

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

GUAM POWER AUTHORITY
PETITION FOR BASE RATE RELIEF

DOCKET 07-10



Administrative Law Judge Report

Background

On October 4, 2007, after complying with the pre-filing notice requirements of 12 GCA § 12001.2, Guam Power Authority [GPA] petitioned the Guam Public Utilities Commission [PUC] for rate relief, which would result in additional revenues of \$26.9 million per year - a base rate increase of 19.72%. GPA proposed that the increase be phased in two steps: an initial increase of 13.15% on February 1, 2008 and a second increase of 6.57% on October 1, 2008. On October 31, 2007 the Department of Defense [DOD] intervened as an interested party. Georgetown Consulting Group [GCG], which serves as PUC's independent regulatory consultant, was joined as a party pursuant to PUC Rule 5.

After undertaking discovery regarding the GPA petition during the period October 26, 2007 to December 12, 2007, DOD and GCG filed testimony on January 11, 2008 and rebuttal testimony on January 28, 2008, which dispute certain aspects of the GPA petition. As a result of a settlement conference, which was conducted from January 31 through February 5, 2008, the parties entered into a stipulation [*Stipulation - Attachment A*], in which they recommend terms and conditions under which they would support a PUC award of base rate relief to GPA. In the Stipulation, GPA substantially compromised on its petition request.

After due and proper notice by GPA and PUC, PUC conducted an Hagatna evidentiary hearing during the evening of February 6, 2008 and village hearings in Piti and Chalan Pago during the evening of February 7, 2008. The public comments, which were presented at and since those hearings, are reviewed below.

The purpose of this report is to review the Stipulation and the public comments and to make recommendations regarding appropriate regulatory action in response to the GPA petition.¹

Stipulation

The parties make the following *primary* recommendations² in the Stipulation:

1. GPA should be awarded, for meters read on and after March 1, 2008: a] a civilian rate increase, excluding lifeline, of 6.14%; and b] a 24.25% increase in DOD rates. This increase is projected to yield an additional \$11 million in annual revenues.
2. The effectiveness of the civilian rate increase and 5.8% of the DOD increase should be suspended until June 1, 2008. If prior to June 1, 2008 the Government of Guam [*GovGuam*] pays not less than \$7.9 million of the \$12.73 million delinquent streetlight arrearage³ [*Arrearage*], then the effectiveness of these suspended rates will be further suspended until March 1, 2009.⁴ In the event GovGuam fails to make this payment then the rate increases would go into effect on June 1, 2008 and would be compressed⁵.

¹ The record in this docket includes all documents filed of record, administrative emails and public comments, including media editorials and reports, which are attached to the ALJ report and the transcript of PUC's hearings.

² Secondary recommendations by the parties include: a] continued effect of PUC's 9/26/06 order approving \$10 million dollar short term debt; b] details of how DOD's rate responsibility is computed; c] the process by which any Arrearage payment by GovGuam would be shared with DOD pursuant to requirements in the Customer Service Agreement [CSA] between DOD and GPA; d] the recommendation for GPA's FY08 CIP ceiling; e] amendment to GPA rate schedules F and H; f] GPA's withdrawal of its streetlight credit concept; and g] DOD's assertion of no position on certain Stipulation sections.

³ The Arrearage has likely grown in FY08 because of an ongoing GovGuam funding shortfall. The parties recommend that GPA be given the authority to negotiate an arrangement by which GovGuam could pay the Arrearage in monthly installments, which would be at least equal to the revenue stream created by the rate increases. The terms of any such arrangement would be subject to PUC review and approval during the May 2008 regulatory session.

⁴ Pursuant to the CSA, DOD would be entitled to credit for 16% of any funds paid by GovGuam on the Arrearage.

⁵ The rates would be compressed to enable GPA to collect the FY08 rate revenues it would otherwise have received had the rate increase not been suspended.

3. In preparation for PUC's May 2008 regulatory session, PUC's administrative law judge [ALJ] should oversee regulatory proceedings to examine the feasibility and, if appropriate, to schedule and notice PUC initiated proceedings to: a) impose an Arrearage surcharge on the Executive Branch to recover the Arrearage; and b) amend GPA's collection policy to empower GPA to treat all non-autonomous components of the Executive Branch, including streetlights, as one aggregate customer and to disconnect electric service to any and all non-essential service provided to this aggregate customer, or any part thereof, in the event there is a delinquency by any part of this aggregate customer, including the Arrearage.
4. GPA's request that it be awarded a 6.57% rate increase effective October 1, 2008 should be deferred until Phase II proceedings in this docket, which would be brought before PUC for consideration during PUC's February 2009 regulatory session.⁶
5. GCG recommends that the current lifeline rate should be increased by no more than 99 cents upon the effectiveness of the civilian rate increase.
6. GPA should undertake a focused management audit of its operations under an engagement scope and process approved by PUC. The audit should be filed with PUC on or before June 1, 2009.
7. PUC should continue to use a 1.75x debt service coverage ratio in GPA rate proceedings, subject to a party's right to assert for good cause shown that a different ratio should be applied in a particular proceeding. The parties agree how the ratio should be calculated.
8. A new \$2.50 transactional service charge should be implemented effective March 1, 2008 for a customer's use of a credit card to pay a bill.⁷
9. GPA's self-insurance surcharge program should be amended, effective March 1, 2008 by increasing: a) the surcharge ceiling from \$2.5 million to \$10 million; and b) the surcharge from \$0.00145 per kWh to \$0.00290 per kWh for civilian ratepayers and from \$0.00035 per kWh to \$0.00070 per kWh for DOD.

⁶The parties recommend that PUC reserve the authority to examine all Phase II activities discussed in their testimony [for example, self insurance fund revised ceiling and protocol, FY09 CIP ceiling, rate design issues, FY09 salary increases, etc.] in a Phase II of this proceeding.

⁷This new charge would produce annual revenues of about \$300,000, which is less than GPA's cost for the service.

10. GPA's \$5.296 million fuel inventory revenue requirement should be shifted from base rates to the LEAC as a fuel related expense effective August 1, 2008. This revenue requirement should be subject to a true-up and reconciliation process, which should be developed under ALJ oversight for PUC consideration in the July 2008 LEAC proceeding. In the event, GovGuam pays not less than \$5.296 million of the Arrearage on or before August 1, 2008, then GPA customers should not be required to fund this expense. GPA should be authorized to negotiate an arrangement by which GovGuam could pay this amount in monthly installments over a twelve-month period. The terms of any such arrangement should be subject to PUC review and approval.

Public Comments

Public comments, which were received during the three PUC public hearings on the GPA rate petition, centered on four primary issues:

1. **Streetlight arrearage.** GPA customers labor under difficult economic pressure caused by increased government fees and charges, increased fuel costs and Government of Guam revenue shortfalls. As recognized in the legislative findings, which underpin the *Ratepayer Bill of Rights*, as any rate increase diminishes the amount of hard-earned wages residents have to spend on other basic necessities, every other available option, in lieu of a rate increase, should be exhausted. An unfair double standard would exist if civilian rates were increased when GovGuam owes GPA the Arrearage. PUC should focus its regulatory authority on requiring GPA to collect this Arrearage before increasing rates. This public position is consistent with recommendations contained in the Stipulation and is reflected in comments made *Attachment B*.
2. **Salary increases.** GPA should not increase the salaries and benefits for 471 of its 516 employees as a result of this rate proceeding. Senator Pangelinan in his February 7, 2008 letter has called any such increase unconscionable and untimely [*Attachment C*]. The Stipulation recommends that GPA employees receive this salary increase.
3. **Management audit.** GPA should not be awarded any rate increase until it undergoes a focused management audit of its operations. Such an audit is justified given the May 2007 findings by the Public Auditor in her GPA FY07 Financial Highlights report. [*Attachment D*]. In contrast, the Stipulation recommends a June 1, 2009 completion date for the Audit, which is after the proposed February 2009 Phase II rate proceeding.

4. **Lifeline rate.** Senator B.J. Cruz has recommended in public comments that any increase in the civilian lifeline rate should be deferred pending further regulatory proceedings to review the current validity of the lifeline standard [*Attachment E*].

Other written public comments are enclosed under *Attachment F*.

Analysis

The parties should be commended on their substantial effort in presenting, analyzing and settling a complex rate filing, in which GPA has attempted to resolve financial needs and issues, which have evolved in the decade since its last petition for base rate relief. A reality, which has emerged from this process, is that not all of a decade of needs and issues can be resolved in one regulatory proceeding. PUC must, therefore, keep this docket open to conduct Phase II proceedings on a variety of topics.

The undersigned recommends that the Stipulation should be adopted by PUC, subject to the following revisions:

1. The undersigned should be authorized and directed, in preparation for the May 2008 regulatory session, to review the basis for the \$2.25 million FY08 salary increases, which GPA has requested in this proceeding. The evidentiary record does not document the number of GPA employees that would benefit from the proposed salary increases. Although in its testimony, GCG has supported the increases, it has provided no analysis in support of this recommendation⁸. ALJ should be authorized to conduct further investigation of the salary increases and to bring the results before PUC for consideration during the May 2008 regulatory session to determine whether an adjustment to the rate award is appropriate.⁹ Accordingly, PUC would re-examine this issue and take appropriate action before the funding for the civilian rate increase goes into effect.
2. PUC should have the benefit of the focused management audit before it considers GPA's Phase II request for FY09 6.57% rate relief. Accordingly,

⁸ See Gawlik testimony at p. LG-24, which reads: *We recommend acceptance of the wage rate increases with no corresponding change to 2008 test-year labor expense.*

⁹Any such adjustment would need to address the fact that the commencement date for a substantial part of the DOD rate increase is March 1, 2008.

the Phase II rate proceeding should be deferred until this study is completed, reviewed and approved by PUC.

3. There should be no lifeline rate increase, pending Phase II proceedings to examine the current validity of the lifeline standard.

Recommendation

The undersigned recommends that PUC review the proposed Decision, which is made *Attachment G*, in order to review and make the determinations, which are necessary to reach a decision on GPA's petition for rate relief.

Dated this 12th day of February 2008.

A handwritten signature in black ink, appearing to read "H. Boertzel", with a long horizontal line extending to the right.

Harry M. Boertzel
Administrative Law Judge