrastate interconnection rates” applies to rates for LEC-provided transport facilities to its network just as it applies to the LEC-provided transport facilities from the point of

interconnection to the end office switch. Thus, § 20.11(d) prohibits the Commission from establishing tariff rates for GTA's entrance facilities or the "interconnection facilities" that Guamcell uses pursuant to § 251(c)(2) of the Act. *See UNE Order*, 20 FCC Rcd at 2609.

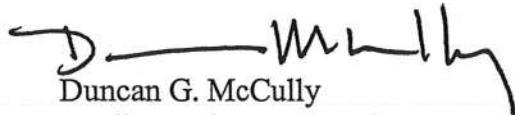
4. *The Commission is preempted from regulating the interconnection negotiations and arrangements between LECs and cellular carriers.* Finding that it had "plenary authority" over the physical plant used in interconnection of cellular carriers under §§ 2(a) and 201 of the Act, 47 U.S.C. §§ 152(a), 201, the FCC preempted: (1) state regulation of the interconnection of cellular systems, and (2) "any state regulation of the good faith negotiation of the terms and conditions of interconnection between LECs and cellular carriers." *Implementation of §§ 3(n) and 332 of the Communications Act*, 9 FCC Rcd 1411, 1497 (1994). *See The Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services*, 2 FCC Rcd 2910, 2912-13 (1987).⁹ States are preempted from determining the rate that a CMRS provider can be charged for interconnection on the basis of tariffed rates adopted in a "rate-of-return or other rate-based proceeding." *See* 47 U.S.C. § 252(d)(1)(A)(i); *Pacific Bell*, 325 F.3d at 1127. Consequently, the Commission is preempted from determining the rates, terms, and conditions under which Guamcell's cellular system will be interconnected in a tariff proceeding.

For all of the foregoing reasons, Guamcell respectfully requests that the Commission: (1) grant this petition; (2) reconsider its adoption of the ALJ's determinations 2[a] through [f]; (3)

⁹ The FCC decided that §§ 201, 332, 251, and 252 of the Act were "designed to achieve the common goal of establishing interconnection and ensuring interconnection on terms and conditions that are just, reasonable, and fair." *Local Competition Order*, 11 FCC Rcd at 16005. The FCC recognized that the enactment of §§ 251 and 252 left its §§ 201 and 332 jurisdiction over ILEC-CMRS interconnection intact. *See id.* at 16005-07. *See also* 47 U.S.C. § 251(i) (nothing in § 251 can be construed to limit the FCC's authority under § 201). The FCC has not revisited either its preemption of state regulation of cellular interconnection under § 201(a) or its preemption of state regulation of the "type of interconnection" to which CMRS providers are entitled under § 332(c)(3). *See Implementation of §§ 3(n) and 332*, 9 FCC Rcd at 1497-98. *See also T-Mobile Declaratory Ruling*, 20 FCC Rcd at 4861 n.41.

determine that GTA must provide the entrance facilities to Guamcell at TELRIC rates pursuant to §§ 251(c)(2) and 252(d)(1) of the Act and the FCC's *UNE Order*; and (4) authorize and direct the ALJ to conduct a further proceeding to establish entrance facilities rates pursuant to the FLEC-based pricing methodology set forth in 47 C.F.R. §§ 51.505 and 51.511.

Respectfully submitted this 23rd day of August, 2007.


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BEFORE THE PUBLIC UTILITIES COMMISSION OF GUAM



Guam Cellular & Paging, Inc. d/b/a GuamCell,
Petitioner,
v.
GTA Telecom, LLC
Respondent.

Docket No. 07-05

OPPOSITION OF GTA TELECOM, LLC
TO
GUAMCELL'S PETITION FOR REHEARING

GTA Telecom, LLC ("GTA"), by its attorneys and pursuant to Commission Rule 38 and the August 23, 2007 e-mail of the Administrative Law Judge ("ALJ"), hereby files its opposition to the Petition for Rehearing ("Petition") submitted on August 23, 2007 by Guam Cellular and Paging, Inc. d/b/a Guamcell ("Guamcell").

I. Introduction

In his July 25, 2007 Report, the ALJ correctly determined that the "just, reasonable and nondiscriminatory" pricing standard established in 12 GCA § 12105(c) applies to the rates for entrance facilities provided by GTA to Guamcell, ALJ Report at 6, 12, and that "[f]ederal law does not mandate that entrance facility rates be established under a TELRIC or FLEC pricing standard." *Id.* at 7, 12. The Commission adopted these findings in its August 13, 2007 Decision at paragraph 6.b.

Guamcell's Petition argues that the Commission erred by ordering a tariff proceeding to determine the rates for the entrance facilities. Guamcell contends that the charges for entrance facilities should instead be based upon TELRIC or FLEC-based pricing. This same argument

was made by Guamcell numerous times in every phase of this proceeding.¹ As was the case with every prior iteration, Guamcell's argument is based upon a misunderstanding of the rules and decisions of the Federal Communications Commission ("FCC"). Therefore, the Commission should dismiss Guamcell's Petition for Rehearing as repetitious. However, to the extent the Commission affords *de nouveau* consideration to the Petition, GTA addresses the arguments as follows.

II. The Triennial Review Order and the Triennial Review Remand Order do not Require TELRIC Pricing for Entrance Facilities.

Guamcell cites to the *Triennial Review Order* ("TRO")² and *Triennial Review Remand Order* ("TRRO")³ in support of its position. Rather than supporting Guamcell's position, these FCC orders say the opposite. Both orders specifically state that entrance facilities are *not* subject to TELRIC rates.

In the *TRO*, the FCC found that "transmission links that simply connect a competing carrier's network to the incumbent LEC's network are not inherently a part of the incumbent LEC's local network[,] . . . exist *outside* the incumbent LEC's local network[, and] . . . are not appropriately included in the definition of dedicated transport." *TRO*, 18 FCC Rcd at 17203, ¶ 366 (emphasis in the original). The FCC specifically found that competing carriers can choose

¹ Guamcell letter, May 8, 2007 (Guamcell Final Offer); Brief for Petitioner, June 1, 2007; Guamcell's Comments on GCG's Report, June 13, 2007; Guamcell's Supplemental Brief, June 29, 2007; Guamcell's Comments on GCG's Supplemental Report, July 12, 2007; Guamcell's Objections to the ALJ's Report, August 6, 2007.

² *Review of the Section 251 Unbundling Obligations of ILECs*, 18 FCC Rcd 16978 (2003), *remanded for further consideration, United States Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir.), *cert. denied*, 543 U.S. 925 (2004). Guamcell refers to the *TRO* as the "*Unbundling Order*."

³ *Unbundled Access to Network Elements*, 20 FCC Rcd 2533 (2005), *petition for review denied, Covad Communications Co. v. FCC*, 450 F.3d 528 (D.C. Cir. 2006). Guamcell refers to the *TRRO* as the "*UNE Order*."

where to locate their switches and other network equipment and have the option of deploying their own transport facilities or obtaining transport facilities from carriers other than the incumbent LEC. *Id.* at 17204-17205, ¶ 367. The FCC also found that “CMRS carriers are ineligible for dedicated transport from their base station to the incumbent LEC network.” *Id.* at 17206, ¶ 368 (footnote omitted). Thus, the FCC “limit[ed] the dedicated transport network element to those incumbent LEC transmission facilities dedicated to a particular customer or carrier that provide telecommunications *between switches or wire centers owned by incumbent LECs.*” *Id.* at 17206, ¶ 369 (emphasis added). In other words, under the *TRO*, because the FCC determined that transmission facilities between the competing carrier and the incumbent LEC did not fit within the definition of dedicated transport, such facilities were not entitled to TELRIC rates.

In the *TRRO*, the FCC confirmed that the *TRO* specifically stated that CMRS carriers are not entitled to unbundled access to “transmission facilities connecting mobile wireless carriers’ networks with incumbent LECs’ networks. . . .” *TRRO*, 20 FCC Rcd at 2609 n.377. On remand, the FCC also determined that entrance facilities do fit within the definition of dedicated transport, but found that “requesting carriers are not impaired without unbundled access to entrance facilities.” *Id.* at 2610, ¶ 138. The FCC provided substantial analysis in support of its finding of non-impairment with respect to entrance facilities. *Id.* at 2610-2612, ¶¶ 138-141.

Guamcell quotes paragraph 140 of the *TRRO*, which states that the FCC’s “finding of non-impairment with respect to entrance facilities does not alter the right of competitive LECs to obtain interconnection facilities pursuant to section 251(c)(2) . . . [and to] have access to these facilities at cost-based rates to the extent that they require them to interconnect with the incumbent LEC’s network.” *Id.* at 2611, ¶ 140. Guamcell misinterprets this paragraph.

Paragraph 140 of the *TRRO* is referring to the interconnection equipment necessary to connect the entrance facilities to the incumbent LEC's network, and states that such interconnection facilities are to be provided at cost-based rates. Contrary to the claims of Guamcell, paragraph 140 does not include entrance facilities within the definition of interconnection facilities. Nor could it without an amendment to the FCC's rules, because Section 51.5 of the FCC's rules defines interconnection as follows: "*Interconnection* is the linking of two networks for the mutual exchange of traffic. This term does not include transport and termination of traffic." 47 C.F.R. § 51.5. See also *Local Competition Order*⁴ at 15590, ¶ 176.

Since, as the FCC found in paragraph 137 of the *TRRO* that entrance facilities fall within the definition of transport, and the FCC's Rules expressly exclude transport from the definition of interconnection, entrance facilities are excluded from the FCC's definition of "interconnection." Rather, it is the equipment that connects the entrance facilities to the incumbent LEC's network at the point of interconnection that falls within the definition of interconnection facilities as discussed in paragraph 140 of the *TRRO*. Because entrance facilities are not interconnection facilities, they are not subject to the pricing standards of 47 U.S.C. § 252(d)(1). Guamcell is therefore not entitled to TELRIC rates for entrance facilities.

⁴ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499 (1996), *aff'd in part and vacated in part sub nom. Competitive Telecommunications Ass'n v. FCC*, 117 F.3d 1068 (8th Cir. 1997) and *Iowa Utils. Bd. v. FCC*, 120 F.3d 753 (8th Cir. 1997), *aff'd in part and remanded, AT&T v. Iowa Utils. Bd.*, 525 U.S. 366 (1999), *on remand, Iowa Utils. Bd. v. FCC*, 219 F.3d 744 (8th Cir. 2000), *reversed in part sub nom. Verizon Communications Inc. v. FCC*, 535 U.S. 467 (2002).

III. The Missouri Decision Cited by Guamcell Misapplied FCC Rules and Policy.

Guamcell cites to *Southwestern Bell Tel., L.P. v. Missouri Public Service Comm'n*, 461 F.Supp.2d 1055 (E.D. Mo. 2006), in support of Guamcell's interpretation of the *TRO* and the *TRRO*. As explained below, this order was incorrectly decided because it misapplied FCC rules and policy. Since this was a U.S. District Court decision affirming a decision of the Missouri Public Service Commission ("MPSC"),⁵ it does not constitute precedent outside of the borders of the state of Missouri. Instead, the Commission can look to the Report of the ALJ, and as discussed below, decisions entered into by the regulatory commissions of Pennsylvania, Ohio and Illinois for the correct application of FCC rules and policy.

In reaching its conclusion, the Missouri Court distinguished between entrance facilities used for backhauling and entrance facilities used for interconnection purposes. *Southwestern Bell*, 461 F.Supp. at 1071-1072. The Missouri Court contended that the FCC determined that CLECs are not entitled to obtain entrance facilities at TELRIC rates when they are used for backhaul, but are entitled to TELRIC rates when the entrance facilities are used for the purpose of obtaining interconnection. *Id.* at 1072.

The problem with the Missouri Court's analysis is, however, that the FCC makes no such distinction. The FCC's analysis supporting a finding of non-impairment in regard to entrance facilities discusses entrance facilities in general. *TRRO*, 20 FCC Rcd at 2610-2611, ¶¶ 137-139. Although paragraph 140 of the *TRRO* provides that interconnection facilities can be obtained at TELRIC rates, the reference to interconnection facilities refers to the equipment that connects the entrance facilities to the incumbent LEC's network, but does not refer to the entrance facilities themselves. As discussed earlier, entrance facilities are a type of transport

⁵ Appeal of the MPSC decision was taken pursuant to 47 U.S.C. § 252(e)(6).

facility, and transport facilities are specifically excluded from the FCC's definition of interconnection. 47 C.F.R. § 51.5. See also *Local Competition Order*, 11 FCC Rcd at 15590, ¶ 176. The District Court appeared to have ignored this critical aspect of the FCC's definition of interconnection when making its findings.⁶

IV. The Commission's Decision is Consistent with Other Jurisdictions that Correctly Applied the TRO and the TRRO.

The public utility commissions of Pennsylvania, Illinois, and Ohio, in correctly applying the teachings of the FCC in the TRO and the TRRO, have each determined that entrance facilities are not subject to TELRIC pricing. In rejecting requests from CLECs that they be permitted to purchase entrance facilities at TELRIC rates, the Pennsylvania Public Utility Commission ("PA PUC") specifically found that transport on the CLEC side of the point of interconnection (*i.e.* entrance facilities) were not interconnection facilities. The PA PUC wrote:

[A]fter the CLEC chooses the technically feasible point to which it requests interconnection, any other transport required by the CLEC may be presumed to be for 'non-interconnection' purposes, and would clearly fall within the type of transport which the FCC found non-impairment.

. . . [W]e are not persuaded by the [CLEC] Petitioners' arguments that, with respect to entrance facilities, 'cost based rates' pursuant to TA-96 Section 251(c)(2) should be TELRIC-based. As we explained in our February 21, 2006 Order on page 101, Section 251(c)(2) is not a UNE leasing scheme and TELRIC pricing should not apply to entrance facilities.

Re Verizon Pennsylvania, Inc., 2006 WL 2336459 at *5 (Pa. P.U.C.).

Likewise, the Illinois Commerce Commission rejected a CLEC's request that it be permitted to purchase entrance facilities at TELRIC rates, adopting SBC's argument that the Commission should:

⁶ When quoting the FCC's definition of interconnection, the District Court omitted the critical second sentence of the definition, which is the part of the definition that specifically excludes transport. See *Southwestern Bell*, 461 F.Supp. at 1072.

. . . reject XO's attempt to turn the section 251(c)(2) duty to interconnect into some kind of duty on the part of ILECs to transport traffic for a CLEC from the CLEC's network to the point of interconnection, at TELRIC-based rates. Section 251(c)(2), by its plain terms, requires an ILEC to interconnect with a CLEC at a point within the ILEC's network. It does not require an ILEC to provide a transmission facility from that point within the ILEC's network to the CLEC's premises (e.g., an entrance facility).

Re XO Illinois, Inc., 2004 WL 3050537 at *65 (I.C.C.). In applying the portion of 47 C.F.R. § 51.5 that specifically excludes "transport" from the definition of "interconnection," the ICC concluded that the facilities to be made available for section 251(c)(2) interconnection by the incumbent LEC at TELRIC rates must be those "facilities that an ILEC must have ready to receive those CLEC facilities." *Id.* at *68.

Finally, in applying 47 U.S.C. § 251(c)(2), 47 C.F.R. § 51.5, as well as the *TRO* and the *TRRO*, the Ohio Public Utilities Commission denied a CLEC's request that it be permitted to purchase entrance facilities at TELRIC rates, holding that:

[A]ny facilities on the CLEC's side of the POI [point of interconnection], including entrance facilities, are part of the CLEC's network regardless of whether they are used for transport and termination of traffic exchanged between that CLEC and the ILEC, used to access UNEs or used to backhaul traffic. . . . If a CLEC chooses to purchase entrance facilities from SBC's Special Access tariff, the rates specified in that tariff would apply, not TELRIC rates as proposed by the CLECs.⁷

Re Establishment of Terms and Conditions of an Interconnection Agreement Amendment, 2005 WL 3018712, at *22-23, Issue 5(c) (Ohio P.U.C.) (emphasis added).

Because the point of interconnection between Guamcell and GTA is at GTA's Agana tandem switch, the entire entrance facility is part of the Guamcell's network. As correctly determined by the ALJ in his Report at 7, 12, and adopted by the Commission in its Decision at para. 6.b, and consistent with the decisions of Commissions in Pennsylvania, Illinois and Ohio,

⁷ No. 05-887-TP-UNC, Nov. 9, 2005, at 22-23 (emphasis added). A copy was attached to the Final Comments and Brief of GTA Telecom, LLC submitted on May 31, 2007.

the entrance facilities cannot be purchased at TELRIC rates. Since TELRIC rates are not applicable, the ALJ and the Commission correctly found that the “just, reasonable and nondiscriminatory” pricing standard established in 12 GCA § 12105(c) applies. ALJ Report at 6, 12; Commission Decision at para. 6.b.

V. Other Arguments Raised by Guamcell are Equally Unpersuasive.

Guamcell argues that tariffs are disfavored under 47 U.S.C. § 252(d)(1), and that 47 U.S.C. § 252(d)(1)(A)(i) preempts states from determining the rate that a CMRS provider can be charged for interconnection on the basis of tariffed rates adopted in a rate-of-return or other rate-based proceeding. Section 252(d)(1) applies only to network elements and interconnection facilities, however. Since CMRS carriers are not entitled to lease unbundled network elements, *TRRO*, 20 FCC Rcd at 2553-2555, ¶ 36, the definition of interconnection excludes transport, and entrance facilities are a type of transport facility, and in the *TRRO* the FCC made a determination of non-impairment with respect to entrance facilities, 47 U.S.C. § 252(d)(1) does not apply. In other words, TELRIC pricing does not apply to entrance facilities.

Lastly, Guamcell argues that 47 C.F.R. § 20.11(d) and the *T-Mobile Declaratory Ruling*⁸ prohibit the use of tariffed rates for CMRS intra-MTA interconnection facilities, and in particular non-access CMRS traffic. This claim is, however, based on a misreading of Section 20.11(d), which states: “(d) Local exchange carriers may not impose compensation obligations for traffic not subject to access charges upon commercial mobile radio service providers pursuant to tariffs.” Even a cursory review of the language of 47 C.F.R. § 20.11(d) makes it clear that the rule applies to “traffic” only. Nothing in the rule refers to dedicated leased facilities. Therefore, Section 20.11(d) applies to transport and termination charges that are based on minutes of use,

⁸ *Developing a Unified Intercarrier Compensation Regime*, 20 FCC Rcd 4855 (2005).

but does not apply to trunks that are leased for use as entrance facilities on a monthly basis.² In order for Section 20.11(d) to apply to transport charges, Guamcell would not be leasing trunks; rather Guamcell would be purchasing transport based upon minutes of use without the leasing of lines.

VI. Conclusion

WHEREFORE, GTA Telecom, LLC respectfully requests that the Commission deny the Petition for Rehearing filed by Guam Cellular & Paging, Inc. d/b/a Guamcell.

Respectfully submitted,

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September 12, 2007

² When adopting Section 20.11(d), the FCC stated: “[W]e amend section 20.11 of the Commission’s rules to prohibit the use of tariffs to impose intercarrier compensation obligations with respect to non-access CMRS traffic.” *T-Mobile Declaratory Ruling*, 20 FCC Rcd at 4863, ¶ 14. Therefore, both the rule section and the order adopting the rule are consistent. They apply to traffic only and not to dedicated leased facilities.



BEFORE THE PUBLIC UTILITIES COMMISSION OF GUAM

GUAM CELLULAR & PAGING, INC. }
D/B/A GUAMCELL, }
Petitioner, }
vs. }
GTA TELECOM, LLC, }
Respondent }

DOCKET 07-5

**RESPONSE OF GEORGETOWN CONSULTING GROUP
TO GUAMCELL'S PETITION FOR REHEARING**

Georgetown Consulting Group ("Georgetown") hereby files its response to the petition for rehearing (the "Petition") filed by Guam Cellular & Paging, Inc. ("Guamcell") in the above-referenced docket on August 23, 2007. In the Petition, Guamcell requests that the Commission reconsider its conclusions regarding the pricing of entrance facilities in Guamcell's interconnection agreement with GTA Telecom, LLC ("GTA"). Because, as shown below, Guamcell has failed to demonstrate good and sufficient cause that the Commission has made an erroneous conclusion of law, Georgetown respectfully submits that the Petition by DENIED.

Background

On or about March 6, 2007, Guamcell filed a petition with the Commission for arbitration of open issues in an interconnection agreement with GTA. After further proceedings, one of the open issues presented to the Commission for arbitration was the pricing of entrance facilities between Guamcell's switch and the point of interconnection ("POI") with GTA. In its final offer, Guamcell proposed a rate for such entrance facilities based on total element long run incremental costs ("TELRIC"), asserting that a TELRIC rate for entrance facilities as an unbundled network element ("UNE") was a reasonable approximation for GTA's costs.¹

Following the submission of final offers, Georgetown filed a report recommending that Guamcell was not entitled to TELRIC-based rates for entrance facilities on its side of the POI, noting instead that such facilities may be offered under tariff and that rates for such facilities should be based on a revised tariff submitted by GTA.² Guamcell filed comments to Georgetown's report, asserting, in summary, that Guamcell was entitled to TELRIC-based pricing for entrance facilities as a method of interconnection under 47 U.S.C. § 251(c)(2) even if Guamcell was not entitled to purchase entrance facilities as UNEs under 47 U.S.C. § 251(c)(3).³

¹ See Letter from Russell D. Lukas, counsel for Guamcell, dated May 8, 2007 at page 4.

² See Letter from Jamshed K. Madan of Georgetown dated June 8, 2007 at pages 11-17.

³ See Guamcell's Comments on GCG's Report, dated June 13, 2007, at pages 6-8.

Thereafter, Georgetown filed a supplemental report asserting, in summary, that although “interconnection” under §251(c)(2) was subject to TELRIC-based rates, the methods of interconnection entitled to TELRIC-based rates did not include the entrance facilities between Guamcell’s switch and the POI.⁴

On July 25, 2007, the Administrative Law Judge (“ALJ”) issued a report adopting Georgetown’s position on the pricing of entrance facilities, finding that GTA was entitled to charge tariffed rather than TELRIC-based rates for such entrance facilities and directing GTA to revise its existing tariff to establish just, reasonable and nondiscriminatory rates for entrance facilities.⁵ Guamcell filed an objection to the ALJ’s report asserting that federal law mandated that entrance facilities be provided for interconnection at TELRIC rates and that the Commission could not require Guamcell to obtain entrance facilities under regular NECA tariffs.⁶ Notwithstanding such objection, the Commission issued a decision on August 13, 2007 adopting the ALJ’s determinations regarding entrance facility pricing.⁷ Thereafter, Guamcell filed the instant Petition asking for rehearing of the Commission’s decision.

Standard of Review

Rule 37 of the Commission’s Rules of Practice and Procedure permits the filing of a petition for rehearing based on an erroneous finding of fact or erroneous conclusion of law. Pursuant to Rule 39 of such rules, the Commission, in its discretion, must determine whether good and sufficient cause has been shown by Guamcell for rehearing based on an erroneous finding of fact or erroneous conclusion of law.

Discussion

In its Petition, Guamcell’s primary assertion is that the Commission made an erroneous conclusion of law with respect to the pricing of entrance facilities for Guamcell’s interconnection agreement with GTA because, Guamcell asserts, federal law mandates that entrance facilities for interconnection be made available at TELRIC rates. Guamcell also asserts that federal law prohibits the Commission from initiating a tariff proceeding to establish permanent entrance facilities rates on the basis of a fully distributed costs study.

As an initial matter, Guamcell’s Petition fails to raise any new issue that was not previously considered by the Commission, the ALJ and Georgetown, as the Commission’s staff. Indeed, the arguments in the Petition, including the reference to a federal court decision which Guamcell asserts is controlling, were previously raised in Guamcell’s objections to the ALJ’s report, if not earlier. Contrary to Guamcell’s assertion that neither “GTA, Georgetown ..., nor

⁴ See Letter from Jamshed K. Madan of Georgetown dated July 9, 2007.

⁵ See Administrative Law Judge Report in Docket 07-5, dated July 25, 2007.

⁶ See Guamcell’s Objections to the ALJ’s Report, dated August 6, 2007.

⁷ See Commission Decision in Docket 07-5, dated August 13, 2007.

the ALJ addressed Guamcell's oft-repeated argument that the *UNE Order* confirmed that it was entitled to obtain entrance facilities at TELRIC rates", Guamcell's assertions have been evaluated and considered by the Commission, the ALJ and Georgetown, both formally through the pleadings and informally through discussions following the filing of Guamcell's objection.⁸ Nevertheless, Georgetown files this response and submits that the Petition should be dismissed for the reasons set forth below.

A. TELRIC Rates for Entrance Facilities

Guamcell's primary assertion that it is entitled to TELRIC rates for entrance facilities is derived from statements in two orders of the Federal Communications Commission ("FCC") and mirrors assertions made by competitive local exchange providers ("CLECs") in several recent state proceedings. Until 2003, CLECs were generally entitled to obtain entrance facilities from incumbent local exchange carriers ("ILECs") at TELRIC-based rates as a form of UNE. In 2003, the FCC determined that "entrance facilities" should be removed from the definition of "dedicated transport" and therefore effectively eliminated as UNEs.⁹ However, in making its determination, the FCC made the following observation:

In reaching this determination we note that, to the extent that requesting carriers need facilities in order to "interconnect[] with the [incumbent LEC's] network," section 251(c)(2) of the Act expressly provides for this and we do not alter the Commission's interpretation of this obligation.¹⁰

In 2005, the FCC essentially affirmed its determination that entrance facilities need not be offered as UNEs, although on different grounds.¹¹ The FCC made the following observation in its order:

We note in addition that our finding of non-impairment with respect to entrance facilities does not alter the right of competitive LECs to obtain interconnection facilities pursuant to section 251(c)(2) for the transmission and routing of telephone exchange service and exchange access service. Thus, competitive LECs will have access to these facilities at cost-based rates to the extent that they require them to interconnect with the incumbent LEC's network.¹²

⁸ See, e.g., Letter from Jamshed K. Madan of Georgetown dated July 9, 2007 (specifically addressing Guamcell's assertion that entrance facilities qualify for TELRIC rates as a method of interconnection under §251(c)(2)).

⁹ See In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36 (released August 21, 2003) (the "TRO").

¹⁰ TRO at ¶ 366.

¹¹ See In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338, Order on Remand, FCC 04-290 (released February 4, 2005) (the "TRRO").

¹² TRRO at ¶ 140.

These explanatory comments by the FCC in two orders have caused substantial confusion in the arbitration of interconnection agreements for CLECs by state commissions. Following arguments by CLECs, some state commissions have construed the FCC's comments in the TRO and TRRO as essentially establishing a new rule requiring TELRIC-based rates for entrance facilities under §251(c)(2) of the federal act when such facilities are used solely for interconnection between the CLEC and ILEC, as opposed to the use of entrance facilities for back-haul or other uses. For example, the Missouri public service commission has previously determined in an arbitration order that the TRRO required an ILEC to provide a CLEC with entrance facilities at TELRIC-based rates if such entrance facilities were used solely for interconnection purposes. The Missouri commission's decision was affirmed by a federal district court in Missouri, which specifically noted that the Missouri commission had made a factual finding that the entrance facilities provided under the agreement "would be used solely for interconnection purposes within the meaning of §251(c)(2)" and that such factual finding was not arbitrary or capricious given the testimony of record.¹³ The approach adopted by the Missouri commission has been adopted by several other state commissions, including California.

Other state commissions have determined that neither the federal communications act nor the FCC require the provision of entrance facilities at TELRIC-based rates for interconnection.¹⁴ These state commissions generally defer to the provisions of the federal act and the FCC's published regulations indicating that "interconnection" is limited to the physical linking of networks at the POI and on the ILEC's side of the POI and does not include the transport facilities (such as entrance facilities) on the CLEC's side of the POI. Georgetown generally agrees with the approach taken by these state commissions.

In the arbitration of open issues between Guamcell and GTA, the Commission was required by federal law to establish rates for interconnection according to § 252(d) of the federal act.¹⁵ Section 252(d) of the federal act provides that the just and reasonable rates for "interconnection" for purposes of § 251(c)(2) of the federal act must be based on cost – that is, TELRIC-based rates according to the FCC. In this regard, § 251(c)(2) of the federal act provides that ILECs have the following obligation:

The duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network ... at any technically feasible point within the carrier's network ... on rates, terms and conditions that are just, reasonable, and nondiscriminatory, in

¹³ Southwestern Bell Telephone, L.P. v. Missouri Public Service Commission, 461 F. Supp. 2d 1055, 1072 (E.D. Mo 2006).

¹⁴ See, e.g., Petition of MCImetro Access Transmission Services, 2007 WL 2316215 (Wis. P.S.C. 2007); Establishment of Terms and Conditions of an Interconnection Agreement, 2006 WL 196958 (Ohio P.U.C. 2006); Verizon Pennsylvania Inc., 2006 WL 2336459 (Pa. P.U.C. 2006).

¹⁵ See 47 U.S.C. § 252(c)(2).

accordance with the terms and conditions of the agreement and the requirements of this section and section 252 of this title.¹⁶

As emphasized above, § 251(c)(2) does not specifically require ILECs to provide facilities (such as entrance facilities) to CLECs or other providers for interconnection at TELRIC-based rates. Rather, it requires ILECs to provide “interconnection” at a “point within the carrier’s network” “for the facilities and equipment of [the CLEC].”¹⁷

The term “interconnection” is not defined in the federal act. However, the FCC has defined “interconnection” as “the linking of two networks for the mutual exchange of traffic” and noted that such term “does not include the transport and termination of traffic.”¹⁸ Further, the FCC’s pricing rules for TELRIC-based rates apply to “methods of obtaining interconnection.”¹⁹ The FCC’s regulations concerning “methods of obtaining interconnection” provide that an ILEC must provide “any technically feasible method of obtaining interconnection ... at a particular point.”²⁰ The methods of obtaining interconnection identified by the FCC include, but are not limited to, physical location and virtual collocation at the ILEC’s premises or meet point interconnection arrangements.²¹ Although not intended as an exclusive list, the methods of obtaining interconnection specifically identified by the FCC are limited to facilities at the POI and do not include facilities (such as entrance facilities) used for transport, consistent with the FCC’s definition of “interconnection” in 51.5 of the FCC’s rules.²²

Accordingly, in our view, neither the federal act nor the FCC’s regulations require the provision of entrance facilities (which the FCC has observed are “used to transport traffic”)²³ on the CLEC’s side of the POI at TELRIC-based rates as a method of “interconnection” under § 251(c)(2). Rather, in our view, the federal act and the FCC’s regulations require TELRIC-based rates for interconnection at the POI and not on the CLEC’s side of the POI. The FCC has not revised its regulations defining “interconnection” or concerning “methods of obtaining

¹⁶ 47 U.S.C. § 251(c)(2) (emphasis supplied).

¹⁷ 47 U.S.C. § 251(c)(2) (emphasis supplied).

¹⁸ 47 C.F.R. § 51.5.

¹⁹ 47 C.F.R. § 51.501(b).

²⁰ 47 C.F.R. § 51.321(a) (emphasis supplied).

²¹ 47 C.F.R. § 51.321(b).

²² In addition, the FCC has observed that entrance facilities generally “exist *outside* the incumbent LEC’s network” that Congress intended to make available to competitors. TRO at ¶ 366. The Ohio commission has determined that such statements by the FCC are consistent with its determination that entrance facilities are “part of the CLEC’s network and, accordingly, the CLEC has control over how it chooses to construct its network, either through self-provisioning, purchasing it from third party provider or purchasing from the ILEC’s special access tariff.” Establishment of Terms and Conditions of an Interconnection Agreement, 2006 WL 196958 (Ohio P.U.C. 2006).

²³ TRRO at ¶ 138.

interconnection”, and the FCC specifically noted in the TRO that it was not altering its interpretation of § 251(c)(2).²⁴ We do not believe the limited, ambiguous, explanatory comments by the FCC in the TRO and the TRRO should overrule the federal act or published FCC regulations. Rather, Georgetown believes that the FCC would have elected to amend its regulations if it had indeed intended to adopt a new requirement concerning entrance facilities as a method of obtaining interconnection.

In this regard, we note that the following from the Wisconsin commission particularly illustrates the position that Georgetown recommended and the Commission has adopted:

... The Panel concluded that this explanatory comment [the language quoted above from the TRRO] permitted it to treat entrance facilities as a type of interconnection, and award a cost-based rate for the provision of the facility.

The Panel’s conclusion does not comply with the rules the FCC has adopted pursuant to § 251. As indicated above, an entrance facility is a type of transport. As such, an entrance facility falls outside of the definition of *Interconnection* in [FCC] Rule 51.5. The question the FCC addressed in the *TRRO*, whether entrance facilities should be unbundled, presupposes that entrance facilities are a type of network element. It is not reasonable to interpret an explanatory comment in the *TRRO* in a manner that undermines the plain meaning of the rule that TRRO adopted. Rather, the meaning of the comment in para. 140 [of the TRRO] must be understood in light of the rule the FCC adopted. It is likely that the language in para. 140 preserves MCI’s right to interconnect its facilities to an AT&T entrance facility under Rule 51.305(a)(2) despite the fact that an entrance facility is no longer treated as an unbundled network element.

Moreover, the FCC did not amend its definition of the term *Interconnection* in Rule 51.5 nor modify its rule on interconnection, Rule 51.305, in the TRRO. These are actions the FCC would have necessarily taken had it intended to establish the policy the Panel adopted. In removing entrance facilities from the list of network elements that must be unbundled under § 251(c)(3), the FCC instead intended that these facilities should be offered competitively. If AT&T desires to offer such a facility to competing local exchange carriers, it should set forth the rate and conditions of service in a tariff or service agreement. A cost-based rate for Entrance Facilities is not required in the Agreement.²⁵

In addition to the foregoing, we note that the Southwestern Bell case and indeed all of the state commission orders that we have been able to identify to date address the right of CLECs to obtain entrance facilities at TELRIC-based rates. We have been unable to identify any court or state commission decision concerning the availability of entrance facilities at TELRIC-based rates for CMRS providers such as Guamcell. The distinction between CLECs and CMRS

²⁴ TRO at ¶ 366.

²⁵ Petition of MCImetro Access Transmission Services, 2007 WL 2316215 (Wis. P.S.C. 2007).

providers is important. For example, the FCC has determined that CMRS providers are not entitled to obtain UNEs at TELRIC rates for the exclusive provision of wireless service because the wireless market is significantly competitive without such UNEs.²⁶ Further, the language relied upon by Guamcell in the FCC's TRRO with respect to entrance facilities specifically refers to the rights of "competitive LECs" to have access to such facilities at cost-based rates.²⁷ The FCC has previously determined that CMRS providers should not be classified as LECs.²⁸

Finally, we note that the Missouri federal court's decision in Southwestern Bell is not binding upon the Commission, both because the court is a district court in Missouri without jurisdiction with respect to the Commission and because the facts in such case are distinguishable. For example, the Southwestern Bell case concerned the rights of a CLEC rather than a CMRS provider such as Guamcell, and the court specifically relied on a factual finding by the Missouri commission that the entrance facilities would be used solely for interconnection. Due to the split of authority among state commissions with respect to the issue, we suspect that other federal courts will be asked to address whether entrance facilities must be provided under § 251(c)(2) at TELRIC-based rates, and the FCC may ultimately issue an order or further regulations clarifying its comments in the TRO and the TRRO. For example, we believe that at least one federal district court case is pending in Illinois concerning the issue. Ultimately, if the weight of federal court decisions or a further order of the FCC dictates that entrance facilities must be provided to CMRS providers under § 251(c)(2) at TELRIC-based rates, Guamcell may petition the Commission to review the rates for such facilities. Until such time, Georgetown believes that the Commission should abide by the reasonable construction of the federal act and the FCC's regulations adopted by the Commission and other state commissions.

B. Tariffed Rates for Entrance Facilities

In addition to its assertion that federal law requires TELRIC rates for entrance facilities, Guamcell asserts that federal law prohibits the Commission from initiating a tariff proceeding to establish rates for such facilities. Specifically, Guamcell points to four "elements" of federal law to support its position. Georgetown respectfully submits that Guamcell's reliance on such principles is misguided, as the federal act specifically gives the Commission the authority to arbitrate the open issues on entrance facility pricing presented by the parties and, as discussed above, such pricing determination is not subject to the TELRIC standard in § 252(d). Moreover, Guamcell may have misconstrued the Commission's decision – which requires a tariff proceeding to establish just and reasonable rates for entrance facilities but which does not necessarily require that such facilities be made available by GTA to Guamcell under the terms of a filed tariff rather than the interconnection agreement or separate contract arrangement.

²⁶ See, e.g., TRRO at ¶ 34.

²⁷ TRRO at ¶ 140.

²⁸ See In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order, FCC 96-325, ¶ 1004 (released August 8, 1996).

Guamcell's Assertion that Tariffs are Disfavored under § 252(d)(1). Guamcell first asserts that tariffs are disfavored under § 252(d)(1) and that the FCC's TELRIC-based standard represented a "significant departure" from rate regulation under the traditional "just and reasonable standard." We note that Guamcell's assertion is that tariffs are "disfavored" not that they are prohibited by § 252(d). In any event, Guamcell's assertion completely misses the crux of the issue discussed above with respect to Guamcell's primary argument. The pricing for the entrance facilities at issue is not subject to the TELRIC-based standard in § 252(d)(1) because such facilities do not constitute "interconnection" under § 251(c)(2) or UNEs under § 251(c)(3). Therefore, it is simply irrelevant whether tariffs are disfavored under § 252(d)(1).

Guamcell's Assertions that Tariffs are Disfavored and/or Prohibited by the FCC. Guamcell next asserts, in two related arguments, that tariffs are disfavored by the FCC and are prohibited for intraMTA interconnection facilities. We agree that the FCC has generally indicated a preference for contractual arrangements, at least with respect to reciprocal compensation obligations under § 251(b)(5).²⁹ Indeed, this preference is embedded in the process for arriving at interconnection agreements through voluntary negotiations under Sections 251 and 252 of the federal act, and the FCC's preference reflects, at least in part, a recognition that these procedures under the federal act should not be bypassed.³⁰ However, having failed to reach agreement with GTA through voluntary negotiations under Section 252, Guamcell petitioned the Commission for arbitration of open issues under Section 252, and the Commission's resolution of such arbitration determined that the just and reasonable permanent rates for entrance facilities should be determined through a tariff proceeding. The FCC's preference does not prohibit the Commission from establishing rates for entrance facilities via tariff proceedings in such manner as long as it "does not supersede or negate the federal provisions under sections 251 and 252."³¹ The Commission's approach does not "supersede or negate" the sections of the federal act; indeed, the process of voluntary negotiations followed by arbitration of open issues mandated by such sections has occurred.

Guamcell also cites § 20.11(d) of the FCC's rules to support its assertion that the Commission is prohibited from imposing tariffed rates for intraMTA interconnection facilities. Section 20.11(d) provides that LECs "may not impose compensation obligations for traffic not subject to access charges upon [CMRS] providers pursuant to tariffs."³² This argument by Guamcell has already been addressed by Georgetown in its original report.³³ As Georgetown stated in such report, § 20.11(d) applies only to § 251(b)(5) obligations to provide reciprocal

²⁹ See, e.g., In the Matter of Developing a Unified Intercarrier Compensation Regime, CC Docket 01-92, Declaratory Ruling and Report and Order, FCC 05-42, ¶ 9 (released February 24, 2005) (the "T-Mobile Declaratory Ruling").

³⁰ See, e.g., T-Mobile Declaratory Ruling.

³¹ T-Mobile Declaratory Ruling at ¶ 13.

³² 47 C.F.R. § 20.11(d).

³³ See Letter from Jamshed K. Madan of Georgetown dated June 8, 2007 at pages 12-13.

compensation – that is, it applies only to transmission and switching of traffic from the POI to the called party – and does not prohibit the tariffing of entrance facilities on the Guamcell’s side of the POI. Section 20.11(d) was the result of a petition asking the FCC to reaffirm “that wireless termination tariffs are not a proper mechanism for establishing reciprocal compensation arrangements for the transport and termination of traffic.”³⁴ In this regard, CMRS providers and the FCC were concerned that smaller LECs that did not directly interconnect with CMRS providers (rather, they interconnected through a Bell Operating Company tandem) had filed “wireless termination tariffs with state commissions in an attempt to be compensated for traffic that originates with CMRS providers.”³⁵ Accordingly, the FCC amended its rules to prohibit such practices by LECs in the future. The FCC did not address, nor prohibit, tariffs for entrance facilities in its order or the amended regulations.

In any event, even assuming *arguendo* that Guamcell was correct (which we dispute), the Commission’s decision does not necessarily provide that entrance facilities would be provided “pursuant to tariffs” as indicated in § 20.11(d). The Commission’s order merely requires that the just and reasonable rates for entrance facilities be determined through separate tariff proceedings, and such rates may simply be incorporated into the interconnection agreement or a separate contract arrangement between GTA and Guamcell. The Commission has the authority to establish just and reasonable rates through disputed issues in arbitration pursuant to § 252 of the federal act, and nothing in FCC rule 20.11(d) supersedes such authority.

Guamcell’s Assertion that the Commission is Preempted from Regulating Interconnection Arrangements. Georgetown is at a loss to understand Guamcell’s final assertion – that the Commission is preempted from regulating the interconnection arrangements between LECs and CMRS providers. If Guamcell is correct that the Commission is preempted from regulating interconnection arrangements or establishing a rate for the entrance facilities, then Guamcell has no recourse to the Commission to arbitrate open issues or establish rates for entrance facilities in the absence of voluntary negotiations with GTA (which has not occurred). In any event, the FCC orders cited by Guamcell pre-date the enactment of the 1996 federal telecommunications act and the express authority granted to state commissions under § 252 of the federal act to arbitrate open issues presented by the parties. Moreover, Guamcell’s assertion that the Commission is preempted under § 252(d)(1)(A)(i) is misplaced for the reasons discussed above – that is, the TELRIC-based standard in such section does not apply to the entrance facilities.

Summary

For the foregoing reasons, Georgetown respectfully submits that Guamcell’s Petition be DENIED as it fails to demonstrate good and sufficient cause that the Commission has made an erroneous conclusion of law.

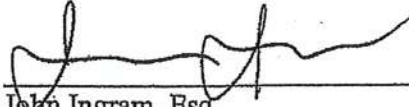
³⁴ T-Mobile Declaratory Ruling at ¶ 1.

³⁵ T-Mobile Declaratory Ruling at ¶ 7.

Respectfully submitted this 12th day of September, 2007.



Tim Roberts, Esq.



John Ingram, Esq.

Attorneys for Georgetown Consulting Group

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



ARBITRATION PROCEEDING
INTERCONNECTION AGREEMENT
BETWEEN GTA TELECOM LLC
AND GUAM CELLULAR AND
PAGING, INC.

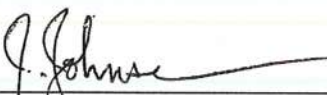
DOCKET 07-5

ORDER

The Guam Public Utilities Commission [PUC] after careful review and consideration of Guam Cellular & Paging, Inc.'s August 23, 2007 petition for rehearing under PUC Rule 37, the September 12, 2007 reply comments from GTA Telecom LLC and Georgetown Consulting Group, the November 13, 2007 report from its administrative law judge, the record herein, for good cause and in the exercise of its discretion **HEREBY DENIES** the petition.

PUC further finds that Guamcell is in violation of PUC Rule 40(a)(ii) and PUC's September 21, 1999 *Procedural Framework Order*, which require the timely payment of invoices for regulatory services in this docket. Further proceedings in this docket are suspended until Guamcell brings itself into compliance with these requirements. ALJ is authorized and directed to establish a new schedule for further proceedings in this docket, consistent with PUC's August 13, 2007 Decision, upon Guamcell's compliance with Rule 40.


Dated this 16th day of November 2007.




Jeffrey C. Johnson



Filomena M. Cantoria



Joseph M. McDonald



Rowena E. Perez