

GUAM PUBLIC UTILITIES COMMISSION  
SPECIAL MEETING  
June 3, 2010  
SUITE 202, GCIC BUILDING, HAGATNA



MINUTES

The Guam Public Utilities Commission [PUC] conducted a meeting commencing at 6:30 p.m. on June 3, 2010 pursuant to due and lawful notice. Commissioners Johnson, McDonald, Perez, and Pangelinan were in attendance. The following matters were considered at the meeting under the agenda made *Attachment "A"* hereto.

**1. Guam Power Authority**

The Chairman indicated that the sole issue on the Agenda for this meeting is the Guam Power Authority [GPA] Bond Issuance (GPA Docket 10-01). Legal Counsel indicated that his written report had been provided to the Commissioners. PUC is required to approve the bond issuance and, specifically, the terms and conditions of the revenue bonds, the refunding bonds and the subordinate bonds. Under the contract review protocol, the Commission is also required to approve any specific use of the bond funds regardless of whether the \$1.5 Million contract review threshold is met or not. However, contract review issues are not before the Commission this evening. The issue for tonight is whether the Commission will approve the overall bond issue and the terms and conditions thereof. The primary bond documents, including the Fourth Supplemental Indenture and the Subordinate Indenture, have been provided to the Commissioners. Counsel indicated that he had reviewed all of the bond documents, including the indentures, the bond purchase agreement, the preliminary official statement and all other documents provided. In his opinion, from the context of legal form, the documents are legally sufficient form documents have been used by government of Guam entities many times before, including GPA in 1993 and 1999, for the issuance of bonds. The form of the indentures have been recommended and prepared by the longtime bond counsel of the government of Guam and GPA, the Orrick, Herrington, and Sutcliffe firm and its Counsel Stan Dirks. Counsel concluded that the bond documents are legally sufficient and appropriate to achieve the purposes sought. It is recommended that the PUC approve the terms and conditions in the bond indenture. Draft Orders have been prepared for the Commissioners. The Orders would find that the bond issuance is in the best interest of the rate payers.

Attached to Counsel's Report as Exhibit "A" is a listing of projects that the bonds would fund. The projects likely are in the public and rate payers' interest. The "Smart Grid" project is a main driver for issuance of the bonds, as GPA needs to identify a source of funding for \$16 million by July, 2010. The Georgetown Consulting Group Inc. Report, from Larry Gawlik, indicates that there is benefit in the Smart Grid project and that

GPA should be authorized to proceed with it. Also included is a project for the building of a new office/consolidated GWA-GPA facility in the amount of \$35 Million. This project will be later reviewed in more detail through contract review. By having its own facility, GPA would not have to pay rent and would have cost savings of at least \$500,000 per year. Also included are \$53 Million of engineering, transmission, and distribution projects. These have been delayed for a long time and include substation repairs and replacements. A supplemental GPA filing gives a detailed cost/benefit analysis for certain engineering projects, including placement of lines underground, underground fuel pipe conversion, and improvements for the Cabras plant. For purposes of bond issuance, these projects are justified on a cost/benefit basis. GPA has met its burden to show that these projects are desirable and in the interest of rate payers. All of the foregoing projects fall under the revenue bond issuance. In addition there will be other costs, such as issuance costs, capitalized interest, and contingency fund.

The Subordinate Revenue Bonds would fill the Working Capital Fund with \$27.4 Million in funds, and also payoff the \$20 Million Commercial paper loan with Cathay Bank. These purposes must be undertaken and are in the public interest. The PUC previously approved a WCF surcharge over 24 months for the working capital fund. If this surcharge were to be directly charged to the ratepayers, rather than putting it in the bond issue, this would avoid approximately \$8 to 9 Million interest included in the subordinate bond financing. Legal Counsel asked why the Commissioners would approve filling the WCF through bond financing rather than implementing the WCF surcharge. Counsel indicated that, in meetings with GPA officials, they indicated that the WCF surcharge would not fund the working capital fund immediately, but only over a 24 month period. GPA is presently in a cash liquidity situation where it has no financial reserves. Emergencies such as typhoons and fuel shortages could require that GPA have immediate access to cash to take care of such problems. In addition, GPA has recently received a bond rating upgrade from Standard & Poors. Commissioners have been provided with copies of the S&P upgrade of GPA's revenue debt to investment grade of BBB with a stable outlook. The rating upgrade for GPA will lower the interest rates on the bonds when the bonds are issued. The new rates, as a result of the upgrade, will result in substantially lower interest than would have been achieved for bonds under GPA's old rating. Other rating agencies, Moodys and Fitch, could follow suit. This will have a positive impact on rate payers to reduce the cost of the borrowing.

One factor mentioned by S&P in its upgrade of GPA's bond rating is the positive regulatory support from the PUC to enhance and maintain the working capital fund. The S&P Summary Report also refers to the immediate injection of funds into the working capital fund. This is a positive aspect for the rating agencies. Because large debt is involved with regard to the WCF, the rating agencies are pleased to see more cash on hand for a utility such as GPA. It makes sense to allow GPA to fund the

working capital fund through bonds to immediately bring the WCF up to its limit. If the Commission did not approve that portion of the subordinate bonds, it could have a detrimental impact on the rating agencies. The agencies could then have more concern about the present cash situation of GPA. The interest rates offered to GPA have already improved based upon the S&P upgrade. Counsel recommended approval by the PUC of the bond issuance in the amounts requested by GPA up to the limit. Two Orders have been drafted, one approving the bond issuance and the other approving GPA's taking on long term debt. Under the Orders GPA will need to seek contract review approval by the PUC before GPA can begin work on the individual bond projects. The expenditure of funds on such projects and refunding of bond proceeds are subject to PUC approval. Before there can be issuance of any refunding bonds, GPA must be able to achieve net present savings of at least 2%. The 5 year financial forecast of GPA, including revenues/expenses, has not yet been approved. Finally, the order would establish a debt service coverage ratio for the Senior Bonds of 1.75, and a DSCR of 1.4 on the subordinate bonds. The Order approving the long term debt would approve GPA's project listing and its Fourth Supplemental Indenture and Subordinate Indenture. The terms and conditions of issuance would also be approved, and the issuance of bonds up to an amount of \$220 Million authorized for the purposes stated. Subordinate bonds would also be approved. The cost of issuance, not to exceed 2% for the revenue bonds, and 3% for the subordinate bonds, would be approved.

Aulii Limtiaco, Bond Manager and Consultant to the Guam Economic Development Authority, presented a handout to the Commissioners showing current market conditions. The statistics indicate that the interest rate on AAA bonds from 1982 to the present is a historic low of 3.81%. Currently, we are only 15 basis points, or .15, above the historic low. That is a compelling reason as to why this is a good time for GPA to borrow funds. If all three rating agencies upgrade GPA to investment grade, and bond insurance is issued, the all in TIC (total interest cost) would be 5.99%. In such scenario, capital debt service on the senior bonds would be \$253 Million, compared to \$268 Million under GPA's current rating. Thus, rating agency upgrades would result in substantial savings to GPA of \$14 Million. Upgrades could also allow GPA to refund \$114 Million of its prior bonds, as compared with only \$46 Million under its current rating. Any deviation by the PUC from the improvement in GPA's liquidity situation [i.e. taking the WCF funding out of the subordinate bonds] would be detrimental and would also create a credibility issue with the rating agencies. Commissioner Perez asked whether Limtiaco was anticipating that Moodys and Fitch would rate GPA at investment grade [BBB] or higher. Ms. Limtiaco stated that if Moodys and Fitch upgraded GPA, the ratings of both would cross the line to investment grade, one notch lower than S&P. The difference in interest costs for a bond issuance below the investment grade line and above that line is huge. Commissioner Perez asked if the bond issuance was approved, would the rating go above BBB? Ms. Limtiaco indicated that the ratings now assigned are for this current bond issuance. The rating agencies review ratings every two years or so. The rating agencies could upgrade GPA again in

two years. GPA's Chief Financial Officer, Randy Wiegand, indicated that rating agencies look at historical performance and plans for the future. The funding of the working capital fund is so important, a key thing that the rating agencies are looking at. The rating agencies have built the filling of the WCF into the rating. If the funding of the WCF is lost, the rating agencies would have to pull that out of the rating consideration. Chairman Johnson asked Ms. Limtiaco if GPA would ever have a better time to borrow than right now? She responded that yes, the project should be kept in the bond funding because of the lower interest rates. If Moodys upgrades GPA to investment rating, then a bond insurer would insure the deal. The bond insurer is AAA rated. It is beneficial for GPA to have the bond insurer insure the bonds in terms of interest rates.

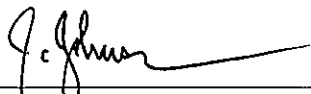
Commissioner Perez asked whether the interest rates would fluctuate. Ms. Limtiaco indicated yes, the rates provided were as of yesterday's market. Rates are locked in at a fixed rate. The possibility of utilizing Build America Bonds was also being considered. Commissioner Perez asked whether the rating was given by the rating agencies any time you are looking at borrowing. Ms. Limtiaco stated that rating agencies give a rating if you go to them, and it is better to get a rating. The Consolidated Commission on Utilities Chairman Simon Sanchez indicated that, in GPA's presentation, what the rating agencies liked is the fact that "liquidity issue" was "put to bed" (i.e. the filling of the working capital fund and the placement of immediate cash on hand, to mitigate such risks as those of a typhoon). The rating agencies like the idea that the working capital fund would immediately be filled with cash now, to minimize risks. If the WCF surcharge was implemented instead of filling the WCF through the bond issuance, the rating agencies would feel that there was more risk present, as the surcharge would only recover the WCF amounts over 24 months. GPA may need to cut checks immediately if an emergency arises. If GPA's rating upgrades were lost, \$14 Million savings on the bond would be lost, as compared to only \$6 Million interest on funding the WCF through bond issuance. The rating agencies are granting upgrades because of the regulatory support of the PUC and the fact that GPA is getting working capital as soon as possible. Also, postponing the surcharge until next year gives rate payers a break.

There was then a discussion by the Commissioners as to what methodology is used by the PUC in determining the debt service coverage ratio. General Manager Joaquin Flores of GPA indicated that a major problem "on the ground" for GPA has been a lack of cash. Filling the WCF now gives GPA some breathing room. Also, if oil prices go up, the fuel component of the WCF will also go up. PUC Chairman Johnson indicated that the PUC has also been concerned about the lack of ability of GPA to respond to typhoons, such as available materials and inventory and cash resources to respond. While funding the WCF through bond issuance is expensive, the Chairman could understand that it is important to immediately fill the WCF. Commissioner Perez indicated that there had been a great hurry and rush in the review process for the PUC

on this bond issuance. She asked Legal Counsel at what point in the process can the PUC get involved before such a matter is brought to the PUC for approval? Counsel indicated that the law only requires approval by the PUC of the terms, conditions and issuance of the bonds. But, this process was rushed. The law authorizing the bond issuance only passed on May 17, 2010. The whole process was on a rushed, expedited basis. It would be preferable for the PUC to be involved at an earlier stage. There should have been more discussion between GPA and PUC at an earlier stage as to how to approach the bond issuance. An example is the issue concerning the WCF surcharge versus funding the WCF through bonds. Counsel's recommendation is that there be more dialogue at an earlier time and involvement of the PUC. This would lead to a smoother review process. Commissioner Perez indicated that she had asked this question because of where the PUC Commissioners sit and because the PUC is independent. Because the PUC passed the WCF surcharge, that had a positive impact on the rating process. In the future, the PUC should get briefing of issues so that when decisions are made, there is a comfort level by the PUC.

CCU Chairman Sanchez indicated that the immediate driver for this bond issuance was the need to find matching funds of \$16 Million for the Smart Grid project. Commissioner Pangelinan stated that the PUC's main concern is the impact on rate payers. Investment upgrades plus the availability of insurance has a huge impact on the projects and depends upon the investment grade. He believed it was important that the Commissioners not deviate from what the rating agencies had already anticipated. The Commissioners then proceeded to a discussion with GPA about reporting obligations concerning the WCF fund, back billing, Attorney General Review of GPA procurements, status of collections, LEAC, and fuel hedging. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the GPA bond issuance and the terms and conditions thereof, and adopted the Order and Order Approving Long Term Debt, copies of which are made *Attachments "B" and "C"* hereto.

There being no further business, the Commissioners moved to adjourn the meeting.

  
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Jeffrey C. Johnson  
Chairman

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

**SPECIAL MEETING  
SUITE 206 GCIC BUILDING  
414 W. SOLEDAD AVE. HAGATNA, GUAM  
6:00 p.m. June 3, 2010**

**Agenda**

**1. Guam Power Authority**

- GPA Docket 10-01, Contract Review Petition to Authorize GPA to issue revenue bonds and subordinate revenue bond financing (\$210M); PUC Legal Counsel Report, GCG Consultant Report, and Proposed Order.

**2. Other Business**

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:

) GPA Docket 10-01

) Guam Power Authority's Request to Issue

) GPA Revenue Bonds and Subordinate

) Revenue Bond Financing

**ORDER**

On April 22, 2010, the Guam Power Authority petitioned the Commission for authority to issue up to \$65 million in subordinate bonds for the purpose of refunding indebtedness and replenishing working capital reserves, additional senior bonds for the purpose of refunding certain outstanding senior bonds, and up to \$155 million in additional senior bonds for the purpose of financing new capital projects.

The Commission has examined the petition and the findings and recommendations of its Counsel and Regulatory Consultant. After discussion at duly convened Commission meetings on May 27, 2010, and June 3, 2010, and upon the specific finding that the GPA petition is in the best interests of GPA's ratepayers, the Commission, by unanimous vote of four Commissioners, hereby **ORDERS THAT:**

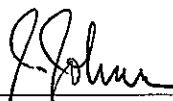
1. The order approving long term debt, in form attached ("Debt Order"), shall be and is hereby adopted by the Commission.
2. GPA is reminded that it must obtain prior approval of the new projects, as scheduled on Exhibit A to the Debt Order, before either procurement can begin on the projects or before bond proceeds can be expended or committed on them. Any reprogramming of projects and the associated bond funds shall be subject to prior Commission approval.
3. GPA is further reminded that it must obtain prior approval to use any excess bond proceeds or contingency funds not previously committed to an approved new project, before such excess bond proceeds or contingency funds can be expended or committed.
4. A portion of the bond proceeds authorized by the Debt Order will be used to refund the 1993 Bonds or the 1999 Bonds (as defined in the Debt Order), provided that the refunding results in a net present value savings to GPA and its ratepayers of at least two percent (2%). The


**ATTACHMENT B**


Authority shall confirm to the Commission in writing, supported with appropriate work papers, that at the time of the sale the proposed refunding will result in the required net present value savings after inclusion of all appropriately allocated fees and expenses.

5. No implied approval is provided by the Commission regarding the revenue and expense pro-forma statements utilized in the financing.
6. The Commission authorizes its Chairman to approve such changes with respect to the maximum principal amount of the bonds to be issued, the principal amount of the refunding bonds, or other matters not inconsistent with the terms of this Order.
7. The Authority shall provide quarterly reports in a manner approved by the Commission 45 days after the close of each quarter on the actual uses of the bonds.
8. The Commission affirms its commitment to support a debt service coverage ratio of 1.75 times on senior debt including the proposed Revenue Bonds and 1.4 times on the Subordinate Revenue Bonds proposed.

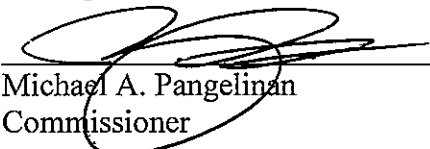
Dated this 3rd day of June, 2010.

  
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Jeffrey C. Johnson  
Chairman

  
\_\_\_\_\_  
Joseph M. McDonald  
Commissioner

  
\_\_\_\_\_  
Rowena E. Perez  
Commissioner

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Filomena M. Cantoria  
Commissioner

  
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Michael A. Pangelinan  
Commissioner





The proposed form of supplemental indenture pursuant to which the Additional Bonds and the Refunding Bonds are proposed to be issued and certain amendments to the Indenture that are proposed to be made have been presented to the Commission (together with certain financial and other relevant information) and is attached hereto, together with the Indenture, as Exhibit B (the "Supplemental Indenture").

GPA has now also applied to the Commission for approval of a new indenture (the "Subordinate Indenture"), and for approval of its issuance of one or more series of subordinate bonds in an amount not to exceed \$65 million (the "Subordinate Bonds") for purposes of refunding outstanding indebtedness of GPA and replenishing GPA's working capital reserves.

The Commission having duly considered the application of GPA and the information presented on GPA's behalf and having determined that the issuance of the Additional Bonds, the Refunding Bonds and the Subordinate Bonds for such purposes are just and reasonable, it is ordered as follows:

1. The covenants and agreements authorized by Section 8210 of the Act and included in Exhibit B are hereby approved for inclusion in substantially such form in the Indenture as supplemented and amended by the Supplemental Indenture executed by GPA; provided, however, that any material modification or amendment of the Supplemental Indenture shall be subject to the Commission's prior review and approval. GPA shall have the responsibility of bringing any such material modification or amendment to the Commission's attention. The Commission's Legal Counsel is hereby authorized to determine and confirm, by closing certificate or otherwise, that the form of the supplemental indenture executed and delivered by GPA does not contain any material modification or amendment from the proposed form of the Supplemental Indenture included in Exhibit B and hereby approved by the Commission.
2. The covenants and agreements authorized by Section 8210 of the Act and included in Exhibit C are hereby approved for inclusion in substantially such form in the Subordinate Indenture executed by GPA; provided, however, that any material modification or amendment of the Subordinate Indenture shall be subject to the Commission's prior review and approval. GPA shall have the responsibility of bringing any such material modification or amendment to the Commission's attention. The Commission's Legal Counsel is hereby authorized to determine and confirm, by closing certificate or otherwise, that the form of the supplemental indenture executed and delivered by GPA does not contain any material modification or amendment from the proposed form of the Subordinate Indenture included in Exhibit C and hereby approved by the Commission

3. For the purposes of implementing the New Projects and refunding all or a portion of the outstanding 1993 Bonds and 1999 Bonds, GPA is authorized to borrow funds under the terms and conditions described in Exhibit B. The principal aggregate amount of Additional Bonds that may be issued may not exceed \$155,000,000 and shall be the amount projected to be necessary to implement the New Projects, and provide for original issue discount (if any), a credit enhancement fee (if applicable), underwriters' discount, other costs of issuance, a debt service reserve fund deposit (if applicable) and capitalized interest, provided that the refunding results in a net present value savings to GPA and its ratepayers of at least two percent (2%). The Refunding Bonds may be issued in an aggregate principal amount necessary to provide for the refunding of all or a portion of the outstanding 1993 Bonds and 1999 Bonds under the limitations provided in the GPA 2010 Bonds Law, and provide for original issue discount (if any), a credit enhancement fee (if applicable), underwriters' discount, other costs of issuance and a debt service reserve fund deposit (if applicable). As provided in the GPA 2010 Bonds Law, the net rate of interest on the Additional Bonds and the Refunding Bonds, taking into account interest payments on such Bonds, original issue discount, if any, direct subsidy payments to be received from the federal government in connection with such Bonds, if any, and credit enhancement fees, if any (treating such fees as if they were interest on such Bonds), shall not exceed nine percent (9.0%) per annum. Original issue discount and credit enhancement each shall not be used unless it results in a lower yield on such Bonds, as evidenced by a certificate of GPA. Capitalized interest shall not exceed an amount sufficient to pay interest on the portion of such Additional Bonds issued to implement each New Project for the period prior to the date six months after the projected completion date of such New Project. Underwriters' discount (not including original issue discount) shall not exceed one and one-quarter percent (1.25%) of the original principal amount of such Bonds. Other costs of issuance (including, but not limited to, fees and disbursements of bond counsel, printing fees, rating agency fees, initial trustee's fees, escrow agent fees, verification agent fees, consulting engineer fees and the fee of the Guam Economic Development Authority) shall not exceed two percent (2%) of the original principal amount of such Bonds.

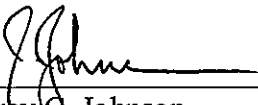
The final maturity of the Additional Bonds shall be less than 32 years after the date of their issuance. The final maturity of the Refunding Bonds shall not be greater than 15 years after the final maturity of the Bonds being refunded.

4. For the purposes of refunding outstanding indebtedness of GPA and replenishing its working capital reserves, GPA is authorized to borrow funds under the terms and conditions described in Exhibit C. The principal amount of Subordinate Bonds that may be issued may not exceed


\$65,000,000, and shall be the amount projected to be necessary to refinance GPA's outstanding subordinate obligations, fund its working capital reserve, and provide for original issue discount (if any), a credit enhancement fee (if applicable), underwriters' discount, other costs of issuance, a debt service reserve fund deposit (if applicable) and capitalized interest. As provided in the GPA 2010 Bonds Law, the net rate of interest on the Subordinate Bonds, taking into account interest payments on such Bonds, original issue discount, if any, and credit enhancement fees, if any (treating such fees as if they were interest on such Bonds), shall not exceed nine percent (9.0%) per annum. Original issue discount and credit enhancement each shall not be used unless it results in a lower yield on such Bonds, as evidenced by a certificate of GPA. Underwriters' discount (not including original issue discount) shall not exceed one and one-quarter percent (1.25%) of the original principal amount of such Subordinate Bonds. Other costs of issuance (including, but not limited to, fees and disbursements of bond counsel, printing fees, rating agency fees, initial trustee's fees, consulting engineer fees and the fee of the Guam Economic Development Authority) shall not exceed three percent (3%) of the original principal amount of such Subordinate Bonds.

The final maturity of the Subordinate Bonds shall be less than 15 years after the date of their issuance.

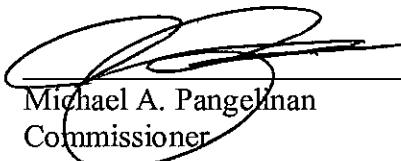
Dated this 3rd day of June, 2010.

  
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Jeffrey C. Johnson  
Chairman

  
\_\_\_\_\_  
Joseph M. McDonald  
Commissioner

  
\_\_\_\_\_  
Rowena E. Perez  
Commissioner

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Filomena M. Cantoria  
Commissioner

  
\_\_\_\_\_  
Michael A. Pangelinan  
Commissioner

**Guam Power Authority**

Projects to be Included in Bond Financing

**Appendix A**

<b>Revenue Bond Projects</b>	<b>Estimated Cost</b>
Smart Grid Projects	\$ 17,000,000
Consolidated Main Office & Operation Facility Improvements	35,000,000
Environmental Compliance	1,900,000
Generation Improvements	16,859,000
Underground Fuel Pipeline Conversion	2,150,000
Fire Protection Upgrades at GPA Facilities	3,808,000
Power Substation/Transmission Upgrades and Improvements	11,550,000
System Protection Relaying Improvements	1,893,000
Power Distribution System Improvements	16,159,000
<b>Subtotal</b>	<b>\$ 106,319,000</b>
Bond Issuance Costs	1,891,500
Bond Reserve Fund	9,161,028
Capitalized Interest	17,023,500
Contingency for Interest Rate Fluctuations/ Possible Credit Enhancement Costs	20,604,972
<b>Total</b>	<b>\$ 155,000,000</b>

<b>Subordinate Revenue Financing</b>	<b>Estimated Cost</b>
Working Capital Fund Loan	\$ 27,400,000
Commercial Paper Loan Refinancing	20,000,000
<b>Subtotal</b>	<b>\$ 47,400,000</b>
Bond Issuance Costs	502,500
Bond Reserve Fund	3,350,000
Capitalized Interest	1,758,750
Contingency for Interest Rate Fluctuations/ Possible Credit Enhancement Costs	11,988,750
<b>Total</b>	<b>\$ 65,000,000</b>

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GUAM POWER AUTHORITY

and

BANK OF GUAM,  
as Trustee and Depositary

and

U.S. BANK NATIONAL ASSOCIATION,  
as Co-Trustee

FOURTH SUPPLEMENTAL INDENTURE

Dated as of [June 1], 2010

Relating to \$\_\_\_\_\_ Principal Amount  
of Guam Power Authority  
Revenue Bonds, 2010 Series A and 2010 Series B

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EXHIBIT "B"

THIS FOURTH SUPPLEMENTAL INDENTURE, made and entered into as of the first day of [June], 2010, by and among the GUAM POWER AUTHORITY, a public corporation and autonomous instrumentality of the Government of Guam duly organized and existing under and by virtue of the laws of Guam (the "Authority"), BANK OF GUAM, a banking corporation organized under the laws of Guam, authorized to do business within Guam, and being qualified to accept and administer the trusts hereby created, as trustee (the "Trustee" or the "Depository"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association organized under the laws of the United States of America, and being qualified to accept and administer the trusts hereby created, as successor co-trustee (the "Co-Trustee"),

W I T N E S S E T H

WHEREAS, pursuant to the Guam Power Authority Act of 1968, being Chapter 8, Title 12, Guam Code Annotated, as amended (the "Act"), the Board of Directors of the Authority (the "Board") is authorized to incur indebtedness by the issuance of revenue bonds, with the approval of the Governor, to raise funds for the purpose of establishing the electric power system of the Authority (the "System"), or of acquiring lands for the system, or of acquiring, constructing, improving, equipping, maintaining, repairing, renewing, replacing, reconstructing or insuring the system, or any part thereof, or for the purpose of refunding any such bonds, or for any combination of such purposes;

WHEREAS, the Authority has determined to issue revenue bonds for such purposes and to that end has duly authorized the execution and delivery of that certain Indenture, dated as of December 1, 1992, as previously supplemented, among the Authority, the Trustee and the Co-Trustee (the "Indenture"), to secure the payment of the principal thereof and the interest and premium, if any, thereon, and the observance of the covenants and conditions therein contained;

WHEREAS, no Event of Default has occurred and is now occurring;

WHEREAS, revenue bonds may be issued pursuant to the Indenture and one or more indentures supplemental thereto, from time to time, in an aggregate principal amount not limited except as therein provided, and said revenue bonds are to be designated as the "Guam Power Authority Revenue Bonds" (the "Bonds");

WHEREAS, pursuant to the Indenture, the Authority heretofore issued its Revenue Bonds, 1992 Series A (the "1992 Bonds") in the original aggregate principal amount of \$158,000,000 to refund certain indebtedness of the Authority and to pay for costs of improvements to the System;

WHEREAS, pursuant to the Indenture, the Authority heretofore issued its Revenue Bonds, 1993 Series A (the "1993 Bonds") in the original aggregate principal amount of \$100,000,000 to pay for costs of improvements to the System;

WHEREAS, pursuant to the Indenture, the Authority heretofore issued its Revenue Bonds, 1994 Series A (the "1994 Bonds") pursuant to the Indenture in the original aggregate principal amount of \$102,900,000 to pay for costs of certain improvements to the System;

## ARTICLE XX

### DEFINITIONS

Section 20.01. Definitions. Unless the context otherwise requires, the terms defined in the Indenture shall, for all purposes of this Supplemental Indenture and of any certificate, opinion or other document herein mentioned, have the meanings specified in the Indenture.

In addition, unless the context otherwise requires, the terms defined in this Section shall for all purposes of this Supplemental Indenture and of any certificate, opinion or other document herein mentioned, have the meanings herein specified.

#### Bond Year

“Bond Year” means, with respect to the 2010 Bonds, the period of twelve consecutive months ending on October 1 of each year if 2010 Bonds are or will be Outstanding in such twelve-month period, provided the first Bond Year shall commence on the date of delivery of the 2010 Bonds and end on October 1, 2010.

#### Business Day

“Business Day” means any day other than a Saturday or Sunday or day upon which the Trustee is open for business at its Principal Office.

#### Comparable Treasury Issue

“Comparable Treasury Issue” means the United States Treasury security selected by the Designated Banking Institution as having a maturity comparable to the remaining term to maturity of the 2010 Series B Bond being redeemed that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term to maturity of the 2010 Series B Bond being redeemed.

#### Comparable Treasury Price

“Comparable Treasury Price” means, with respect to any date on which a 2010 Series B Bond or portion thereof is being redeemed, either (a) the average of five Reference Treasury Dealer quotations for the date fixed for redemption, after excluding the highest and lowest such quotations, and (b) if the Designated Banking Institution is unable to obtain five such quotations, the average of the quotations that are obtained. The quotations will be the average, as determined by the Designated Banking Institution, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of principal amount) quoted in writing to the Designated Banking Institution, at 2:00 p.m. New York City time on a Business Day at least two Business Days but no more than 45 calendar days preceding the applicable date fixed for redemption.



"Escrow Agreement" means the Escrow Agreement, dated as of \_\_\_\_\_, 2010, by and between the Authority and \_\_\_\_\_, as escrow agent.

Escrow Fund

"Escrow Fund" means the fund designated as the "Guam Power Authority 2010 Escrow Fund" established pursuant to the Escrow Agreement.

Make-Whole Premium

"Make-Whole Premium" means, with respect to any 2010 Series B Bond to be redeemed, an amount calculated by a Designated Banking Institution (as defined herein) equal to the positive difference, if any, between:

(1) The sum of the present values, calculated as of the date fixed for redemption of:

(a) Each interest payment that, but for the redemption, would have been payable on the 2010 Series B Bond or portion thereof being redeemed on each regularly scheduled Interest Payment Date occurring after the date fixed for redemption through the maturity date of such 2010 Series B Bond (excluding any accrued interest for the period prior to the date fixed for redemption); provided, that if the date fixed for redemption is not a regularly scheduled Interest Payment Date with respect to such 2010 Series B Bond, the amount of the next regularly scheduled interest payment will be reduced by the amount of interest accrued on such 2010 Series B Bond to the date fixed for redemption; plus

(b) The principal amount that, but for such redemption, would have been payable on the maturity date of the 2010 Series B Bond or portion thereof being redeemed; minus

(2) The principal amount of the 2010 Series B Bond or portion thereof being redeemed.

The present values of the interest and principal payments referred to in (1) above will be determined by discounting the amount of each such interest and principal payment from the date that each such payment would have been payable but for the redemption to the date fixed for redemption on a semiannual basis (assuming a 360-day year consisting of twelve 30-day months) at a discount rate equal to the Comparable Treasury Yield (as defined herein), plus [ ] basis points.

Prior Bonds

"Prior Bonds" means [to come].

Reference Treasury Dealer

"Reference Treasury Dealer" means a primary United States Government securities dealer appointed by the Authority and reasonably acceptable to the Designated Banking Institution.

In addition, the Authority may substitute other Projects (without treating such substitution as a "modification" for purposes of Section 3.03(D) of the Indenture) by filing a Certificate of the Authority with the Trustee describing such substitute Projects and stating that such Projects have been approved in accordance with the Act and other applicable law.

## ARTICLE XXI

### AUTHORIZATION AND TERMS OF THE 2010 SERIES A BONDS

Section 21.01. Authorization of 2010 Series A Bonds. A Series of Bonds to be issued under the Indenture is hereby created for the purpose of refunding the Prior Bonds and providing moneys for deposit into the Construction Fund and withdrawal therefrom in accordance with law for purposes other than the refunding of Bonds. The Bonds of such Series are designated as the "Guam Power Authority Revenue Bonds, 2010 Series A." The Authority intends that interest on the 2010 Series A Bonds be excluded from gross income for federal income tax purposes and that the 2010 Series A Bonds and the interest thereon be exempt from taxation by any state or political subdivision or the District of Columbia. The aggregate principal amount of 2010 Series A Bonds which may be issued and Outstanding under this Supplemental Indenture shall not exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

Section 21.02. Authorization of 2010 Series B Bonds. A Series of Bonds to be issued under the Indenture is hereby created for the purpose of providing moneys for deposit into the Construction Fund and withdrawal therefrom in accordance with law for purposes other than the refunding of Bonds. The Bonds of such Series are designated as the "Guam Power Authority Revenue Bonds, 2010 Series B." The Authority intends that interest on the 2010 Series B Bonds not be excluded from gross income for purposes of federal income tax but that such interest be excluded from taxation by any state or political subdivision or the District of Columbia. The aggregate principal amount of 2010 Series B Bonds which may be issued and Outstanding under this Supplemental Indenture shall not exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

### Section 21.03. Terms of 2010 Bonds: Appointments.

The 2010 Bonds shall be issued as fully registered Bonds without coupons in the denominations of \$5,000 or any integral multiple thereof. The 2010 Bonds shall be dated as of their date of issuance, and interest thereon shall be calculated on the basis of a 360-day year of twelve 30-day months and shall be payable on April 1 and October 1 of each year, commencing October 1, 2010 (each, an "Interest Payment Date" for the 2010 Bonds). Each Current Interest Bond shall bear interest from the Interest Payment Date next preceding the date of authentication thereof unless it is authenticated as of a day after a Record Date and on or before the related Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or unless it is authenticated on or before the Record Date for the first Interest Payment Date, in which event it shall bear interest from its date; provided, however, that if, at the time of authentication of any 2010 Bond, interest is in default on Outstanding Bonds, such Bond shall bear interest from the date to which interest has previously been paid or made available for payment on the Outstanding 2010 Bonds.

Maturity Date  
( )

Principal  
Amount

Interest  
Rate

The 2010 Series A Bonds maturing on October 1, 20\_\_ through October 1, 20\_\_ are Serial Bonds, and the 2010 Series A Bonds maturing on October 1, 20\_\_ and October 1, 20\_\_ are Term Bonds.

The 2010 Series A Bonds shall be subject to redemption as provided in Section 21.04(a).

The following 2010 Series B Bonds are Current Interest Bonds and shall mature on the dates and in the amounts and shall bear interest at the rates per annum as set forth below:

Maturity Date  
( )

Principal  
Amount

Interest  
Rate

\$

%

The 2010 Series B Bonds maturing on October 1, 20\_\_ and October 1, 20\_\_ are Term Bonds.

The 2010 Series B Bonds shall be subject to redemption as provided in Section 21.04(b).

The 2010 Bonds, the Co-Trustee's certificate of authentication and registration and the form of assignment to appear thereon shall be in substantially the form set forth in Exhibit A hereto, with necessary or appropriate variations, omissions and insertions as permitted or required by this Indenture. The 2010 Series A Bonds of each maturity shall be assigned the letters "RA" and shall be numbered in consecutive numerical order from 1 upwards. The 2010 Series B Bonds of each maturity shall be assigned the letters "RB" and shall be numbered in consecutive numerical order from 1 upwards.

the credits provided for in Section 5.03 of the Indenture) and on October 1 in the years hereinafter set forth:

Mandatory Sinking Account  
Payments for Bonds Due October 1

<u>Year</u>	<u>Amount</u>
*	\$

\* maturity

(C) Upon the redemption of 2010 Series A Bonds pursuant to this subsection (a)(ii), the principal amount of such Bonds shall be credited against such remaining Mandatory Sinking Account Payments as are designated by the Authority, in such manner as if such Mandatory Sinking Account Payments were maturities (i.e., to produce as nearly proportional reductions as practicable, provided that Mandatory Sinking Account Payments shall remain as integral multiples of the applicable minimum authorized Bond denomination).

(b) Terms of Redemption of the 2010 Series B Bonds.

(i) Optional Redemption. The 2010 Series B Bonds shall be subject to redemption prior to their stated maturity date, at the option of the Authority, from any source of available funds, as a whole or in part on any date, at a Redemption Price equal to 100% of the principal amount of the 2010 Series B Bonds to be redeemed plus the Make-Whole Premium, if any, together with accrued interest to the date fixed for redemption.

(ii) Extraordinary Optional Redemption of the 2010 Series B Bonds. The 2010 Series B Bonds shall be subject to redemption prior to maturity at the option of the Authority upon the occurrence of a Tax Law Change, from any source of available funds, as a whole or in part, on any date, at a Redemption Price equal to 100% of the principal amount of 2010 Series B Bonds to be redeemed plus the Make-Whole Premium (using a discount rate equal to the Comparable Treasury Yield plus [ ] basis points), if any, plus accrued interest to the date fixed for redemption.

(iii) Mandatory Sinking Account Redemption.

(A) The 2010 Series B Bonds maturing on October 1, 20\_\_ are also subject to redemption prior to their stated maturity in part, by lot, from Mandatory Sinking Account Payments established for such maturity in this subsection (b)(iii)(A), upon payment of the principal amount thereof and accrued interest thereon to the date fixed for redemption, without premium. Subject to the terms and conditions set forth in this Section and in the Indenture, such Bonds shall be redeemed (or paid at maturity, as the case may be) by application of Mandatory Sinking Account Payments for such Bonds, in the amounts (after giving effect to the credits provided for in Section 5.03 of the Indenture) and on October 1 in the years hereinafter set forth:

designate to the Trustee the Mandatory Sinking Account Payments under Section [2.03(d)], or portions thereof, that are to be reduced as allocated to such redemption.

(c) Extraordinary Optional Redemption of the 2010 Bonds. The 2010 Bonds are subject to redemption on any date prior to their respective stated maturities, as a whole, or in part by lot within each maturity so that the reduction in Annual Debt Service for the 2010 Bonds for each Bond Year after such redemption date shall be as nearly proportional as practicable, from and to the extent of proceeds received by the Authority due to a governmental taking of the System or portions thereof by eminent domain proceedings, if such amounts are not used for additions, improvements or extensions to the System, under the circumstances and upon the conditions and terms set forth in Section 6.14, at the principal amount thereof plus interest accrued thereon, without premium.

(d) Conditional Notice of Redemption; Rescission. Any notice of optional redemption of the 2010 Bonds delivered in accordance with Section 4.03 may be conditional, and if any condition stated in the notice of redemption shall not have been satisfied on or prior to the redemption date, said notice shall be of no force and effect and the Authority shall not be required to redeem the 2010 Bonds thereby called for redemption, and the redemption shall be cancelled and the Trustee shall within a reasonable time thereafter give notice, to the persons and in the manner in which the notice of redemption was given, that such condition or conditions were not met and that the redemption was cancelled. In addition, the Authority may, at its option, on or prior to the date fixed for optional redemption in any notice of redemption of the 2010 Bonds, rescind and cancel such notice of redemption, and any optional redemption of 2010 Bonds and notice thereof shall be rescinded and cancelled and the Trustee shall mail notice of such cancellation to the recipients of the notice of redemption being cancelled pursuant to the provisions of Section 4.03.

Section 21.05. Special Provisions as to Book-Entry Only System for 2010 Bonds.

(A) Notwithstanding any of the provisions of Sections 2.03 through 2.09 to the contrary, the 2010 Bonds initially shall be issued in the form of a single authenticated fully registered bond for each stated maturity of such Bonds, representing the aggregate principal amount of the 2010 Bonds of such maturity; and the 2010 Bonds shall be governed by the provisions of this Section 21.05.

(B) Except as provided in this paragraph (B) and in paragraph (D) of this Section 21.05, all of the Outstanding 2010 Bonds shall be registered in the registration books kept by the Co-Trustee in the name of Cede & Co., as nominee of DTC. With respect to the 2010 Bonds registered in the registration books kept by the Co-Trustee in the name of Cede & Co., as nominee of DTC, the Authority, the Trustee, the Co-Trustee, the Paying Agent and the Depositary shall have no responsibility or obligation to any Participant or to any person on behalf of which a Participant holds an interest in the 2010 Bonds. Without limiting the immediately preceding sentence, the Authority, the Trustee, the Co-Trustee, the Paying Agent and the Depositary shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any Participant with respect to any ownership interest in the 2010 Bonds, (ii) the delivery to any Participant or any other person, other than a Bondholder, as shown in the registration books kept by the Co-Trustee, of any notice with respect to the 2010 Bonds, including any notice of redemption, or (iii) the payment to any Participant or any other

provided in the Representation Letter. Bondholders shall have no lien or security interest in any rebate or refund paid by DTC to the Paying Agent which arises from the payment by the Paying Agent of principal of or interest on the 2010 Bonds in immediately available funds to DTC.

(F) The Co-Trustee is hereby authorized and requested to execute and deliver the Representation Letter relating to the 2010 Bonds and, in connection with any successor nominee for DTC or any successor Depositary, enter into comparable arrangements, and shall have the same rights with respect to its actions thereunder as it has with respect to its actions under this Supplemental Indenture.

## ARTICLE XXII

### ISSUANCE OF 2010 BONDS; APPLICATION OF PROCEEDS

Section 22.01. Issuance of Series 2010 Bonds. At any time after the execution and delivery of this Supplemental Indenture, the Authority may sell and execute and the Co-Trustee shall authenticate and, upon the Order of the Authority, deliver 2010 Series A Bonds in an aggregate principal amount not to exceed \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), and 2010 Series B Bonds in an aggregate principal amount not to exceed \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).

Section 22.02. Application of Proceeds of Series 2010 Bonds. The proceeds received by the Authority from the sale of the Series 2010 Bonds shall be deposited with the Trustee, who shall forthwith apply such proceeds in the following manner, as directed by a Request of the Authority:

(A) The Trustee shall transfer to the Co-Trustee for deposit in the Bond Reserve Fund the amount of \$ \_\_\_\_\_, which amount is sufficient to increase the amount on deposit therein to the Bond Reserve Fund Requirement.

(B) The Trustee shall transfer to the Escrow Agent the amount of \$ \_\_\_\_\_ for deposit in the Escrow Fund relating to the Prior Bonds established pursuant to the Escrow Agreement.

(C) The Trustee, acting as Depositary for the Construction Fund moneys derived from the issuance of the 2010 Bonds, shall deposit the balance of such proceeds in the Construction Fund.

The foregoing deposits pursuant to clause (A) shall be deemed to have been made to the Construction Fund for purposes of compliance with Section 8236 of the Act.

the exclusion from federal income tax of interest on any Series of Bonds, the Trustee and the Authority may conclusively rely on such opinion in complying with the requirements of this Section, and, notwithstanding Article IX of the Indenture, the covenants hereunder shall be deemed to be modified to that extent.

Section 23.02. Tax Covenants for 2010 Series A Bonds. (A) The Authority intends that interest on the 2010 Series A Bonds be excluded from gross income for federal income tax purposes and that the 2010 Series A Bonds and the interest thereon be exempt from taxation by any state or political subdivision or the District of Columbia.

(A) The Authority shall not use or permit the use of any proceeds of the 2010 Series A Bonds or any other funds of the Authority, directly or indirectly, to acquire any securities or obligations, and shall not use or permit the use of any amounts received by the Authority in any manner, and shall not take or permit to be taken any other action or actions, which would cause any such Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code or to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

(B) The Authority shall at all times do and perform all acts and things permitted by law and the Indenture which are necessary or desirable in order to assure that interest paid on the 2010 Series A Bonds (or on any of them) shall be excluded from gross income for federal income tax purposes.

Section 23.03. Continuing Disclosure. The Authority hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of this Supplemental Indenture, failure of the Authority to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default; however, the Trustee shall, at the written request of any Participating Underwriter (as defined in the Continuing Disclosure Agreement) or of the Owners of at least 25% in aggregate principal amount of Outstanding 2010 Bonds (but only to the extent funds in an amount satisfactory to the Trustee have been provided to it or it has been otherwise indemnified to its satisfaction from any cost, liability, expense or additional charges and fees of the Trustee whatsoever, including, without limitation, reasonable fees and expenses of its attorneys), or any Owner or Beneficial Owner of any 2010 Bond may, take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Authority, the Trustee or the Co-Trustee, as the case may be, to comply with their respective obligations under this Section. For purposes of this Section, "Beneficial Owner" means any person which has or shares the power, directly or indirectly, to make investment decisions concerning ownership of any 2010 Bonds (including persons holding 2010 Bonds through nominees, depositories or other intermediaries).

## ARTICLE XXIV

### AMENDMENT TO INDENTURE

IN WITNESS WHEREOF, the GUAM POWER AUTHORITY has caused this Supplemental Indenture to be signed in its name by its duly authorized officers, under its seal; BANK OF GUAM, as Trustee and as a Depositary, has caused this Supplemental Indenture to be signed in its corporate name by one of its authorized officers and its corporate seal to be hereunto affixed; and U.S. BANK NATIONAL ASSOCIATION, as Co-Trustee and as a Paying Agent, has caused this Supplemental Indenture to be signed in its corporate name by one of its authorized officers, all as of the day and year first above written.

GUAM POWER AUTHORITY

By \_\_\_\_\_  
Chairperson

[SEAL]

By \_\_\_\_\_  
Secretary

BANK OF GUAM, as Trustee and  
Depositary

By \_\_\_\_\_  
Authorized Officer

U.S. BANK NATIONAL ASSOCIATION, as Co-  
Trustee and Paying Agent

By \_\_\_\_\_  
Authorized Officer



EXHIBIT A-1

[FORM OF SERIES 2010 A/B BOND]

No. R[A/B] - \_\_\_\_\_

\$

GUAM POWER AUTHORITY  
REVENUE BOND, 2010 SERIES [A/B]  
(Current Interest Bond)

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATED</u>	<u>CUSIP</u>
		_____, 2010	

Registered Holder:

Principal Sum:

Dollars

The GUAM POWER AUTHORITY, a public corporation and autonomous instrumentality of the Government of Guam duly organized and existing under and by virtue of the laws of Guam (herein called the "Authority"), for value received, hereby promises to pay (but only out of the Revenues and other assets pledged therefor as hereinafter mentioned) to the registered holder identified above or registered assigns, on the maturity date specified above (subject to any right of prior redemption hereinafter mentioned), the principal sum specified above in lawful money of the United States of America; and to pay interest thereon, in like lawful money and solely from said Revenues and assets, from the interest payment date next preceding the date of authentication of this Bond (unless this Bond is authenticated as of a day during the period from the sixteenth day of the month next preceding any interest payment date to such interest payment date, inclusive, in which event it shall bear interest from such interest payment date, or unless this Bond is authenticated on or before September 15, 2010, in which event it shall bear interest from its date of issuance) until payment of such principal sum shall be discharged as provided in the Indenture hereinafter mentioned, at the interest rate specified above per annum, payable on April 1 and October 1 in each year, commencing October 1, 2010. The principal (or redemption price) hereof is payable upon surrender hereof at the corporate trust office of U.S. Bank, National Association (herein called the "Co-Trustee" or the "Paying Agent") in St. Paul, Minnesota, or other office specified by the Paying Agent, and the interest hereon is payable by check mailed by first class mail to the person in whose name this Bond is registered at the close of business on the fifteenth day of the month immediately preceding an interest payment date, at such person's address as it appears on the Bond registration books of the Co-Trustee. Upon the written request of any registered owner of \$1,000,000 or more in aggregate principal amount of 2010 Series [A/B] Bonds, payment of the principal or redemption price of and interest on such Bonds will be made by wire transfer as provided in the Indenture;

[The 2010 Series [A/B] Bonds maturing on October 1, 20\_\_ are also subject to redemption prior to their respective stated maturities, in part in lots of \$5,000 principal, from Mandatory Sinking Account Payments established for such maturity as provided in the Indenture, on October 1, 20\_\_, and on each October 1 thereafter to and including October 1, 20\_\_ at the principal amount thereof and interest accrued thereon to the date fixed for redemption, without premium.]

[The 2010 Series B Bonds shall be subject to redemption prior to their stated maturity date, at the option of the Authority, from any source of available funds, as a whole or in part on any date, at a Redemption Price equal to 100% of the principal amount of 2010 Series B Bonds called for redemption plus the Make-Whole Premium, if any, together with accrued interest to the date fixed for redemption.]

[The 2010 Series B Bonds shall be subject to redemption prior to their stated maturity date, at the option of the Authority, upon the occurrence of a Tax Law Change, from any source of available funds, as a whole or in part on any date, at a Redemption Price equal to 100% of the principal amount of 2010 Series B Bonds called for redemption plus the Make-Whole Premium, if any, plus accrued interest to the date fixed for redemption.]

The 2010 Bonds are subject to redemption on any date prior to their respective state maturities, as a whole, or in part by lot within each maturity so that the reduction in Annual Debt Service (as that term is defined in the Indenture) for the 2010 Bonds for each Bond Year (as that term is defined in the Indenture) after such redemption date shall be as nearly proportional as practicable, from and to the extent of proceeds received by the Authority due to a governmental taking of the System or portions thereof by eminent domain proceedings, if such amounts are not used for additions, improvements or extensions to the System, under the circumstances and upon the conditions and terms set forth in the Indenture, at the principal amount thereof plus interest accrued thereon, without premium.

Notice of any redemption, identifying the Bonds or portions thereof to be redeemed, shall be given by the Co-Trustee not less than 30 nor more than 60 days before the date fixed for redemption by first class mail to each of the registered owners of Bonds designated for redemption at their addresses appearing on the Bond registration books of the Co-Trustee on the date the Bonds to be redeemed are selected. Receipt of such notice by such registered owners shall not be a condition precedent to such redemption.

If this Bond is called for redemption and payment is duly provided therefor as specified in the Indenture, interest shall cease to accrue hereon from and after the date fixed for redemption.

If an Event of Default (as that term is defined in the Indenture) shall occur, the principal of all Bonds (and the interest accrued thereon) may be declared due and payable upon the conditions, in the manner and with the effect provided in the Indenture. The Indenture provides that in certain events such a declaration and its consequences may be rescinded by the registered owners of not less than a majority in Accreted Value of the Bonds then outstanding.

TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

It is hereby certified and recited that any and all conditions, things and acts required to exist, to have happened and to have been performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the laws of the United States of America and the Government of Guam, and that the amount of this Bond, together with all other indebtedness of the Authority, does not exceed any limit prescribed by such laws, and is not in excess of the amount of Bonds permitted to be issued under the Indenture.

IN WITNESS WHEREOF, THE GUAM POWER AUTHORITY has caused this Bond to be executed in its name and on its behalf by the facsimile signatures of its Chairman of the Board of Directors and the Secretary of the Board of Directors of the Authority and its seal to be reproduced hereon by facsimile, all as of the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

GUAM POWER AUTHORITY

By \_\_\_\_\_  
Chairman of the Board of  
Directors of the Guam Power  
Authority

(SEAL)

Countersigned:

By \_\_\_\_\_  
Secretary of the Board of  
Directors of the Guam Power  
Authority

[FORM OF]  
ASSIGNMENT

The following abbreviations, when used in the inscription on the face of the within Bond and in the assignment below, shall be construed as though they were set out in full according to applicable laws or regulations.

TEN COM - as tenants in common  
TEN ENT - as tenants by the entireties  
JT TEN - as joint tenants with  
right of survivorship and  
not as tenants in common

UNIF GIFT MIN ACT - \_\_\_ Custodian \_\_\_  
(Cust) (Minor)  
under Uniform Gifts to Minors Act  
\_\_\_\_\_  
(State)

Additional abbreviations may also be used though not in the above list.

For value received the undersigned do(es) hereby sell, assign and transfer unto \_\_\_\_\_ the within-mentioned registered Bond and hereby irrevocably constitute(s) and appoint(s) \_\_\_\_\_ attorney, to transfer the same on the books of the Co-Trustee with full power of substitution in the premises.

Dated: \_\_\_\_\_

NOTICE:

The signature on this Assignment must correspond with the name as it appears on the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

Social Security Number, Taxpayer Identification Number or other Identifying Number of Assignee:

\_\_\_\_\_  
Notice: Signature must be guaranteed by an eligible guarantor institution.

GUAM POWER AUTHORITY,

BANK OF GUAM,  
as Trustee and Depositary

AND

U.S. BANK NATIONAL ASSOCIATION,  
as Co-Trustee

SUBORDINATE INDENTURE

Dated as of \_\_\_\_\_, 2010

GUAM POWER AUTHORITY SUBORDINATE REVENUE BONDS

including \$ \_\_\_\_\_  
aggregate principal amount of  
2010 SERIES A BONDS

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THIS SUBORDINATE INDENTURE, made and entered into as of the first day of \_\_\_\_\_, 2010, by and among the GUAM POWER AUTHORITY, a public corporation of the Government of Guam duly organized and existing under and by virtue of the laws of Guam (the "Authority"), BANK OF GUAM, a domestic banking corporation organized under the laws of Guam, and being qualified to accept and administer the trusts hereby created (the "Trustee" or the "Depository"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association organized under the laws of the United States of America, and being qualified to accept and administer the trusts hereby created (the "Co-Trustee"),

W I T N E S S E T H

WHEREAS, pursuant to the Guam Power Authority Act of 1968, being Chapter 8, Title 12, Guam Code Annotated, as amended (the "Act"), the Board of Directors of the Authority (the "Board") is authorized to incur indebtedness by the issuance of revenue bonds, with the approval of the Governor, for various purposes described in the Act;

WHEREAS, the Board has determined to issue subordinate revenue bonds for such purposes and to that end has duly authorized the execution and delivery of this Indenture to secure the payment of the principal thereof and the interest and premium, if any, thereon, and the observance of the covenants and conditions herein contained;

WHEREAS, said subordinate revenue bonds issued hereunder are to be designated as the "Guam Power Authority Subordinate Revenue Bonds" (the "Bonds") and are to be issued from time to time in an aggregate principal amount not limited except as hereinafter provided;

WHEREAS, the Authority previously incurred subordinate indebtedness which is currently outstanding in the aggregate principal amount of \$\_\_\_\_\_ (the "Prior Debt");

WHEREAS, it is now desirable and necessary and in the best interests of the Authority to authorize the issuance of subordinate revenue bonds to provide money to be used for financing and refinancing the cost of the acquisition, construction, improvement, equipment, maintenance, repair, renewal, replacement, reconstruction and insurance of the System, Authority reserves or maintenance and operation expenses of the Authority;

WHEREAS, the first series of said subordinate revenue bonds is to be issued hereunder in an aggregate principal amount of \$\_\_\_\_\_ and is to be designated as "Guam Power Authority Subordinate Revenue Bonds, 2010 Series A" (the "2010 Series A Bonds"); and

WHEREAS, the forms of each additional series of Bonds and various other matters relating to such series shall be prescribed in indentures supplemental hereto, and has approved this Indenture;

WHEREAS, as required by Section 50103(k), Title 12, Guam Code Annotated, the Legislature of Guam has, by P.L. No. \_\_\_\_\_, approved the terms and conditions of the issuance of not to exceed Sixty-Five Million Dollars (\$65,000,000) aggregate principal amount of revenue bonds for the purposes set forth therein, subject to certain actions by the Public Utilities Commission (the "PUC");



## Act

“Act” means the Guam Power Authority Act of 1968, constituting Chapter 8, Title 12, Guam Code Annotated, as it may from time to time hereafter be amended or supplemented.

## Annual Debt Service

“Annual Debt Service” means, for any Bond Year, the sum of (1) the interest falling due on then Outstanding Bonds (assuming that all then Outstanding Serial Bonds are retired on their respective maturity dates and that all then Outstanding Term Bonds are retired at the times of and in amounts provided for by the Mandatory Sinking Account Payments applicable to such Term Bonds), but not including Capitalized Interest, (2) the principal amount of then Outstanding Serial Bonds falling due by their terms, and (3) the aggregate amount of all Mandatory Sinking Account Payments required; all as calculated for said Bond Year. For the purpose of determining the interest payable on Variable Rate Bonds, the interest rate used in the foregoing calculation shall be the actual interest rate for periods prior to the date of calculation and the maximum rate then permitted on such Variable Rate Bonds for periods subsequent to the date of calculation.

## Authority

“Authority” means the Guam Power Authority, a public corporation of the Government created and operating pursuant to the Act.

## Authorized Officer

“Authorized Officer” of the Trustee or Co-Trustee means and includes the chairman of the board of directors, the president, every vice president, every trust officer and any other officer or assistant officer of the Trustee or Co-Trustee, other than those specifically above mentioned, designated by a certificate of an Authorized Officer of the Trustee or Co-Trustee, as the case may be, as an Authorized Officer for purposes of this Indenture.

## Authorized Representative

“Authorized Representative” means the Chairman of the Board, the General Manager of the Authority or the Chief Financial Officer of the Authority, or any other officer or official of the Authority designated in writing by any of such officers whose signature has been certified to the Trustee and the Co-Trustee.

## Board

“Board” means the Consolidated Commission on Utilities, acting as Board of Directors of the Authority. “Board” also means any officer or official of the Government whenever any action which the Act or this Indenture or any Supplemental Indenture requires or permits the Board to take can, under the Organic Act of Guam or any provision of the Guam Code Annotated or any other Guam statute, be taken for or on behalf or in lieu of the Board only by such officer or official.

“Term Bonds” means the Bonds payable at or before their specified maturity date or dates from Mandatory Sinking Account Payments established for that purpose and calculated to retire such Bonds on or before their specified maturity date or dates.

“Variable Rate Bonds” means Bonds which bear interest at a rate which may change from time to time.

#### Business Day

“Business Day” means any day on which banks in the cities in which the Principal Offices of the Trustee, the Co-Trustee, the Depositary and the Paying Agent are located are not required or authorized to close and on which the New York Stock Exchange is not closed.

#### Capitalized Interest

“Capitalized Interest” means interest on Bonds to be paid from the original proceeds of Bonds (including proceeds constituting accrued interest on the Bonds) and from income derived from the investment of such proceeds.

#### Certificate, Order, Request, Requisition, or Statement of the Authority

“Certificate,” “Order,” “Request,” “Requisition,” and “Statement” mean, respectively, a written certificate, order, request, requisition, or statement, executed on behalf of the Authority by an Authorized Representative. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument. If and to the extent required by Section 1.02, each such instrument shall include the statements provided for in Section 1.02.

#### Code

“Code” means the Internal Revenue Code of 1986 or any similar or successor federal law, including any applicable regulations thereunder.

#### Costs of Issuance

“Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the Authority and related to the authorization, issuance, sale and delivery of the Bonds, including but not limited to advertising costs, Bond and official statement printing costs, costs of preparation and reproduction of documents, filing and recording fees, initial fees and charges of the Trustee, the Co-Trustee and the Depositary, legal fees and charges, fees and disbursements of consultants and professionals, rating agency fees, fees and charges for preparation, execution, transportation and safekeeping of Bonds, Credit Facility fees or premiums, fees and expenses of counsel to any Credit Provider and any other cost, charge or fee in connection with the original issuance of Bonds.

### Event of Default

“Event of Default” means any of the events specified in Section 7.01.

### Federal Securities

“Federal Securities” means, (1) direct obligations of the United States of America for which the full faith and credit of the United States of America are pledged for the payment of principal and interest (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America); and (2) cash (insured at all times by federal deposit insurance or otherwise collateralized with obligations listed in (1) above.

### Fiduciaries

“Fiduciaries” means the Trustee, the Co-Trustee, each Depositary and each Paying Agent.

### Fiscal Year

“Fiscal Year” means the period beginning on October 1 of each year and ending on the next succeeding September 30, or any other twelve-month period hereafter selected and designated as the official fiscal year period of the Authority.

### Fund

“Fund” means the Proceeds Fund, the Bond Fund and each fund established and given a designation pursuant to this Indenture or any Supplemental Indenture.

### Government

“Government” means the Government of Guam or any successor to the rights, powers and obligations thereof under the Act with respect to the Bonds.

### Governor

“Governor” means the Governor of Guam or any successor to the rights, powers and obligations thereof under the Act with respect to the Bonds.

### Holder or Bondholder

“Holder” or “Bondholder” means the person in whose name a Bond is registered.

### Indenture

“Indenture” means this Subordinate Indenture, as originally executed or as it may from time to time be supplemented, modified or amended by any Supplemental Indenture.

(iii) any bonds or other obligations of any state of the United States of America or any agency, instrumentality or local government unit of any such state (a) which are not callable prior to maturity or as to which irrevocable instructions have been given to the trustee of such bonds or other obligations by the obligor to give due notice of redemption and to call such bonds for redemption on the date or dates specified in such instructions, and (b) which are rated in the highest rating category of either Moody's Investors Service or Standard & Poor's Corporation;

(iv) U.S. Dollar denominated deposit accounts, federal funds and banker's acceptances with domestic commercial banks (without consideration of rating of any such bank's holding company) which have a rating on their short term certificates of deposit on the date of purchase of "A-1" or "A-1+" by Standard & Poor's Corporation and "P-1" by Moody's Investors Service and maturing no more than 360 days after the date of purchase;

(v) commercial paper which is rated at the time of purchase in the single highest classification, "A-1+" by Standard & Poor's Corporation and "P-1" by Moody's Investors Service and which matures not more than 270 days after the date of purchase;

(vi) investments in a money market fund rated "AAAm" or "AAAm-G" or better by Standard & Poor's Corporation; and

(vii) investment agreements or other forms of investments which are in each case (a) selected by the Authority, (b) having no adverse impact on the rating of any Bonds after notice to each Rating Agency, and (c) approved in writing by each Credit Provider.

#### Legislature

"Legislature" means the Legislature of Guam or any successor to the rights, powers and obligations thereof under the Act with respect to the Bonds.

#### Maintenance and Operation Expenses

"Maintenance and Operation Expenses" has the meaning given to that term in the Senior Bond Indenture.

#### Mandatory Sinking Account Payment

"Mandatory Sinking Account Payment" means, as of any date of calculation with respect to any Series of Bonds, the amount required by this Indenture or any Supplemental Indenture to be paid by the Authority on a given date for the retirement of Term Bonds of such Series.

#### Maximum Annual Debt Service

"Maximum Annual Debt Service" means, for any particular Bonds as of any date of calculation, Annual Debt Service on such Bonds for the Bond Year commencing on or after such date for which such sum shall be largest.

### Principal Office

“Principal Office” means, with respect to the Trustee and with respect to the Depository for the Proceeds Fund moneys derived from the issuance of the 2010 Series A Bonds and the Subordinate Revenue Fund, the office of the Trustee in Guam; with respect to the Co-Trustee and with respect to the Paying Agent for the 2010 Series A Bonds, the office of the Co-Trustee in St. Paul, Minnesota; and with respect to any other Fiduciary the office of such Fiduciary designated in the Supplemental Indenture or other instrument appointing such Fiduciary; in each case at such address as the respective party may have designated for such purpose. The Principal Office of any Credit Provider shall be specified by such Credit Provider pursuant to its Credit Facility or Credit Agreement.

### Principal Payment Period

“Principal Payment Period means, with respect to the 2010 Series A Bonds, the period beginning on the date of issuance of such Bonds and ending \_\_\_\_\_, 20\_\_\_\_, and thereafter each period of twelve months ending on \_\_\_\_\_, and, with respect to any Bond of any other Series, each period so designated by the Supplemental Indenture authorizing the issuance of such Series.

### Prior Subordinate Debt

“Prior Subordinate Debt” means certain subordinate indebtedness of the Authority in the aggregate principal amount of \$\_\_\_\_\_.

### Proceeds Fund

“Proceeds Fund” means the Subordinate Revenue Bond Proceeds Fund established pursuant to Section 3.03.

### Project

“Project” means any addition, extension, betterment or other improvement to the System, including without limitation any equipment or furnishings and any land therefor or the payment of any claims or judgments relating thereto, as specified and described by the Supplemental Indenture authorizing issuance of any Bonds for any such Project, and as such specifications and description may be modified in accordance with Section 3.03.

### Project Costs

“Project Costs” has the meaning given to that term in the Senior Bond Indenture.

### PUC

“PUC” means the Public Utilities Commission of Guam, established and existing pursuant to Chapter 12, Title 12, Guam Code Annotated, and any successor to its rights, duties and powers.

### Series

“Series” or “Series of Bonds” means and refers to all Bonds of like designation authenticated and delivered on original issuance at the same time pursuant to this Indenture and any Bonds thereafter delivered in lieu of or substitution for any of such Bonds pursuant to this Indenture.

### Sinking Accounts

“Sinking Accounts” means any special account or accounts established by any Supplemental Indenture or Indentures in the Bond Fund for the payment of Term Bonds.

### Subordinate Revenue Fund

“Subordinate Revenue Fund” means the Subordinate Revenue Bond Revenue Fund established pursuant to Section 5.01.

### Supplemental Indenture

“Supplemental Indenture” means any indenture hereafter duly executed and delivered, supplementing, modifying or amending this Indenture; but only if and to the extent that such Supplemental Indenture is specifically authorized hereunder.

### Surplus Fund

“Surplus Fund” means the Surplus Fund established pursuant to Section 5.01 of the Senior Bond Indenture.

### System

“System” has the meaning given to such term in the Senior Bond Indenture.

### Tax Certificate

“Tax Certificate” means, with respect to any one or more Series of Bonds, a Certificate or Certificates of the Authority concerning the calculation of any amount to be paid to the United States of America pursuant to Section 148(f) of the Code and any other matters relating to the exclusion of interest on such Bonds from gross income for federal income tax purposes or other federal tax law matters relating to such Bonds.

### Trustee

“Trustee” means Bank of Guam, and any other corporation or association which may at any time be substituted in its place as trustee, as provided in Section 8.01.

Section 1.02. Content of Certificates and Opinions. Every certificate or opinion provided for in this Indenture with respect to compliance with any provision hereof, including each Certificate of the Authority, shall include (1) a statement that the person making or giving such certificate or opinion has read such provision and the definitions herein relating thereto; (2) a brief

the "Guam Power Authority Subordinate Revenue Bonds"; each Series thereof to bear such additional designation as may be necessary or appropriate to distinguish such Series from every other Series of Bonds. The Bonds may be issued in such Series as from time to time shall be established and authorized by the Authority, subject to the covenants, provisions and conditions herein contained, for the purpose of financing and refinancing Project Costs and Maintenance and Operation Expenses.

Section 2.02. Terms of 2010 Series A Bonds. (A) An initial Series of Bonds to be issued under this Indenture is hereby created, and such Bonds are designated as the "Guam Power Authority Revenue Bonds, 2010 Series A." The aggregate principal amount of 2010 Series A Bonds which may be issued and Outstanding under this Indenture shall not exceed \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).

(B) The 2010 Series A Bonds shall be dated as of \_\_\_\_\_, 2010, and interest thereon shall be payable on \_\_\_\_\_ and \_\_\_\_\_ in each year, commencing \_\_\_\_\_, 2010 (each an "Interest Payment Date"). The 2010 Series A Bonds shall be issued only in fully registered form in denominations of \$5,000 or any integral multiple thereof, shall mature on \_\_\_\_\_ of the following years in the following amounts and shall bear interest at the following rates per annum:

Year	Principal	Interest Rates
( _____ )	Amount	

The 2010 Series A Bonds maturing on \_\_\_\_\_ through \_\_\_\_\_ are Serial Bonds, and the 2010 Series A Bonds maturing on \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ are Term Bonds. The Record Date for scheduled payments of principal of and interest on the 2010 Series A Bonds is the fifteenth (15th) day of the calendar month next preceding the date each such payment is due, whether or not such 15th day is a Business Day.

(C) The 2010 Series A Bonds and the form of Co-Trustee's certificate of authentication to appear thereon shall be in substantially the respective forms set forth in Exhibit A hereto, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture. Any portion of the text of any 2010 Series A Bond may be printed on the back of such Bond and there may be inserted, in place of such text, a legend to the following effect: "Reference is hereby made to the further provisions of this Bond set forth on the back hereof and such further provisions are hereby incorporated by reference as if set forth here."

Each 2010 Series A Bond shall bear interest, computed on the basis of a 360-day year of twelve 30-day months, from the Interest Payment Date next preceding the date of authentication thereof unless it is authenticated as of a day after a Record Date and on or before the

other person, other than a Bondholder, as shown in the registration books kept by the Co-Trustee, of any amount with respect to principal of, premium if any, or interest on the 2010 Series A Bonds. The Authority, the Trustee, the Co-Trustee, the Paying Agent and the Depositary may treat and consider the person in whose name each Bond is registered in the registration books kept by the Co-Trustee as the holder and absolute owner of such Bond for the purpose of payment of principal, premium and interest with respect to such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Paying Agent shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective Bondholders, as shown in the registration books kept by the Co-Trustee as provided in Section 2.06, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Authority's obligations with respect to payment of principal of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than a Bondholder, as shown in the registration books kept by the Co-Trustee, shall receive a certificated 2010 Series A Bond evidencing the obligation of the Authority to make payments of principal, premium, if any, and interest pursuant to this Indenture. Upon delivery by DTC to the Authority or the Co-Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions herein with respect to Record Dates, the words "Cede & Co." in this Indenture shall refer to such new nominee of DTC.

(2) The delivery of the Representation Letter by the Authority shall not in any way limit the provisions of paragraph (1) of this subsection (E) or in any other way impose upon the Authority any obligation whatsoever with respect to persons having interests in the Bonds other than the Bondholders, as shown on the registration books kept by the Co-Trustee. The Co-Trustee shall take all action necessary for all representations of the Authority in the Representation Letter with respect to the Co-Trustee to be complied with at all times.

(3) DTC may determine to discontinue providing its services with respect to the 2010 Series A Bonds at any time by giving reasonable written notice to the Authority and the Co-Trustee and discharging its responsibilities with respect thereto under applicable law. The Authority, in its sole discretion and without the consent of any other person, may terminate the services of DTC with respect to the 2010 Series A Bonds. Upon the discontinuance or termination of the services of DTC with respect to the 2010 Series A Bonds, unless a substitute securities depository is appointed to undertake the functions of DTC hereunder, the Authority is obligated to deliver Bond certificates at the expense of the beneficial owners of the 2010 Series A Bonds, as described in this Indenture, and the 2010 Series A Bonds shall no longer be restricted to being registered in the registration books kept by the Co-Trustee in the name of Cede & Co. as nominee of DTC, but may be registered in whatever name or names Bondholders transferring or exchanging 2010 Series A Bonds shall designate, in accordance with the provisions of this Indenture.

(4) Notwithstanding any other provision of this Indenture to the contrary, so long as any 2010 Series A Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal or, premium, if any, and interest on such 2010 Series A Bond and all notices with respect to such 2010 Series A Bond shall be made and given, respectively, in the manner provided in the Representation Letter. Bondholders shall have no lien or security interest in any rebate or refund paid by DTC to the Paying Agent which arises from the payment by



Section 2.05. Exchange of Bonds. Any Bonds may, in accordance with their terms, be exchanged at the Principal Office of the Co-Trustee for a new Bond or Bonds of the same Series, maturity and tenor, of any authorized denomination or denominations and for the aggregate principal amount of such Bond or Bonds then remaining Outstanding. The Co-Trustee shall require the payment by the Bondholder requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange.

Section 2.06. Bond Register. The Co-Trustee will keep or cause to be kept at its Principal Office sufficient books for the registration and transfer of the Bonds, which shall at all times during regular business hours with reasonable prior notice be open to inspection by the Authority; and, upon presentation for such purpose, the Co-Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on such books, Bonds as hereinbefore provided.

Section 2.07. Ownership of Bonds. The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal and Redemption Price of, and the interest on, any such Bond shall be made only to or upon the order of the registered owner thereof or such registered owner's legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond including the interest thereon to the extent of the sum or sums so paid.

Section 2.08. Temporary Bonds. The Bonds may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery. Any temporary Bond may be printed, lithographed or typewritten, shall be of such denomination as may be determined by the Authority, shall be in registered form without coupons and may contain such reference to any of the provisions of this Indenture as may be appropriate. Every temporary Bond shall be executed by the Authority and be authenticated by the Co-Trustee upon the same conditions and in substantially the same manner as the definitive Bonds. If the Authority issues temporary Bonds it will execute and furnish definitive Bonds without delay, and thereupon the temporary Bonds may be surrendered, for cancellation, in exchange therefor at the Principal Office of the Co-Trustee and the Co-Trustee shall authenticate and deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of the same Series, maturity and tenor and of authorized denominations. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Indenture as definitive Bonds authenticated and delivered hereunder.

Section 2.09. Bonds Mutilated, Lost, Destroyed or Stolen. If any Bond shall become mutilated, the Authority, at the expense of the Holder of said Bond, shall execute, and the Co-Trustee shall thereupon authenticate and deliver, a new Bond of like tenor in exchange and substitution for the Bond so mutilated, but only upon surrender to the Co-Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Co-Trustee shall be cancelled by it and destroyed. If any Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Authority and the Co-Trustee and, if such evidence be satisfactory to both and indemnity satisfactory to both shall be given, the Authority, at the expense of the Holder, shall execute, and the Co-Trustee shall thereupon authenticate and deliver, a new Bond of like tenor in lieu of and in substitution for the Bond so lost, destroyed or stolen, except that such number may be preceded by a distinguishing prefix (or if any such Bond shall have matured or shall have been

The foregoing deposits pursuant to clauses (1) and (2) shall be deemed to have been made to the Proceeds Fund for purposes of compliance with Section 8236 of the Act.

(B) All amounts received by the Trustee in connection with the payment of the Prior Subordinate Debt shall be applied as set forth in a Request of the Authority.

Section 3.03. Establishment and Application of Proceeds Fund; Modification of Projects. (A) There is hereby created within the Proceeds Fund a separate fund to be maintained and held in trust by the Depositary and designated the "Subordinate Revenue Bond Proceeds Fund." "The Depositary may establish such subaccounts in the Proceeds Fund as are necessary or desirable to carry out the requirements of this Indenture or any Supplemental Indenture. Amounts in the Proceeds Fund shall be used and withdrawn, as provided in this Section, solely for (1) the purpose of paying, or reimbursing the Authority for the payment of, or refinancing, the Project Costs and Maintenance and Operation expenses for which a Series of Bonds is issued pursuant to the Act, including the payment of Costs of Issuance of such Series and Capitalized Interest, and (2) the payment of principal of and interest on the Bonds in the manner and to the extent provided in Section 5.08. The Depositary shall disburse moneys in the Proceeds Fund only upon Requisition of the Authority. Upon receipt of a Certificate of the Authority that amounts in said fund are no longer required for the purpose of said fund, said amounts shall be transferred to the Subordinate Revenue Fund.

(B) The Authority may provide in the Supplemental Indenture providing for the issuance of an additional Series of Bonds (1) that the unused proceeds of such additional Series as of a date specified by such Supplemental Indenture shall be used to redeem the Bonds of such Series, or (2) that the proceeds of such additional Series shall otherwise be limited as to use or application.

(C) The Authority may modify the specifications or description of any Project or Projects by filing with the Trustee and the Co-Trustee a Certificate of the Authority describing such modification, together with a written report of an Independent Consultant to the effect that such modification will have no material adverse effect on the Authority's ability to comply with Section 6.10 and an opinion of Bond Counsel to the effect that such modification and the use of amounts in the Proceeds Fund for such modified Project or Projects will not adversely effect the exclusion, if any, of interest on any Bonds from gross income for federal income tax purposes.

Section 3.04. Issuance of Additional Series of Bonds. (A) In addition to the 2010 Series A Bonds, the Authority may by Supplemental Indenture establish one or more other Series of Bonds, payable from and secured by the assets pledged by this Indenture on a parity with Bonds previously issued, and the Authority may issue, and the Co-Trustee may authenticate and deliver to the purchasers thereof, Bonds of any Series so established, in such principal amount as shall be determined by the Authority, but only upon compliance by the Authority with the provisions of Section 3.05 and any additional requirements set forth in said Supplemental Indenture, and subject to the following specific conditions, which are hereby made conditions precedent to the issuance of any such additional Series of Bonds:

(1) No Event of Default shall have occurred and then be continuing.

shall have produced a sum equal to at least (x) 1.20 times the Maximum Annual Debt Service on the Senior Bonds and Bonds then Outstanding, and on such additional Series of Bonds, and (y) the amount necessary to pay all obligations that were payable from Net Revenues in such year under existing contracts or under law (including amounts payable from Net Revenues on a basis subordinate to the Bonds).

(6) Unless the requirement of paragraph (5) is satisfied, the Authority shall have complied with Section 6.10 for the most recent Fiscal Year for which audited financial statements are available; and, for each of the five full Fiscal Years beginning with the first full Fiscal Year following the issuance of such additional Series of Bonds (or, if later, the first full Fiscal Year in which less than ten percent (10%) of the interest coming due on such Series is Capitalized Interest), Net Revenues are projected to equal at least 1.20 times the Maximum Annual Debt Service on the aggregate of the Senior Bonds and Bonds then Outstanding, and on such additional Series of Bonds, and Net Revenues are projected to equal at least the amount necessary to pay all obligations projected to be payable from Net Revenues in such year under then existing contracts or under law (including amounts payable from Net Revenues on a basis subordinate to the Bonds), all as shown by a certificate of an Independent Consultant. The Independent Consultant's projection shall be made subject to the following assumptions and limitations:

(a) Net Revenues from new Projects and from any other projected improvements to the System may be taken into account only if such Projects and improvements are expected to be completed with moneys then set aside for such purpose or with the proceeds of Bonds previously issued or the proceeds of such additional Series of Bonds (i.e., without additional borrowing after the issuance of such additional Series of Bonds); and

(b) Load growth may only be projected to occur if and to the extent that it represents the expected electric power requirements of

(i) major developments (whether commercial, residential, industrial or military) already physically in process (e.g., facilities that are under construction, as opposed to facilities that are planned but not yet under construction);

(ii) major developments (whether commercial, residential, industrial or military) that have been fully approved by the Territorial Land Use Commission (or its successor) or, in the case of military developments, by the appropriate military authority, but only to the extent that such major developments (whether commercial, residential, industrial or military) are expected to be constructed;

(iii) residential and small commercial development expected to occur as a result of the developments referred to in (i) and (ii), and

(6) An Opinion of Counsel that the Supplemental Indenture has been duly executed and delivered in accordance with this Indenture; that such additional Series of Bonds, when duly executed by the Authority and authenticated and delivered by the Co-Trustee, will be valid and binding obligations of the Authority; and that, upon the delivery of such additional Series of Bonds, the aggregate principal amount of Bonds then Outstanding will not exceed the amount permitted by law or by this Indenture.

Section 3.06. Validity of Bonds. The validity of the authorization and issuance of the Bonds is not dependent on and shall not be affected in any way by (a) any proceedings taken by the Board for the acquisition, construction or completion of the System or any part thereof; (b) any contracts made by the Board in connection with the acquisition, construction or completion of the System or any part thereof; (c) the failure to complete the System or any part thereof for which Bonds are authorized to be issued; or (d) any application of the proceeds of the Bonds by the Authority, the Trustee, the Co-Trustee or any Depositary. The recital contained in the Bonds that the same are issued pursuant to the laws of Guam, including the Act, shall be conclusive evidence of their validity and of compliance with the provisions of law in their issuance.

#### ARTICLE IV

#### REDEMPTION OF BONDS

Section 4.01. Terms of Redemption. (A) The 2010 Series A Bonds maturing after \_\_\_\_\_ are subject to redemption prior to their respective stated maturities, at the option of the Authority, from any source of available funds, on any date on or after \_\_\_\_\_, as a whole, or in part by such maturity or maturities as may be specified by Request of the Authority (and by lot within a maturity), at the Redemption Prices equal to the aggregate principal amount thereof, plus interest accrued thereon to the date fixed for redemption.

The option of the Authority under this Section 4.01(A) may only be exercised by depositing with the Trustee prior to the giving of the notice of such redemption in accordance with Section 4.03 Federal Securities sufficient in amount and maturing in a timely manner to provide for such redemption. The Authority shall notify the Trustee and the Co-Trustee in writing at least 40 days prior to the date to be fixed for redemption of its intention to exercise its redemption option.

(B) The 2010 Series A Bonds maturing on \_\_\_\_\_ are also subject to redemption prior to their stated maturity in part, by lot, from Mandatory Sinking Account Payments established for such maturity in Section 5.03(C), on each \_\_\_\_\_ on or after \_\_\_\_\_, at the principal amount thereof and interest accrued thereon to the date fixed for redemption, without premium.

(C) The 2010 Series A Bonds maturing on \_\_\_\_\_ are also subject to redemption prior to their stated maturity in part, by lot, from Mandatory Sinking Account Payments established for such maturity in Section 5.03(D), on each \_\_\_\_\_ on or after \_\_\_\_\_, at the principal amount thereof and interest accrued thereon to the date fixed for redemption, without premium.

due and payable on each of said Bonds the Redemption Price thereof or of said specified portion of the principal thereof in the case of a Bond to be redeemed in part only, together with interest accrued thereon to the redemption date, and that from and after such redemption date interest thereon shall cease to accrue, and shall require that such Bonds be then surrendered. No defect in or failure to give such mailed notice of redemption shall affect the validity of proceedings for redemption of such Bonds. Each notice of redemption shall also state the CUSIP number, date of issue and interest rate on each Bond, or portion thereof, to be redeemed, and shall include the redemption agent name and address; provided, however, that failure to include any of such information in any redemption notice, or any inaccuracy in any such information, shall not affect the sufficiency of the proceedings for redemption of any Bonds.

A copy of any notice of redemption given pursuant to the foregoing paragraph shall also be sent by overnight delivery or certified mail, with return receipt requested, to each of the Fiduciaries, each of the Credit Providers and the Securities Depository and by posting electronically with the MSRB; provided, however, that failure to give notice pursuant to this sentence by first class mail to any Bondholders, to any Fiduciaries, to any Credit Providers or to any Securities Depository or Information Services, or to publish such notice, or the insufficiency of any such notices, shall not affect the sufficiency of the proceedings for redemption of any Bonds.

A Supplemental Indenture providing for the issuance of a Series of Bonds may provide that notice of the redemption of Bonds of such Series shall be given at times and in a manner different from that specified above.

Notice of redemption of Bonds shall be given by the Co-Trustee for and on behalf of the Authority.

Section 4.04. Partial Redemption. Upon surrender of any Bond redeemed in part only, the Authority shall execute and the Co-Trustee shall authenticate and deliver to the registered owner thereof, at the expense of the Authority, a new Bond or Bonds of authorized denominations, and of the same Series, maturity and tenor, equal in aggregate principal amount to the unredeemed portion of the Bond surrendered.

Section 4.05. Effect of Redemption. Notice of redemption having been duly given as aforesaid, and moneys being held by the Co-Trustee or any Paying Agent for payment of the Redemption Price of, and interest accrued to the redemption date on, the Bonds (or portions thereof) so called for redemption on the redemption date designated in such notice shall become due and payable at the Redemption Price specified in such notice and interest accrued thereon to the date fixed for redemption, interest on the Bonds so called for redemption shall cease to accrue, said Bonds (or portions thereof) shall cease to be entitled to any benefit or security under this Indenture, and the Holders of said Bonds shall have no rights in respect thereof except to receive payment of said Redemption Price and accrued interest.

All Bonds redeemed pursuant to the provisions of this Article shall be cancelled upon surrender thereof and destroyed.

- (1) the Bond Fund; and
- (2) the Bond Reserve Fund.

(E) All funds and accounts held by the Trustee or the Depositary shall be held in the name of the Co-Trustee. All moneys at any time deposited with the Trustee, the Co-Trustee or the Depositary, as the case may be, shall be held by the Trustee, the Co-Trustee or the Depositary, as the case may be, in trust for the benefit of the Holders at any time of the Bonds, except that the Rebate Fund shall be held for the benefit of the United States Government, and the Authority shall have no beneficial right or interest in any of such moneys, except as in this Indenture provided. All Revenues so deposited shall be held, disbursed, allocated and applied only as provided in this Indenture.

Section 5.02. Use and Allocation of Revenues. On or before the fifth day of each calendar month, the Depositary shall transfer from the Subordinate Revenue Fund (to the Co-Trustee as necessary), for deposit into one or more of the following respective separate funds, the following amounts in the following order of priority, the requirements of each such fund or account (including the making up of any deficiencies in any such fund or account resulting from lack of Revenues sufficient to make any earlier required deposit) at the time of deposit to be satisfied, and the results of such satisfaction being taken into account, before any transfer is made to any account subsequent in priority:

(A) Into the Bond Fund held by the Co-Trustee, an amount equal to the amount necessary to increase the amount in the Bond Fund to the aggregate amount for all Outstanding Bonds of all unpaid interest, principal and Mandatory Sinking Account Payments which shall be required to have been transferred to the Bond Fund on the basis of the following transfer requirement rules (after taking into account amounts transferred or expected to be transferred from the Proceeds Fund to pay Capitalized Interest):

(1) the amount of interest payable on each Bond on a current uncompounded basis on any Interest Payment Date shall be transferred in equal monthly amounts over the Interest Accrual Period for such Bond ending on such Interest Payment Date (or in the case of Variable Rate Bonds, the amount of interest that would have accrued during the next preceding calendar month if such Bonds had borne interest at the maximum rate, less any excess deposited for the next preceding calendar month);

(2) the amount of interest payable on each Bond on a deferred compounded basis on any Interest Payment Date shall be transferred in equal monthly amounts over the Principal Payment Period for such Bond ending on the maturity date for such Bond;

(3) the amount of the principal of each Bond shall be transferred in equal monthly amounts over the Principal Payment Period for such Bond ending on the maturity date for such Bond; and

(4) the amount of each Mandatory Sinking Account Payment for Bonds shall be transferred in equal monthly amounts over the Principal

Mandatory Sinking Account  
Payments for Bonds Due

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Year	Amount
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\*Maturity

(D) Subject to the terms and conditions hereinbefore set forth in this Section and in Section 4.01(C), Term 2010 Series A Bonds maturing \_\_\_\_\_, shall be redeemed (or paid at maturity, as the case may be) by application of Mandatory Sinking Account Payments for such Bonds, in the amounts (after giving effect to the credits provided for in this Section) and upon \_\_\_\_\_ in the years hereinafter set forth:

Mandatory Sinking Account  
Payments for Bonds Due

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Year	Amount
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\*Maturity

(E) Subject to the terms and conditions hereinbefore set forth in this Section and in Section 4.01(D), Term 2010 Series A Bonds maturing \_\_\_\_\_, shall be redeemed (or paid at maturity, as the case may be) by application of Mandatory Sinking Account Payments for such Bonds, in the amounts (after giving effect to the credits provided for in this Section) and upon \_\_\_\_\_ in the years hereinafter set forth:

If and to the extent provided by a Supplemental Indenture authorizing the issuance of an additional Series of Bonds and with respect to the 2010 Series A Bonds, the portion of the Bond Reserve Fund Requirement allocable to such Series may be wholly or partially satisfied by a Credit Facility, provided that such Credit Facility is provided by a Credit Provider rated, at the time of deposit of such Credit Facility, in the highest rating category by Moody's Investors Service and Standard & Poor's Corporation. Notwithstanding anything to the contrary contained hereinbefore in this Section or in Article IV, such Supplemental Indenture may also provide, and with respect to the 2010 Series A Bonds this Indenture hereby provides, that if a drawing on such Credit Facility is honored, amounts available under Section 5.02(B) for deposit in the Bond Reserve Fund shall be applied by the Co-Trustee to reimburse, as soon as practicable, the amount of each payment honoring such drawing, and the Co-Trustee shall give any notice of such reimbursement required by the applicable Credit Agreement.

Section 5.05. Rebate Fund; 2010 Series A Rebate Account.

(A) If and to the extent required by the Supplemental Indenture providing for the issuance of a Series of Bonds, the Trustee shall establish and maintain within the Rebate Fund a separate Rebate Account for such Series. There shall be deposited in such Rebate Account from amounts in the Subordinate Revenue Fund or other lawfully available moneys such amounts as are required to be deposited therein pursuant to the Tax Certificate with respect to such Series of Bonds. All money at any time deposited in a Rebate Account shall be held by the Trustee in trust, and shall be governed exclusively by this Section and by the Tax Certificate with respect to such Series of Bonds.

(B) Notwithstanding any provisions of this Section, if the Authority shall provide to the Trustee an opinion of Bond Counsel that any specified action required under this Section is no longer required or that some further or different action is required to maintain the exclusion from federal income tax of interest on any Series of Bonds, the Trustee and the Authority may conclusively rely on such opinion in complying with the requirements of this Section, and, notwithstanding Article IX hereof, the covenants hereunder shall be deemed to be modified to that extent.

(C) Notwithstanding any provisions of this Section or Section 8226 of the Act, the Authority reserves the right to issue Bonds the interest on which is intended to be included in gross income of the holders thereof for federal income tax purposes.

Section 5.06. Deficiencies in Bond Fund. (A) In the event that on the fifth (5th) day before any Interest Payment Date, or if any such day is not a Business Day, on the next preceding Business Day, the amount in the Bond Fund is insufficient to pay the principal of, Mandatory Sinking Account Payments for and interest on the Bonds due on the next succeeding Interest Payment Date, the Co-Trustee, or the Depositary upon the direction of the Co-Trustee, as the case may be, shall transfer to the Bond Fund the amount of such deficiency by withdrawing said amount from the following funds in the following order of priority: (1) the Subordinate Revenue Fund, (2) the Bond Reserve Fund; and (3) any other Fund or Account established pursuant to this Indenture (except the Rebate Fund). If after making all such transfers, the amount in the Bond Fund is insufficient to pay the principal of or Mandatory Sinking Account Payments for or interest on the Bonds due on the next succeeding Interest Payment Date, the Co-Trustee



as follows: (i) as to investments the bid and asked prices of which are published on a regular basis in The Wall Street Journal (or, if not there, then in The New York Times), such value shall be the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination; (ii) as to investments the bid and asked prices of which are not published on a regular basis in The Wall Street Journal or The New York Times, such value shall be the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the Trustee in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service; and (iii) as to any investment not specified above, such value shall be the value thereof established by prior agreement between the Authority and the Trustee.

The Trustee, the Co-Trustee or the Depositary may sell at the best price obtainable, or present for redemption, any investment securities so purchased whenever it shall be necessary in order to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund or account to which such investment security is credited, and neither the Trustee, the Co-Trustee nor the Depositary shall be liable or responsible for any loss resulting from such investment.

## ARTICLE VI

### PARTICULAR COVENANTS

Section 6.01. Punctual Payment. The Authority shall punctually pay or cause to be paid, from the Revenues and other assets pledged hereunder, the principal or Redemption Price and interest to become due in respect of all the Bonds, in strict conformity with the terms of the Bonds and of this Indenture.

Section 6.02. Extension of Payment of Principal and Interest on the Bonds. The Authority shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any of the claims for interest by the purchase or funding of such Bonds or claims for interest or by any other arrangement, and in case the maturity of any of the Bonds or the time of payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled, in case of any default hereunder, to the benefits of this Indenture, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest thereon which shall not have been so extended. Nothing in this Section shall be deemed to limit the right of the Authority to issue Bonds or other indebtedness for the purpose of refunding any Outstanding Bonds, and such issuance shall not be deemed to constitute an extension of maturity of Bonds.

Section 6.03. Against Encumbrances. The Board shall not create, or permit the creation of, any pledge, lien, charge or other encumbrance upon the Revenues or other assets pledged or assigned under this Indenture while any of the Bonds are Outstanding, except the pledge and assignment created by this Indenture, and except any pledge or assignment subordinate in all respects to the pledge and assignment hereunder, and shall not issue any obligations secured by such pledge and assignment other than the Bonds. Subject to this limitation, the Authority expressly reserves the right to enter into one or more other indentures for any of its governmental purposes, and reserves the right to issue other obligations for such purposes and to issue

subdivision or the District of Columbia. The Authority reserves the right to determine the desired tax status of any additional Series of Bonds.

(B) The Authority shall not use or permit the use of any proceeds of a Series of Bonds the interest on which is excluded from gross income for federal income tax purposes or any other funds of the Authority, directly or indirectly, to acquire any securities or obligations, and shall not use or permit the use of any amounts received by the Authority in any manner, and shall not take or permit to be taken any other action or actions, which would cause any such Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code or to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

(C) The Authority shall at all times do and perform all acts and things permitted by law and this Indenture which are necessary or desirable in order to assure that interest paid on such Bonds (or on any of them) shall be excluded from gross income for federal income tax purposes.

Section 6.07. Compliance with Indenture, Contracts, Laws and Regulations. The Authority shall faithfully observe and perform all the covenants, conditions and requirements of this Indenture, shall not issue any Bonds in any manner other than in accordance with this Indenture, and shall not take any action that would permit any default to occur hereunder, or do or permit to be done, anything that might in any way weaken, diminish or impair the security intended to be given pursuant to this Indenture. Subject to the limitations and consistent with the covenants, conditions and requirements contained in this Indenture, the Authority shall comply with the terms, covenants and provisions, express or implied, of all contracts concerning or affecting the application of proceeds of Bonds or Revenues. The Authority shall comply promptly, fully and faithfully with and abide by any statute, law, ordinance, order, rule or regulation, judgment, decree, direction or requirement now in force or hereafter enacted, adopted, prescribed, imposed or entered by any competent governmental authority or agency applicable to or affecting the Bonds.

Section 6.08. Rate Covenant. At all times that any Bonds remain Outstanding, rates and charges for the sale or use of electric energy produced, transmitted, distributed or furnished from the System shall be established, fixed, prescribed and collected so that such rates and charges will yield Net Revenues for the next twelve months equal to at least (a) 1.20 times Annual Debt Service on the Outstanding Senior Bonds and Bonds to be paid from Net Revenues during such period and (b) the amount necessary to pay all obligations to be paid from Net Revenues during such period under then existing contracts or under law (including amounts payable from Net Revenues on a basis subordinate to the Bonds). Such rates and charges may be adjusted from time to time and classified as necessary, but such rates and charges shall not be reduced below the rates and charges then in effect unless the Net Revenues from such reduced rates will at all times be sufficient to meet the requirements of this Section. All such rates and charges shall be payable in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts.

The debt service coverage ratio specified in this Section shall be the debt service coverage ratio used by the PUC, together with other appropriate factors, in setting rates.

(B) default by the Authority in the observance of any of the covenants, agreements or conditions on its part in this Indenture or in the Bonds contained, if such default shall have continued for a period of sixty (60) days after written notice thereof, specifying such default and requiring the same to be remedied, shall have been given to the Authority by the Trustee or the Co-Trustee, or to the Authority, the Trustee and the Co-Trustee by any Credit Provider and by the Holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds at the time Outstanding; or

(C) if the Authority shall file a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America; or if a court of competent jurisdiction shall approve a petition, filed with or without the consent of the Authority, seeking reorganization under the federal bankruptcy laws or any other applicable law of the United States of America; or if, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the Authority or of the whole or any substantial part of its property; and if, in any such case such petition is not withdrawn or dismissed or such custody or control is not terminated or stayed within sixty (60) days from the date of the filing of such petition or the assumption of such custody or control.

Section 7.02. Remedies. In each and every case during the continuance of an Event of Default, the Co-Trustee in its own name and as trustee of an expressed trust, on behalf and for the benefit and protection of the Bondholders, after notice to the Authority, may, and upon the request of the Holders of not less than twenty-five percent (25%) in Accreted Value of the Bonds then Outstanding shall, to the extent indemnified to its satisfaction from any liability or expense, proceed to protect and enforce any rights of the Co-Trustee and, to the full extent that the Bondholders themselves might do, the rights of such Bondholders under this Indenture and under the laws of Guam by such of the following remedies as the Co-Trustee shall deem most effectual to protect and enforce such rights:

(1) by mandamus or other suit, action or proceeding at law or in equity, to enforce all rights of the Bond owners, including the right to require the Authority to charge, prescribe and collect Revenues adequate to comply with the covenants and agreements made herein, and to require the Authority to carry out any other covenant or agreement with the Bondholders and to perform its duties under the Act;

(2) by bringing suit upon the Bonds;

(3) by action or suit in equity, to require the Authority to account as if it were the trustee of an expressed trust for the Bondholders;

(4) by realizing or causing to be realized through sale or otherwise upon the moneys, securities and other assets pledged hereunder;

(5) by action or suit in equity, to enjoin any acts or things which may be unlawful or in violation of the rights of the Bondholders;

no such rescission and annulment shall extend to or shall affect any subsequent default, or shall impair or exhaust any right or power consequent thereon.

Section 7.03. Application of Revenues and Other Funds After Default. If an Event of Default shall occur and be continuing, all Revenues pledged hereunder and any other pledged funds then held or thereafter received by the Trustee, the Co-Trustee or the Depositary under any of the provisions of this Indenture (subject to Section 11.10) shall be under the control of and applied by the Co-Trustee as follows and in the following order:

(A) To the payment of any expenses necessary in the opinion of the Co-Trustee to protect the interests of the Holders of the Bonds and payment of reasonable charges and expenses of the Trustee, the Co-Trustee and the Depositary (including reasonable fees and disbursements of their respective counsel) incurred in and about the performance of their respective powers and duties under this Indenture;

(B) To the payment of the principal or Redemption Price of and interest then due on the Bonds (upon presentation of the Bonds to be paid, and stamping thereon of the payment if only partially paid, or surrender thereof if fully paid) subject to the provisions of this Indenture (including Section 6.02), as follows:

(1) Unless the principal of all of the Bonds shall have become or have been declared due and payable,

First: To the payment to the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

Second: To the payment to the persons entitled thereto of the unpaid principal or Redemption Price of any Bonds which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, with interest on the overdue principal at the rate borne by the respective Bonds, and, if the amount available shall not be sufficient to pay in full all the Bonds due on any date, together with such interest, then to the payment thereof ratably, according to the amounts of principal or Redemption Price due on such date to the persons entitled thereto, without any discrimination or preference.

(2) If the principal of all of the Bonds shall have become or have been declared due and payable, to the payment of the principal and interest then due and unpaid upon the Bonds, with interest on the overdue principal at the rate borne by the respective Bonds, and, if the amount available shall not be sufficient to pay in full the whole amount so due and unpaid, then to the payment thereof ratably, without preference or priority of principal over interest, or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, according to the amounts due respectively for principal

The enumeration of such rights and remedies does not, however, exclude the exercise or prosecution of any other rights or remedies available to the holders of Bonds.

Section 7.07. Absolute Obligation of Authority. Nothing contained in Section 7.06 or in any other provision of this Indenture or in the Bonds shall affect or impair the obligation of the Authority, which is absolute and unconditional, to pay the principal or Redemption Price of and interest on the Bonds to the respective Holders of the Bonds at their respective dates of maturity, or upon call for redemption, as herein provided, but only out of the Revenues and other assets herein pledged therefor, or affect or impair the right of such Holders, which is also absolute and unconditional, to enforce such payment by virtue of the contract embodied in the Bonds.

Section 7.08. Termination of Proceedings. In case any proceedings taken by the Co-Trustee or any one or more Bondholders on account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee, the Co-Trustee or the Bondholders, then in every such case the Authority, the Trustee, the Co-Trustee and the Bondholders, subject to any determination in such proceedings, shall be restored to their former positions and rights hereunder, severally and respectively, and all rights, remedies, powers and duties of the Authority, the Trustee, the Co-Trustee and the Bondholders shall continue as though no such proceedings had been taken.

Section 7.09. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Trustee, the Co-Trustee or to the Holders of the Bonds is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

Section 7.10. No Waiver of Default. No delay or omission of the Trustee, the Co-Trustee or any Holder of the Bonds to exercise any right or power arising upon the occurrence of any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Indenture to the Trustee, the Co-Trustee or to the Holders of the Bonds may be exercised from time to time and as often as may be deemed expedient.

## ARTICLE VIII

### THE FIDUCIARIES

Section 8.01. Duties, Immunities and Liabilities of Trustee, Co-Trustee and Depositary. (A) The Co-Trustee shall, prior to an Event of Default, and after the curing of all Events of Default which may have occurred, perform such duties and only such duties as are specifically set forth in this Indenture for it to perform. The Co-Trustee shall, during the existence of any Event of Default (which has not been cured), exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(B) The Trustee and the Depositary shall, prior to an Event of Default, and after the curing of all Events of Default which may have occurred, perform such duties and only such

(F) (1) Any Trustee appointed under the provisions of this Section in succession to the Trustee shall be a trust company or bank having the powers of a trust company doing business and having a combined capital and surplus of at least Fifty Million Dollars (\$50,000,000) and subject to supervision or examination by federal, state or territorial authority. If such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this Section the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this subsection (F)(1), the Trustee shall resign immediately in the manner and with the effect specified in this Section.

(2) Any Co-Trustee appointed under the provisions of this Section in succession to Co-Trustee shall be a trust company or bank having the powers of a trust company doing business and having a combined capital and surplus of at least Seventy-Five Million Dollars (\$75,000,000) and subject to supervision or examination by federal or state authority. If such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this Section the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Co-Trustee shall cease to be eligible in accordance with the provisions of this subsection (F)(2), the Co-Trustee shall resign immediately in the manner and with the effect specified in this Section.

(3) Any Depositary appointed under the provisions of this Section in succession to the Depositary shall be a trust company or bank having the powers of a trust company doing business and having a trust office in Guam, having a combined capital and surplus of at least Ten Million Dollars (\$10,000,000), and subject to supervision or examination by federal or territorial authority. If such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examination authority above referred to, then for the purpose of this Section the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of conditions so published. In case at any time the Depositary shall cease to be eligible in accordance with the provisions of this subsection (F)(3), the Depositary shall resign immediately in the manner and with the effect specified in this Section.

(G) Any company into which the Trustee, the Co-Trustee or the Depositary may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee, the Co-Trustee or the Depositary may sell or transfer all or substantially all of its corporate trust business, provided such company shall be eligible under subsection (F) of this Section, shall be the successor to such Trustee, Co-Trustee or Depositary, as the case may be, without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding. Any such successor shall give notice of such merger, conversion or consolidation to each other Fiduciary and to the Authority.

Whenever in the administration of the trusts imposed upon it by this Indenture the Trustee, the Co-Trustee or the Depositary shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a Certificate of the Authority, and such Certificate shall be full warrant to the Trustee, the Co-Trustee or the Depositary, as the case may be, for any action taken or suffered in good faith under the provisions of this Indenture in reliance upon such Certificate, but in its discretion the Trustee, the Co-Trustee or the Depositary may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

Section 8.05. Preservation and Inspection of Documents. All documents received by the Trustee, the Co-Trustee or the Depositary under the provisions of this Indenture shall be retained in its possession and shall be subject at all reasonable times to the inspection of the Authority and any Bondholder, and their agents and representatives duly authorized in writing, at reasonable hours and under reasonable conditions.

Section 8.06. Paying Agents. The Authority may at any time or from time to time appoint one or more Paying Agents, in addition to the Co-Trustee, for the purpose of paying the principal or Redemption Price of and the interest on Bonds of any series. At least one such Paying Agent (which may be the Co-Trustee) shall have a principal corporate trust officer in one of the States of the United States or in Guam. Each Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by this Indenture by executing and delivering to the Authority, the Trustee, the Co-Trustee and the Depositary a written acceptance thereof. The Co-Trustee shall enter into such arrangements with any such Paying Agent as shall be necessary and desirable to enable such Paying Agent to carry out the duties of its office. The Authority may remove any Paying Agent at any time by giving written notice of such removal to such Paying Agent, the Trustee, the Co-Trustee and the Depositary. Any Paying Agent may at any time resign by giving notice of such resignation to the Authority, the Trustee, the Co-Trustee and the Depositary and by giving affected Bondholders notice of such resignation by mail in the manner provided in Section 4.03. In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, transfer, assign and deliver any monies held by it to its successor, or, if there be no successor then appointed, to the Trustee. The Authority may appoint one or more successor Paying Agents and shall give prompt notice of the acceptance of appointment by any successor Paying Agent. Any Paying Agent appointed under the provisions of this Section shall satisfy the criteria for eligibility set forth in subsection (F)(1) of Section 8.01 with respect to the Trustee. The indemnities, privileges and limitations of liability provided the Trustee and the Co-Trustee hereunder shall be afforded to the Paying Agent.

## ARTICLE IX

### MODIFICATION OR AMENDMENT OF THE INDENTURE

Section 9.01. Amendments Permitted. (A) This Indenture and the rights and obligations of the Authority and of the Holders of the Bonds and of the Trustee and the Co-Trustee may be modified or amended at any time by a Supplemental Indenture which shall become effective when the written consents of each Credit Provider and the Holders of sixty percent (60%) in aggregate principal amount of the Bonds then Outstanding shall have been filed with the Trustee

(5) to make such changes as shall be required in connection with the procedures for making draws or other claims under any Credit Facility or for reimbursing amounts so drawn or otherwise received.

Section 9.02. Effect of Supplemental Indenture. From and after the time any Supplemental Indenture becomes effective pursuant to this Article, this Indenture shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the Authority, the Trustee, the Co-Trustee, the Depository and all Holders of Bonds Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any such Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 9.03. Endorsement of Bonds; Preparation of New Bonds. Bonds delivered after any Supplemental Indenture becomes effective pursuant to this Article may, and if the Co-Trustee so determines shall, bear a notation by endorsement or otherwise in form approved by the Authority and the Co-Trustee as to any modification or amendment provided for in such Supplemental Indenture, and, in that case, upon demand of the Holder of any Bond Outstanding at such effective date and presentation of his Bond for the purpose at the office of the Co-Trustee or at such additional offices as the Co-Trustee may select and designate for that purpose, a suitable notation shall be made on such Bond, at the expense of the Authority. If the Authority or the Co-Trustee shall so determine, new Bonds so modified as to conform, in the opinion of the Authority and the Co-Trustee, to any modification or amendment contained in such Supplemental Indenture, shall, at the expense of the Authority, be prepared and executed by the Authority and authenticated by the Co-Trustee, and upon demand of the Holders of any Bonds then Outstanding shall be exchanged at the principal corporate trust office of the Co-Trustee without cost to any Bondholder, for Bonds then Outstanding, upon surrender for cancellation of such Bonds, in equal aggregate principal amounts of the same Series, maturity and tenor.

Section 9.04. Amendment of Particular Bonds. The provisions of this Article shall not prevent any Bondholder from accepting any amendment as to the particular Bonds held by such Bondholder, provided that due notation thereof is made on such Bonds.

## ARTICLE X

### DEFEASANCE

Section 10.01. Discharge of Indenture. If the Authority shall pay and discharge the entire indebtedness on all Bonds Outstanding in any one or more of the following ways:

(A) by paying or causing to be paid the principal or Redemption Price of and interest on Bonds Outstanding, as and when the same become due and payable;

(B) by depositing with the Co-Trustee, irrevocably, in trust, at or before maturity, Federal Securities in the necessary amount (as provided in Section 10.03) to pay or redeem Bonds Outstanding; or

(C) by delivering to the Co-Trustee, for cancellation by it, Bonds Outstanding;



for redemption, as the case may be, on the Bonds to be paid or redeemed, as such principal or Redemption Price and interest become due; provided that substitution of such Federal Securities shall not be permitted without the consent of each Credit Provider for such Bonds;

provided, in each case, that the Co-Trustee shall have been irrevocably instructed (by the terms of this Indenture and by Request of the Authority) to apply such money to the payment of such principal or Redemption Price and interest with respect to such Bonds.

Section 10.04. Payment of Bonds after Discharge of Indenture. Notwithstanding any provisions of this Indenture, any moneys held by the Co-Trustee in trust for the payment of the principal or Redemption Price of, or interest on, any Bonds and remaining unclaimed for six years after the principal of all of the Bonds has become due and payable (whether at maturity or upon call for redemption or by acceleration as provided in this Indenture), if such moneys were so held at such date, or six years after the date of deposit of such moneys if deposited after said date when all of the Bonds became due and payable, shall, upon Request of the Authority, be repaid to the Authority free from the trusts created by this Indenture, and all liability of the Trustee, the Co-Trustee or Depositary with respect to such moneys shall thereupon cease and the Holders of such Bonds shall be entitled to look only to Revenues held by the Authority for payment of such Bonds; provided, however, that before the repayment of such moneys to the Authority as aforesaid, the Co-Trustee may (at the cost of the Authority) first publish at least once in one or more financial newspapers or journals circulated in Hagåtña, Guam, San Francisco, California, and New York, New York, a notice, in such form as may be deemed appropriate by the Trustee with respect to the Bonds so payable and not presented and with respect to the provisions relating to the repayment to the Authority of the moneys held for the payment thereof.

## ARTICLE XI

### MISCELLANEOUS

Section 11.01. Liability of Authority Limited to Revenues. No Bond issued hereunder shall be or become a lien, charge or liability against the Government or the Governor or against the Authority or the Board or against any property or funds of the Authority or the Board or the Government or the Governor, except to the extent of the pledge of Revenues and other assets hereunder, and neither the payment of the principal of any Bond or any part thereof, nor of any interest thereon, is a debt, liability or obligation of the Government.

Notwithstanding anything in this Indenture or in the Bonds contained, the Authority shall not be required to advance any moneys derived from any source other than the Revenues and other assets pledged under this Indenture for any of the purposes in this Indenture mentioned, whether for the payment of the principal or Redemption Price of or interest on the Bonds or for any other purpose of this Indenture. Nevertheless, the Authority may, but shall not be required to, advance for any of the purposes hereof any funds of the Authority which may be made available to it for such purposes.

Section 11.02. Successor Is Deemed Included in All References to Predecessor. Whenever in this Indenture the Authority, the Trustee, the Co-Trustee or the Depositary is named

herein. The Authority hereby declares that it would have entered into this Indenture and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issuance of the Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Indenture may be held illegal, invalid or unenforceable.

Section 11.09. Notice to Authority, Trustee, Co-Trustee and Depositary. Any notice to or demand upon the Trustee or the Depositary may be served or presented, and such demand may be made, at the Principal Office of the Trustee, which at the date of adoption of this Indenture is the following:

Bank of Guam  
111 Chalan Santo Papa, Suite 601  
Hagåtña, Guam 96910  
Attention: Trust Department

or at such other address as may have been provided in writing by the Trustee to the Authority and the Depositary.

Any notice to or demand upon the Co-Trustee may be served or presented, and such demand may be made, at the trust office designated by the Co-Trustee, which at the date of adoption of this Indenture is the following:

U.S. Bank National Association  
633 West Fifth Street, 24th Floor  
Los Angeles, CA 90071  
Attention: Corporate Trust Services  
Reference: Guam Power Authority Subordinate Revenue Bonds

provided, however, that for purposes of payment, transfer, registration and exchange of Bonds, presentation shall be made at the Principal Office of the Co-Trustee located at:

U.S. Bank National Association  
60 Livingston Avenue  
St. Paul, MN 55107  
Attention: Corporate Trust Operations

or at such other address as may have been provided in writing by the Co-Trustee to the Authority and the Trustee.

Any notice to or demand upon the Authority shall be deemed to have been sufficiently given or served for all purposes by being deposited, postage prepaid, in a post office letter box, addressed as follows:

Guam Power Authority  
P.O. Box 2977  
Hagåtña, Guam 96910-2977  
Attention: Chief Financial Officer

trust by it for the Holders of the Bonds entitled thereto, subject, however, to the provisions of Section 10.04.

Section 11.13. Funds and Accounts. Any fund required by this Indenture to be established and maintained by the Trustee, the Co-Trustee or the Depositary may be established and maintained in the accounting records of the Trustee, the Co-Trustee or the Depositary, either as a fund or an account, and may, for the purposes of such records, any audits thereof and any reports or statements with respect thereto, be treated either as a fund or as an account; but all such records with respect to all such funds shall at all times be maintained in accordance with industry practice, to the extent practicable, and with due regard for the requirements of Section 6.09 as established by Request of the Authority and for the protection of the security of the Bonds and the rights of every holder thereof.

Section 11.14. Article and Section Headings and References. The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Indenture.

All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof; and words of the masculine gender shall mean and include words of the feminine and neuter genders.

Section 11.15. Waiver of Personal Liability. No legislator, officer, agent or employee of the Authority shall be individually or personally liable for the payment of the principal or Redemption Price of or interest on the Bonds; but nothing herein contained shall relieve any such legislator, officer, agent or employee from the performance of any official duty provided by law.

Section 11.16. Saturdays, Sundays and Legal Holidays. If any party hereto is required to perform, pursuant to a provision of this Indenture, any act on a date which falls on a Saturday, Sunday or legal holiday, the party required to perform such act shall be deemed to have performed it in a timely manner, and in conformance with such provision, if it shall perform such act on the next succeeding Business Day.

Section 11.17. Execution in Several Counterparts. This Indenture may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the Authority, the Trustee, the Co-Trustee and the Depositary shall preserve undestroyed, shall together constitute but one and the same instrument.

Section 11.18. Governing Law. The rights and duties of the parties to this Indenture shall be governed by the laws of Guam, provided, however, that the administration of the trusts imposed upon the Trustee and the Co-Trustee by the Indenture and the rights and duties of the Trustee and the Co-Trustee hereunder shall be governed by, and construed in accordance

IN WITNESS WHEREOF, the GUAM POWER AUTHORITY has caused this Indenture to be signed in its name by its duly authorized officers, BANK OF GUAM, as Trustee and as a Depositary has caused this Indenture to be signed in its corporate name by one of its authorized officers, and U.S. BANK NATIONAL ASSOCIATION, as Co-Trustee and as a Paying Agent, has caused this Indenture to be signed in its corporate name by one of its authorized officers, all as of the day and year first above written.

GUAM POWER AUTHORITY

By \_\_\_\_\_  
Name:  
Title:

BANK OF GUAM, as Trustee and Depositary

By \_\_\_\_\_  
Name:  
Title:

U.S. BANK NATIONAL ASSOCIATION, as  
Co-Trustee and Paying Agent

By \_\_\_\_\_  
Name:  
Title:

EXHIBIT A

[FORM OF 2010 Series A BOND]

No. \_\_\_ - \_\_\_\_\_

\$

GUAM POWER AUTHORITY

SUBORDINATE REVENUE BOND, 2010 Series A

INTEREST RATE

MATURITY DATE

DATED

CUSIP

Registered Holder:

Principal Sum:

Dollars

The GUAM POWER AUTHORITY, a public corporation of the Government of Guam duly organized and existing under and by virtue of the laws of Guam (herein called the "Authority"), for value received, hereby promises to pay (but only out of the Revenues and other assets pledged therefor as hereinafter mentioned) to the registered holder identified above or registered assigns, on the maturity date specified above (subject to any right of prior redemption hereinafter mentioned), the principal sum specified above in lawful money of the United States of America; and to pay interest thereon, in like lawful money and solely from said Revenues and assets pledged under the Indenture hereinafter defined, from the interest payment date next preceding the date of authentication of this Bond (unless this Bond is authenticated as of a day during the period from the sixteenth day of the month next preceding any interest payment date to such interest payment date, inclusive, in which event it shall bear interest from such interest payment date, or unless this Bond is authenticated on or before \_\_\_\_\_, 2010, in which event it shall bear interest from \_\_\_\_\_, 2010) until payment of such principal sum shall be discharged as provided in the Indenture hereinafter mentioned, at the interest rate specified above per annum, payable semiannually on \_\_\_\_\_ and \_\_\_\_\_ in each year, commencing \_\_\_\_\_, 2010. The principal (or redemption price) hereof is payable upon surrender hereof at the corporate trust office of U.S. Bank National Association (herein called the "Co-Trustee" or the "Paying Agent") in St. Paul, Minnesota, and the interest hereon is payable by check or draft mailed by first class mail to the person in whose name this Bond is registered at the close of business on the fifteenth day of the month immediately preceding an interest payment date, at such person's address as it appears on the Bond registration books of the Co-Trustee. Upon the written request of any registered owner of \$1,000,000 or more in aggregate principal amount of 2010 Series A Bonds, payment of the principal or redemption price of and interest on such Bonds will be made by wire transfer as provided in the Indenture; provided that any such principal or redemption payment shall nevertheless be subject to the prior surrender of the 2010 Series A Bonds with respect to which such payment is made.

The 2010 Series A Bonds maturing on \_\_\_\_\_ are also subject to redemption prior to their respective stated maturities, in part in lots of \$5,000 principal, from Mandatory Sinking Account Payments established for such maturity as provided in the Indenture, on \_\_\_\_\_ and on each \_\_\_\_\_ thereafter to and including \_\_\_\_\_, at the principal amount thereof and interest accrued thereon to the date fixed for redemption, without premium.

The 2010 Series A Bonds maturing on \_\_\_\_\_ are also subject to redemption prior to their respective stated maturities, in part in lots of \$5,000 principal, from Mandatory Sinking Account Payments established for such maturity as provided in the Indenture, on \_\_\_\_\_ and on each \_\_\_\_\_ thereafter to and including \_\_\_\_\_, at the principal amount thereof and interest accrued thereon to the date fixed for redemption, without premium.

Notice of any redemption, identifying the Bonds or portions thereof to be redeemed, shall be given by the Co-Trustee not less than 30 nor more than 60 days before the date fixed for redemption by first class mail to each of the registered owners of Bonds designated for redemption at their addresses appearing on the Bond registration books of the Co-Trustee on the date the Bonds to be redeemed are selected. Receipt of such notice by such registered owners shall not be a condition precedent to such redemption.

If this Bond is called for redemption and payment is duly provided therefor as specified in the Indenture, interest shall cease to accrue hereon from and after the date fixed for redemption.

If an Event of Default (as that term is defined in the Indenture) shall occur, the principal of all Bonds (and the interest accrued thereon) may be declared due and payable upon the conditions, in the manner and with the effect provided in the Indenture. The Indenture provides that in certain events such a declaration and its consequences may be rescinded by the registered owners of not less than a majority in Accreted Value of the Bonds then outstanding.

The 2010 Series A Bonds are issuable only in fully registered form in denominations of \$5,000 or any integral multiple thereof. Subject to the limitations and upon payment of the charges, if any, provided in the Indenture, this Bond may be exchanged, at said office of the Co-Trustee, for a new fully registered Bond or Bonds, of the same series, maturity and tenor and of any authorized denomination or denominations and for the aggregate principal amount of this Bond then remaining outstanding.

This Bond is transferable by the registered owner hereof, in person or by its attorney duly authorized in writing, at said office of the Co-Trustee, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such transfer a new registered Bond or Bonds, of the same series, maturity and tenor and of any authorized denomination or denominations and for the same aggregate principal amount of this Bond then remaining outstanding, will be issued to the transferee in exchange therefor. The Co-Trustee shall not be required to register the transfer of this Bond during the five days next preceding any date established by the Co-Trustee for the selection of Bonds for redemption or at any time after selection of this Bond for redemption.

IN WITNESS WHEREOF, THE GUAM POWER AUTHORITY has caused this Bond to be executed in its name and on its behalf by the facsimile signatures of its Chairman of the Board of Directors and the Secretary of the Board of Directors of the Authority and its seal to be reproduced hereon by facsimile, all as of the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

GUAM POWER AUTHORITY

By \_\_\_\_\_  
Chairman of the Board of  
Directors of the Guam Power  
Authority

(SEAL)

Countersigned:

By \_\_\_\_\_  
Secretary of the Board of  
Directors of the Guam Power  
Authority

This is one the Bonds described in the within-mentioned Indenture which has been authenticated on \_\_\_\_\_.

U.S. BANK NATIONAL ASSOCIATION, as  
Co-Trustee

By:  
Authorized Officer







BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:

Guam Power Authority's Request to Issue

GPA Revenue Bonds and Subordinate

Revenue Bond Financing

} GPA Docket 10-01

PUC COUNSEL REPORT

*Introduction*

On April 22, 2010, the Guam Power Authority [GPA] filed its Petition for the Guam Public Utilities Commission [PUC] to review and approve GPA's request to issue GPA Revenue Bonds and Subordinate Bond Financing.<sup>1</sup> Therein, GPA indicates, that, together with the Consolidated Commission on Utilities and the Guam Economic Development Authority [GEDA] it has developed a borrowing plan for GPA. GPA plans to borrow up to \$210 Million in revenue bonds to pay for capital improvement projects and to refinance its existing debts. Attached hereto as Exhibit "A" is a list of projects to be included in the Bond Financing and certain costs of the financing.<sup>2</sup> Some of the major projects to be funded include matching funds for a \$16 Million United States Grant for Smart Grid projects, \$52.4 Million for improvement projects for transmission and distribution facilities and equipment, \$35 Million for a new office complex in Fadian, Mangilao, \$27.4 Million for GWA's Working Fund, and \$20 Million for Commercial Paper Loan Refinancing.<sup>3</sup>

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<sup>1</sup> GPA's Petition for Contract Review to Authorize GPA to issue Guam Power Authority Revenue Bonds and Subordinate Revenue Bond Financing GPA Docket 10-01 filed April 22, 2010.

<sup>2</sup> GPA's Supplemental filing: Revenue Bond Project Justification and Cost Benefit Analysis, GPA Docket 10-01, filed May 20, 2010.

<sup>3</sup> GPA's Petition for Contract Review, p. 1; however, although the Petition indicates that the total bond financing sought is up to \$210 Million, the total cost of the Projects listed in Exhibit "A" is \$220 Million.

GPA has submitted the direct testimony of its General Manager, Joaquin C. Flores, in support of its request that the PUC approve the issuance of GPA Revenue Bonds and Subordinate Revenue Bond Financing to \$210 Million.<sup>4</sup>

*Public Law 30-147 authorizes GPA to issue bonds to finance certain projects, to refund outstanding revenue bonds, and to fund certain reserves and outstanding obligations*

Public Law 30-147 was enacted into law by the Acting Governor on May 17, 2010. The law approves the terms and conditions of the issuance by GPA of revenue bonds to finance the local matching portion of the costs of the Smart Grid project, other generation, transmission and distribution projects, and the costs of the administration building. Second, the law approves the terms and conditions of the issuance by GPA of refunding bonds (i.e. to refund all or a portion of GPA's outstanding 1993 Series A and 1999 Series A revenue bonds). Third, the law approves the terms and conditions of issuance by GPA of Subordinate Revenue Bonds to refinance outstanding commercial paper notes and to fund the Working Capital Fund.<sup>5</sup>

In the Legislative Findings, the law indicates that GPA applied for and has been awarded a grant in the amount of approximately \$16.6 Million from the Office of Electricity Delivery and Energy Reliability of the United States Department of Energy (DOE) for modernization of its electric grid infrastructure through automation of the electric distribution system and acquisition and installation of smart electric meters for customers (the "Smart Grid project"). DOE requires GPA to provide funds to match the grant for the Smart Grid project within one hundred twenty (120) days of GPA's acceptance of the award from DOE.<sup>6</sup> GPA expects the Smart Grid project to create two hundred twenty (220) jobs during the first thirty-six (36) months and to result in up to Five Million Dollars of annual cost savings for GPA in each fiscal year for the first fifteen (15) years following completion of the installation of the Smart Grid project.<sup>7</sup>

GPA expects that the construction of its administrative building will stabilize and reduce the costs of providing the necessary space for administration and related services and to provide an opportunity to consolidate the office spaces of GPA and Guam Waterworks Authority.<sup>8</sup> This Legislation indicates that GPA needs to finance the completion of certain generation, transmission and distribution projects for the purpose

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<sup>4</sup> Testimony of Joaquin Flores, GPA Docket 10-01, filed May 10, 2010.

<sup>5</sup> Public Law 30-147, enacted May 17, 2010 at Sections 2, 3, and 4.

<sup>6</sup> Id., Section 1 at p. 2.

<sup>7</sup> Id. Section 1(e), p. 3.

<sup>8</sup> Id., Section 1(f), p. 3.

of enhancing system reliability, improving system stability, and installing new fire protection equipment in several of its power plants.<sup>9</sup>

GPA also seeks to refinance certain of its outstanding revenue bonds for debt service savings or to restructure debt service.<sup>10</sup> Based upon the foregoing, the Guam Legislature determined to approve the issuance of revenue bonds by GPA for the described purposes and the issuance of subordinate revenue bonds.<sup>11</sup> The Legislature approved the terms and conditions of the issuance of GPA of revenue bonds in a principal amount not to exceed One Hundred Fifty-Five Million Dollars for the purpose of financing the projects and paying the other costs created in the legislation.<sup>12</sup> The revenue bonds must have a final maturity not later than 32 years from the date of their issuance and bear interest at the rate as shall result in a net interest cost to GPA not exceeding 9%.<sup>13</sup> However, use by GPA of bond revenue proceeds is specifically premised upon PUC approval of each project for which GPA seeks to use bond proceeds. The law provides:

“The proceeds of the bonds may be allied to pay for the costs of issuance of the bonds, for accrued and capitalized interest thereon, for credit enhancement therefore, to provide for the reserves and to pay the local matching portion of the costs of the Smart Grid project, the costs of an administration building, and other generation, transmission and distribution projects, including but *not limited to*, environmental compliance, generation improvements, underground fuel pipeline conversion, fire protection upgrades at GPA facilities, power substation/transmission upgrades and improvements, system protection relaying improvements, and power distribution system improvements, subject in each case to approval by the GPUC of such projects in accordance with Chapter 12 of Title 12 of the Guam Code Annotated.” (emphasis added).<sup>14</sup>

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<sup>9</sup> Section 1(g), p. 3.

<sup>10</sup> Section 1(i), p. 3.

<sup>11</sup> Section 1(k), p. 4.

<sup>12</sup> Section 2(a), p. 4.

<sup>13</sup> Id.

<sup>14</sup> Section 2(c), p. 5.

The Legislature also approved the terms and conditions of the issuance of revenue bonds by GPA for the purposes of refunding all or a portion of GPA's outstanding 1993 Series A and 1999 Series A revenue bonds. However, refunding must result "in a positive net present value savings to the Authority." The final maturity of the bonds must not be greater than 15 years after the final maturity of the bonds being refunded.<sup>15</sup> The Legislature also authorized GPA to issue subordinate revenue bonds in a principal amount not to exceed Sixty Five Million Dollars, for certain purposes, which include payment for the cost of issuance of the subordinate bonds, for credit enhancement, to pay the costs of refinancing GPA's outstanding obligations relating to its commercial paper program, and to fund its working capital reserves.<sup>16</sup>

### *The Role of the Public Utilities Commission in Approval of the Bond Issuance*

GPA may not enter into contractual agreements or bond obligations prior to the written approval of the PUC.<sup>17</sup> With regard to issuance of the revenue bonds to finance the various projects, the terms and conditions of the issuance of the bonds must be approved by the PUC.<sup>18</sup> At a "macro" level, PUC must approve the overall bond financing package and the terms and conditions thereof. At a "micro" level, PUC must further approve each specific application of the proceeds of the bonds, including the costs of issuance of the bonds, the provisions for reserves, the Smart Grid Project, the costs of an administration building, other generation/transmission/distribution projects, including but not limited to, environmental compliance, generation improvements, underground fuel pipeline conversion, fire protection upgrades at GPA facilities, power substation/transmission upgrades and improvements, system protection relaying improvements, and power distribution system improvements. All of the aforementioned projects are "subject in each case to approval by the GPUC of such projects in accordance with Chapter 12 of Title 12 of the Guam Code Annotated."<sup>19</sup> PUC is also required to approve the refunding bonds.<sup>20</sup>

The application of the proceeds of the subordinate bonds for costs of issuance, for credit enhancement, for provision of reserves, and payment of the costs of outstanding obligations relating to the commercial paper program are "subject in each case to approval by the PUC as to such purpose in accordance with Chapter 12 of Title 12 of the

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<sup>15</sup> Section 3(a)(b), p. 6.

<sup>16</sup> Section 4(a) - (c), p. 7.

<sup>17</sup> Section 1(b), p. 2.

<sup>18</sup> Section 2(b), p. 5.

<sup>19</sup> Section 2(c), p. 5.

<sup>20</sup> Section 3(d), p. 6.

Guam Code Annotated.”<sup>21</sup> Pursuant to the PUC’s Contract Review Protocol for Guam Power Authority, all externally funded loan obligations and other financial obligations such as bonds in excess of \$1,500,000, and any use of such funds, require prior PUC approval.<sup>22</sup>

*Recommendation for Approval of the Terms and Conditions  
of the GPA Revenue Bonds and the Refunding Bonds*

Section 2 of Public Law 30-147 requires that the PUC approve the terms and conditions of the issuance of the GPA revenue bonds.<sup>23</sup> GPA revenue bonds, as set forth in the Preliminary Official Statement, are issued for the purpose of financing the 2010 projects, refunding outstanding bond, refunding of all or a portion of the Authority’s outstanding Bonds, making a deposit to Bond Reserve Fund, funding capitalized interest with respect to the Bonds, and paying expenses incurred in connection with the issuance of the Bonds.<sup>24</sup>

Counsel has reviewed, among others, the following bond documents:

- (1) the 1992 GPA Bond Indenture;
- (2) the 2010 Subordinate Indenture;
- (3) the Fourth Supplemental Indenture;
- (4) the Bond Purchase Agreement;
- (4) Preliminary Official Statement;
- (5) Appendix B to the Indenture;
- (6) The Consulting Engineers Report.

As to the form of the bond “Subordinate Indenture” and the “Fourth Supplemental Indenture”, such documents are standard and follow a similar format for previous bond issues of GPA and other government of Guam instrumentalities. Having fully reviewed these documents, Counsel doesn’t find that any provisions thereof are invalid, unacceptable or unenforceable. The terms and conditions of the bonds, as well as of the indentures themselves, have been prepared by the Guam Power Authority’s longtime Bond Counsel, the firm of Orrick Herrington & Sutcliffe LLP. Said firm has recommended that the Guam Power Authority use these same indenture forms which have been prepared and submitted to the Public Utilities Commission for approval.

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<sup>21</sup> Section 4(c), p. 7.

<sup>22</sup> Contract Review Protocol for Guam Power Authority, Administrative Docket, filed February 15, 2008.

<sup>23</sup> Public Law 30-147, Section 2.

<sup>24</sup> Preliminary Official Statement draft 5/13/10, p. 2.

Counsel recommends that the Commission approve the issuance, terms and conditions the GPA Revenue Bonds, the Supplemental indenture, and the Fourth Supplemental Indenture for the bonds. The issuance of the revenue bonds has already been approved by both the Legislative and Executive branches of the government of Guam, as evidenced by Public Law 30-147.

Similarly, Section 3 of Public Law 30-147 requires that the PUC approve the terms and conditions of the issuance by GPA of Refunding Bonds. These bonds are being issued in part, for refunding all or a portion of the Authority's outstanding 1993 Senior Bonds and 1999 Senior Bonds.<sup>25</sup> Provided that the refunding results in a positive net present value savings to the Authority, and the final maturity of the bonds is not greater than fifteen years after the final maturity of the bonds being refunded, Counsel recommends that the PUC approve the bonds pursuant to Section 3(d) of Public Law 30-147.

*Recommendation for Approval of the Terms and  
Conditions of the Issuance by GPA of Subordinate Revenue Bonds*

The 2010 Subordinate bonds are being issued for the purposes of:

- (1) Funding the working capital fund for the Authority;
- (2) Refinancing the Authority's currently outstanding commercial paper loan;
- (3) Making a deposit to the Subordinate Bond Reserve Fund in an amount equal to the Subordinate Bond Reserve Requirement;
- (4) Funding capitalized interest with respect to the 2010 Subordinate Bonds; and
- (5) Paying expense incurred in connection with the issuance of the 2010 Subordinate Bonds.<sup>26</sup>

The PUC has recognized the necessity of funding the Working Capital Fund. In both Phase II and Phase III of Docket 07-10, the PUC has recognized the liquidity problems faced by GPA, and considered the implementation of a base rate surcharge to fill the deficiency in the Working Capital Fund.<sup>27</sup> Funding the deficiency in the Working Capital Fund through the issuance of subordinate revenue bonds, rather than through a base rate surcharge, should result in savings to the customers of GPA.<sup>28</sup>

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<sup>25</sup> Preliminary Official Statement, p. 2.

<sup>26</sup> Preliminary Official Statement, p. 2.

<sup>27</sup> See FY10 (Phase II) Rate Decision, Docket 07-10, filed February 25, 2010.

<sup>28</sup> Direct Testimony of Joaquin C. Flores, GPA Docket 10-01, p. 8.

Another portion of the subordinate revenue bonds, are estimated to be \$20,000,000, will be utilized by GPA to refinance its Commercial Paper Loan. The Commission is fully aware of the difficulties that GPA has had with financing of its commercial paper program, and its prior need to modify and extend the commercial paper loan at somewhat unfavorable rates.<sup>29</sup> In addition, the PUC previously authorized GPA to procure a bank loan to payoff the existing Cathay Bank Loan. GPA was authorized to commence a procurement process in order to secure a new bank loan which would refinance its existing \$20 Million loan with Cathay Bank.<sup>30</sup> To date, GPA has been unable to secure a new bank loan to payoff its existing commercial paper debt.

However, as set forth below, although the purposes of the subordinate revenue bonds are legitimate, the PUC must more carefully scrutinize the details of these projects.

*The individual projects which GPA seeks to fund through  
Revenue Bonds and Subordinate Bonds should not be approved under  
the Contract Review Protocol at the present time.*

Under the Contract Review Protocol, and P.L. 30-147, the PUC is required to conduct a comprehensive and thorough review of each specific use of revenue bond funds. However, at present, PUC does not have full and adequate information to determine the prudence of these projects. For example, GPA has submitted some information concerning the Smart Grid Project. However, additional review is necessary. The PUC's Consultant, GCG, will present a Report on Smart Grid. While GPA should be authorized to identify bond funding for this project for purposes of the federal grant (which GPA indicates is due in July), there should be further discussions between GPA and PUC concerning the prudence of this project, an ongoing review process.

Little information has been presented by GPA concerning the costs of building a new office administration building for GPA/GWA at Fadian. No budget, detailed plans, or substantial justification have yet been presented. Further contract review proceedings are necessary regarding this project. The same analysis also applies to the generation, transmission, and distribution projects proposed by GPA. On May 21, 2010, GPA filed a "Supplemental Filing for GPA's Revenue Bond Project Justification & Cost Benefit Analysis." However, due to the date of filing, PUC has not had a full opportunity to

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<sup>29</sup> Order Approving Commercial Paper Program, Docket No. 94-04 [the Application of the Guam Power Authority to Issue Commercial Paper Notes], issued February 5, 2009.

<sup>30</sup> See PUC Order Authorizing Procurement for Bank Loan, Docket 94-04, issued April 30, 2009.

review these projects under the Contract Review Protocol.<sup>31</sup> GPA is requesting that its engineering project listing and its generation performance improvement projects and capital improvement project listings for the next three years (FY2010, 2011, 2012) be financed with the proceeds of this bond issuance.<sup>32</sup> PUC must review these projects, as well as the financing, in more detail. Counsel suggests that the PUC authorize ongoing contract review proceedings.

GPA is in agreement that, at the present time, it is sufficient for PUC to authorize the issuance of the bonds: "therefore, GPA is requesting to follow the pattern of the GWA 2005 bond issuance wherein the utility was authorized to proceed with the issuance of bonds and yet expenditure authorizations for certain projects were withheld pending the provision of additional cost justifications."<sup>33</sup>

Counsel requests the same approach with the proposed refunding bonds and subordinate bonds. More information is needed as to the financial terms of refunding. With regard to the subordinate bonds, the issuance of the bonds should be approved. However, the PUC should continue proceedings to further examine the financial details of the funding of the working capital funds and the refinancing of the commercial paper notes. Counsel recommends that the PUC authorize the ALJ to undertake further proceedings in this docket to examine the prudence of all of the proposed projects and financings under the Contract Review Protocol.

### *Rate Impact of the Bond Issuance*

PUC Counsel has also requested that the PUC's Consultant, GCG, examine the rate impact of the bond issuance. A Report is forthcoming. At this point it may be difficult to precisely ascertain such impact. GPA has provided to Counsel a "Five Year Forecast", a true and correct copy of which is attached hereto as Exhibit "B". The Five Year Forecast is based upon projected rate increases and revenue streams for FY10 through FY14 which have not yet been approved by the Commission. If the test year revenues and other assumptions contained in the forecast were approved by the PUC, Counsel estimates that there could be a 15% rate increase on the total bill through FY14. A major impact of 5.6% occurs in FY14, which is the result of fact that principal and interest payments from the 2010 Bonds begin to become due that year.

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<sup>31</sup> Supplemental Filing for GPA's Revenue Bond Project Justification & Cost Benefit Analysis, GPA Docket 10-01 filed May 21, 2010.

<sup>32</sup> Id. at p. 5.

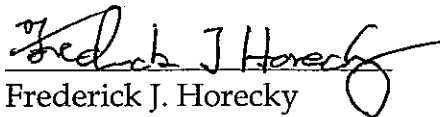
<sup>33</sup> Id. at p. 4.



*Recommendation*

PUC Counsel recommends that the PUC approve the issuance, terms and conditions of the 2010 Revenue Bonds, the Refunding Bonds, and the 2010 Subordinate Revenue Bonds. The Commissioners should make the determinations set forth in Exhibit "C" hereto, a Proposed Decision. The opinions herein are only stated for the benefit of the Commissioners of the PUC and are not intended to be relied upon by any other person or entity.

Dated this 25<sup>th</sup> day of May, 2010.

  
Frederick J. Horecky  
PUC Legal Counsel

**Guam Power Authority**  
Projects to be Included in Bond Financing

**Appendix A**

<b>Revenue Bond Projects</b>	<b>Estimated Cost</b>
Smart Grid Projects	\$ 17,000,000
Consolidated Main Office & Operation Facility Improvements	35,000,000
Environmental Compliance	1,900,000
Generation Improvements	16,859,000
Underground Fuel Pipeline Conversion	2,150,000
Fire Protection Upgrades at GPA Facilities	3,808,000
Power Substation/Transmission Upgrades and Improvements	11,550,000
System Protection Relaying Improvements	1,893,000
Power Distribution System Improvements	16,159,000
<b>Subtotal</b>	<b>\$ 106,319,000</b>
Bond Issuance Costs	1,891,500
Bond Reserve Fund	9,161,028
Capitalized Interest	17,023,500
Contingency for Interest Rate Fluctuations/ Possible Credit Enhancement Costs	20,604,972
<b>Total</b>	<b>\$ 155,000,000</b>

<b>Subordinate Revenue Financing</b>	<b>Estimated Cost</b>
Working Capital Fund Loan	\$ 27,400,000
Commercial Paper Loan Refinancing	20,000,000
<b>Subtotal</b>	<b>\$ 47,400,000</b>
Bond Issuance Costs	502,500
Bond Reserve Fund	3,350,000
Capitalized Interest	1,758,750
Contingency for Interest Rate Fluctuations/ Possible Credit Enhancement Costs	11,988,750
<b>Total</b>	<b>\$ 65,000,000</b>

**Guam Power Authority  
Five Year Forecast**

	WCF Surcharge Impact				
	0.0%	2.03%			
% Rate Increase on Total Bill	2.8%	0.0%	2.42%	2.32%	5.62%
	FY10	FY11	FY12	FY13	FY14
1 Proforma Income Statement					
2 Base Revenues	\$ 141,593	157,332	161,607	175,138	186,870
3 Fuel Revenues	\$ 236,374	244,267	250,796	255,851	258,168
4 WCF Surcharge	\$ -	\$ 4,085	\$ 8,170	\$ 8,170	\$ 8,170
5 Miscellaneous Revenues	\$ 1,477	1,507	1,537	1,567	1,598
6 Revenue from Allowed Rate Change	\$ 6,149	-	10,000	10,000	25,000
7					
8 Total Revenues	\$ 385,594	\$ 407,191	\$ 432,110	\$ 450,727	\$ 479,807
9					
10 Production Fuel	\$ 236,374	\$ 244,267	\$ 250,796	\$ 255,851	\$ 258,168
11 IPP Costs	\$ 19,658	20,051	20,452	20,861	21,278
12 Production Non-fuel	\$ 24,350	25,373	26,438	27,549	28,706
13 Transmission and Distribution	\$ 12,574	13,102	13,652	14,226	14,823
14 Administrative and General	\$ 31,826	33,163	34,556	36,007	37,519
15 Customer Accounting	\$ 4,936	5,143	5,359	5,584	5,819
16 Total O&M Expenses	\$ 73,686	\$ 76,781	\$ 80,006	\$ 83,366	\$ 86,867
17 Depreciation	\$ 27,761	28,247	28,744	29,251	29,768
18					
19 Total Operating Expenses	\$ 357,479	\$ 369,345	\$ 379,997	\$ 389,328	\$ 396,081
20					
21 Earnings From Operations	28,115	37,845	52,113	61,399	83,726
22					
23 Other Revenues (Expenses):					
24 Investment Income	\$ 2,132	5,551	4,887	3,774	3,229
25 Interest expense (TCP Debt)	(683)	-	-	-	-
26 Interest expense (New \$17M Loan)	\$ (574)	\$ (992)	\$ (772)	\$ (536)	\$ (283)
27 Interest expense (Bonds)	\$ (19,688)	\$ (19,279)	\$ (18,848)	\$ (18,394)	\$ (17,917)
28 Interest expense (2010 Series A Bond)			(1,088)	(997)	(902)
29 Interest expense (2010 Series B Bond)					(7,716)
30 Interest expense (2011 Series A Bond)					(8,565)
31 Interest expense (WCF)		(1,173)	(2,036)	(1,599)	(1,131)
32 Interest expense (IPP's)	\$ (15,056)	(14,021)	(12,849)	(11,522)	(10,020)
33 AFUDC	500	1,065	746	373	-
34 Amortization of Issuance Costs	\$ (1,514)	\$ (1,897)	\$ (1,897)	\$ (1,897)	\$ (1,897)
35					
36 Net Earnings	\$ (6,768)	\$ 7,101	\$ 20,256	\$ 30,601	\$ 38,525
37					
38 Debt Service Coverage Calculation					
39 Earnings From Operations	\$ 28,115	\$ 37,845	\$ 52,113	\$ 61,399	\$ 83,726
40 Add Interest Income	\$ 1,348	\$ 1,887	\$ 2,011	\$ 2,333	\$ 2,357
41 Add: Depreciation	27,761	28,247	28,744	29,251	29,768
42 Balance Available for Debt Service	\$ 56,124	\$ 67,979	\$ 82,867	\$ 92,982	\$ 115,851
43 Debt Service					
44 Bond Interest Expense	19,688	20,451	21,971	20,991	36,231
45 Bond Principal	7,795	11,118	16,557	17,539	22,072
46 Total Debt Service	27,483	31,569	38,528	38,530	58,303
47					
48 Debt Service Coverage (Bond Method)	2.04	2.15	2.15	2.41	1.99
49 Debt Service Coverage (S&P Method)	1.24	1.42	1.55	1.81	1.59
50 Debt Service Coverage (GPA Method)	1.01	1.16	1.26	1.42	1.36
51					
52 Internal Cashflow Statement					
53 Total Cash Generated	\$ 22,007	\$ 36,180	\$ 50,151	\$ 61,375	\$ 70,190
54 CIP's-Internally Funded	(5,844)	(9,701)	(10,553)	(17,616)	(17,916)
55 Cabras 3 & 4 (CIPS & PIPS)	-	-	-	(3,994)	(4,153)
56 Cabras 1 & 2 (CIPS & PIPS)	-	-	-	(4,443)	(4,672)
57 Cabras 1 & 2 (CIPS & PIPS)-Financing	(3,485)	-	-	-	-
58 Principal Payment (1993 & 1999 Series)	\$ (7,795)	(8,205)	(8,635)	(9,090)	(9,565)
59 Principal Payment (2010 Series A)			(1,787)	(1,878)	(1,973)
60 Principal Payment (2010 Series B)					(1,656)
61 Principal Payment (2011 Series A)					(1,838)
62 Principal Payment (WCF)		(2,913)	(6,135)	(6,572)	(7,040)
63 Principal Payment (IPP's)	\$ (8,028)	(9,084)	(10,235)	(11,562)	(13,064)
64 Principal Payment (\$17M Loan)	\$ (1,446)	\$ (3,047)	\$ (3,267)	\$ (3,504)	\$ (3,757)
65 Principal Payment (TCP Loan)	\$ (2,500)	-	-	-	-
66 Decrease (Increase) in WC Requirements:					
67 Note Payment from GPSS	\$ 2,069	2,163	2,262	1,862	-
68 Note Payment from GWA	\$ 2,084	1,840	-	-	-
69 Fuel Cost Over(Under) Recovery	\$ 5,514	-	-	-	-
70 Materials Inventory	\$ (1,500)	(1,000)	(1,000)	(1,000)	(1,000)
71 Other WC Requirement	\$ (425)	-	-	-	-
72 Proceeds from 2010 Series A Bonds	\$ 17,072	-	-	-	-
73 Construction Fund 2010 Series A Bond	\$ (17,072)	-	-	-	-
74 Proceeds from 2010 Series B Bonds	\$ 89,442	-	-	-	-
75 Construction Fund 2010 Series B Bond	\$ (89,442)	-	-	-	-
76 Proceeds from the \$17M loan	\$ 17,000	-	-	-	-
77 Payoff TCP Loan	\$ (15,000)	-	-	-	-
78 Proceeds from 2010 Series C Bonds	\$ 27,477	-	-	-	-
79 WC Fund Funding Requirement	\$ (27,477)	(948)	(846)	(735)	(520)
80 Construction Fund 2011 Series A Bond		110,028	-	-	-
81 Proceeds from 2011 Series A Bonds		(110,028)	-	-	-
82 Surplus Fund Funding	\$ (1,866)	(1,641)	(7,078)	(1,403)	(2,163)
83 Construction Fund Interest Income	\$ (784)	(3,664)	(2,876)	(1,441)	(873)
84					
85 Cash (Deficiency)/Surplus	\$ (0)	\$ (0)	\$ (0)	\$ (0)	\$ 0
86 No. Of Days in Surplus Fund	2	4	11	12	14
87 No. Of Days in WC Fund	30	30	30	30	30
88 Equity Ratio (FY 09 = 22%)	17%	16%	16%	21%	25%

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF:	}	GPA Docket 10-01
Guam Power Authority's Request to Issue	}	
GPA Revenue Bonds and Subordinate	}	
Revenue Bond Financing	}	
_____	}	

**ORDER**

On April 22, 2010, the Guam Power Authority petitioned the Commission for authority to issue up to \$65 million in subordinate bonds for the purpose of refunding indebtedness and replenishing working capital reserves, additional senior bonds for the purpose of refunding certain outstanding senior bonds, and up to \$155 million in additional senior bonds for the purpose of financing new capital projects.

The Commission has examined the petition and the findings and recommendations of its Regulatory Consultant. After discussion at a duly convened Commission meeting on May 27, 2010 and upon specific finding that the GPA petition is in the best interests of GPA's ratepayers, the Commission, by unanimous vote of four Commissioners, hereby **ORDERS THAT:**

1. The order approving long term debt, in form attached ("Debt Order"), shall be and is hereby adopted by the Commission.
2. GPA is reminded that it must obtain prior approval of the new projects, as scheduled on Exhibit A to the Debt Order, before either procurement can begin on the projects or before bond proceeds can be expended or committed on them.
3. A portion of the bond proceeds authorized by the Debt Order will be used to refund the 1993 Bonds or the 1999 Bonds (as defined in the Debt Order).

PUC Order  
GPA Request to Issue Revenue Bonds and  
Subordinate Revenue Bonds  
GPA Docket 10-01  
May 27, 2010

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Dated this 27<sup>th</sup> day of May, 2010.

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Jeffrey C. Johnson  
Chairman

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Joseph M. McDonald  
Commissioner

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Rowena E. Perez  
Commissioner

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Filomena M. Cantoria  
Commissioner

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Michael A. Pangelinan  
Commissioner

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF:	}	GPA Docket 10-01
Guam Power Authority's Request to Issue	}	
GPA Revenue Bonds and Subordinate	}	
Revenue Bond Financing	}	
_____	}	

**ORDER APPROVING LONG-TERM DEBT**

On September 28, 1992, this Commission adopted an Order approving certain aspects of the proposal of the Guam Power Authority ("GPA") to issue and sell long-term debt in the form of revenue bonds (the "Bonds") pursuant to Chapter 8 of Title 12 of the Guam Code Annotated (Sections 8101 et seq.) (the "Act") for the purposes of financing certain additions and improvements to the electric power system of GPA and, as part of such financing program, refunding certain of GPA's then outstanding bonds and other indebtedness.

The proposed form of an indenture pursuant to which the Bonds in one or more series were proposed to be issued (the "Indenture") was presented to the Commission at that time. In accordance with the Act, the covenants and agreements authorized by the Act and included in the Indenture were approved by said Order for inclusion in substantially such form in the Indenture executed by GPA; and certain modifications of such form were approved by Order of the Commission adopted on December 3, 1992.

GPA executed and delivered the Indenture on January 5, 1993, and has previously issued four series of Bonds, having the terms and issued for the purposes authorized and approved by Orders of the Commission heretofore adopted.

GPA has now applied to the Commission for approval of one or more additional series of Bonds in an amount not to exceed \$155 million (the "Additional Bonds") for the purposes of financing certain additions and improvements described in Exhibit A to this Order (the "New Projects"), and one or more additional series of Bonds (the "Refunding Bonds") for the purpose of refunding all or a portion of the GPA's outstanding Revenue Bonds, 1993 Series A (the "1993 Bonds") and 1999 Series A (the "1999 Bonds") under the limitations provided in Public Law

No. 30-147, An Act Relative to Approving the Terms and Conditions of the Issuance by Guam Power Authority of Revenue Bonds, etc., (hereinafter referred to as the "GPA 2010 Bonds Law").

The proposed form of supplemental indenture pursuant to which the Additional Bonds and the Refunding Bonds are proposed to be issued and certain amendments to the Indenture that are proposed to be made have been presented to the Commission (together with certain financial and other relevant information) and is attached hereto, together with the Indenture, as Exhibit B (the "Supplemental Indenture").

GPA has now also applied to the Commission for approval of a new indenture (the "Subordinate Indenture"), and for approval of its issuance of one or more series of subordinate bonds in an amount not to exceed \$65 million (the "Subordinate Bonds") for purposes of refunding outstanding indebtedness of GPA and replenishing GPA's working capital reserves.

The Commission having duly considered the application of GPA and the information presented on GPA's behalf and having determined that the issuance of the Additional Bonds, the Refunding Bonds and the Subordinate Bonds for such purposes are just and reasonable, it is ordered as follows:

1. The covenants and agreements authorized by Section 8210 of the Act and included in Exhibit B are hereby approved for inclusion in substantially such form in the Indenture as supplemented and amended by the Supplemental Indenture executed by GPA; provided, however, that any material modification or amendment of the Supplemental Indenture shall be subject to the Commission's prior review and approval. GPA shall have the responsibility of bringing any such material modification or amendment to the Commission's attention.
2. The covenants and agreements authorized by Section 8210 of the Act and included in Exhibit C are hereby approved for inclusion in substantially such form in the Subordinate Indenture executed by GPA; provided, however, that any material modification or amendment of the Subordinate Indenture shall be subject to the Commission's prior review and approval. GPA shall have the responsibility of bringing any such material modification or amendment to the Commission's attention.
3. For the purposes of implementing the New Projects and refunding all or a portion of the outstanding 1993 Bonds and 1999 Bonds,

GPA is authorized to borrow funds under the terms and conditions described in Exhibit B. The principal amount of Additional Bonds that may be issued may not exceed \$155,000,000 and shall be the amount projected to be necessary to implement the New Projects, and provide for original issue discount (if any), a credit enhancement fee (if applicable), underwriters' discount, other costs of issuance, a debt service reserve fund deposit (if applicable) and capitalized interest. The Refunding Bonds may be issued in an aggregate principal amount necessary to provide for the refunding of all or a portion of the outstanding 1993 Bonds and 1999 Bonds under the limitations provided in the GPA 2010 Bonds Law, and provide for original issue discount (if any), a credit enhancement fee (if applicable), underwriters' discount, other costs of issuance and a debt service reserve fund deposit (if applicable). As provided in the GPA 2010 Bonds Law, the net rate of interest on the Additional Bonds and the Refunding Bonds, taking into account interest payments on such Bonds, original issue discount, if any, direct subsidy payments to be received from the federal government in connection with such Bonds, if any, and credit enhancement fees, if any (treating such fees as if they were interest on such Bonds), shall not exceed nine percent (9.0%) per annum. Original issue discount and credit enhancement each shall not be used unless it results in a lower yield on such Bonds, as evidenced by a certificate of GPA. Capitalized interest shall not exceed an amount sufficient to pay interest on the portion of such Additional Bonds issued to implement each New Project for the period prior to the date six months after the projected completion date of such New Project. Underwriters' discount (not including original issue discount) shall not exceed one and one-quarter percent (1.25%) of the original principal amount of such Bonds. Other costs of issuance (including, but not limited to, fees and disbursements of bond counsel, printing fees, rating agency fees, initial trustee's fees, escrow agent fees, verification agent fees, consulting engineer fees and the fee of the Guam Economic Development Authority) shall not exceed \_\_\_\_\_ percent (\_\_\_\_%) of the original principal amount of such Bonds.

The final maturity of the Additional Bonds shall be less than 32 years after the date of their issuance. The final maturity of the Refunding Bonds shall not be greater than 15 years after the final maturity of the Bonds being refunded.



4. For the purposes of refunding outstanding indebtedness of GPA and replenishing its working capital reserves, GPA is authorized to borrow funds under the terms and conditions described in Exhibit C. The principal amount of Subordinate Bonds that may be issued may not exceed \$65,000,000, and shall be the amount projected to be necessary to refinance GPA's outstanding subordinate obligations, fund its working capital reserve, and provide for original issue discount (if any), a credit enhancement fee (if applicable), underwriters' discount, other costs of issuance, a debt service reserve fund deposit (if applicable) and capitalized interest. As provided in the GPA 2010 Bonds Law, the net rate of interest on the Subordinate Bonds, taking into account interest payments on such Bonds, original issue discount, if any, and credit enhancement fees, if any (treating such fees as if they were interest on such Bonds), shall not exceed nine percent (9.0%) per annum. Original issue discount and credit enhancement each shall not be used unless it results in a lower yield on such Bonds, as evidenced by a certificate of GPA. Underwriters' discount (not including original issue discount) shall not exceed one and one-quarter percent (1.25%) of the original principal amount of such Subordinate Bonds. Other costs of issuance (including, but not limited to, fees and disbursements of bond counsel, printing fees, rating agency fees, initial trustee's fees, consulting engineer fees and the fee of the Guam Economic Development Authority) shall not exceed \_\_\_\_\_ percent (\_\_\_\_%) of the original principal amount of such Subordinate Bonds.

The final maturity of the Subordinate Bonds shall be less than 15 years after the date of their issuance.

Dated this 27<sup>th</sup> day of May, 2010.

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Jeffrey C. Johnson  
Chairman

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Joseph M. McDonald  
Commissioner

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Rowena E. Perez  
Commissioner

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Filomena M. Cantoria  
Commissioner

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Michael A. Pangelinan  
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