GUAM PUBLIC UTILITIES COMMISSION
SPECIAL MEETING
July 27, 2010
SUITE 202, GCIC BUILDING, HAGATNA

MINUTES

The Guam Public Utilities Commission [PUC] conducted a meeting commencing at 7:10 p.m. on July 27, 2010, pursuant to due and lawful notice. Commissioners Johnson, Cantoria, McDonald, and Pangelinan were in attendance. Commissioner Perez joined the meeting at 7:45pm. The following matters were considered at the meeting under the agenda made *Attachment "A"* hereto.

1. Approval of Minutes

The PUC reviewed the minutes of the meetings conducted on April 29, May 27, June 3 and June 16, 2010. Upon motion duly made, seconded and unanimously carried, the minutes were approved (subject to any further corrections which Commissioner Perez might have, which could be communicated to Legal Counsel separately).

2. Guam Power Authority

The Chairman stated that the first matter for consideration by the Commission was GPA Docket 10-02: Navy Complaint on LEAC Billing Issues, GPA Response, ALJ Report, and Proposed Order. Legal Counsel indicated that this matter arose upon the Complaint by Navy regarding certain billing issues. Navy believed that it had been over billed; GPA had based Navy fuel charges upon distribution level line losses, among other factors. The Customer Services Agreement [CSA] sets forth how Navy fuel charges are to be calculated. Navy asserts that, since it is a transmission level customer, it should not be billed based upon distribution level line losses. Navy alleged that there were erroneous billings of over $4 million.

The Administrative Law Judge had set this matter for hearing. Prior to hearing, GPA admitted that there had been a billing error, and that the billings were not calculated in accordance with the CSA. The CSA allows GPA to correct billing errors going back for 12 months. Subsequently the parties entered a Stipulation, agreeing that Navy would receive billing credits of $4.1 million in equal installments over a one year period. Navy also agreed to drop certain other issues involving the inclusion of fuel inventory charges and wind study charges in the LEAC factor. Counsel indicated that there was an ALJ report approving the Stipulation. The proposed Order would approve the Settlement of the billing credit to the Navy. GPA would bear the regulatory costs of the proceeding.

Commissioner Cantoria asked whether this error would affect charges to other customers. Counsel indicated that it would. The error would increase charges to ratepayers, but did not in itself result in an increase in the LEAC factor. Commissioner Cantoria asked whether GPA would revise its LEAC application. Counsel indicated that it would, since the CSA required treatment of the Navy as a transmission level customer. Commissioner Cantoria pointed out that this error caused an allocation problem, that others must absorb the costs. Counsel agreed. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the Stipulation between the parties and the Order made *Attachment "B"* hereto.

The Chairman then announced that the next matter for consideration by the Commission was Docket No. 02-04: GPA's June 15, 2010 LEAC filing, Consideration of the Georgetown Report and Proposed Order. Counsel indicated that, in accordance with the LEAC procedures and protocol, on June 15, 2010, GPA filed its Petition requesting that the LEAC factor for the period of August 1, 2010 thru January 31, 2011, be decreased from $.15046 per kWh to $.13076 per kWh, a nearly two cent per kWh reduction, for meters read on and after August 1, 2010. The matter was referred to the Georgetown Consulting Group, the PUC's consultant. GCG filed its report: during its investigation, it became aware that fuel prices for No. 2 and No. 6 fuel oil had decreased to approximately $70 per barrel, based upon the updated Morgan Stanley Forecasts as of July 7, 2010. Based upon such reduction in fuel price, GCG recommended that the LEAC factor be further reduced to $.12465 per kWh, a drop in the LEAC factor of approximately 2 ½ cents per kWh.

The GCG report addressed other matters, such as appropriateness of including certain line of credit bank charges in the LEAC factor, declining fuel charges, and adjustments to the valuation of fuel inventory costs. With regard to line losses, GCG suggested that the "Smart Grid" program should reduce line losses. GPA filed a response to the GCG report, indicating that it would need more time to determine what impact the Smart Grid program would have on line losses once the project was up and running. Counsel indicated that the "line loss" issue is still a pending before the PUC- - the PUC has set a interim rate of 7% as a permissible line loss for GPA.

The proposed Order would decrease the LEAC factor approximately 2 ½ cents per kWh which is a 11.5% decrease in the total bill for residential customers using 1000kWh per month. In other provisions of the Proposed Order, GPA would be mandated to file a petition by September 15, 2010, to outline its schedule and solution for the development of new line loss standards. In addition, before September 15, 2010, GPA would file a position statement as to whether different LEAC rates should be instituted for customers served at different voltage levels (i.e. transmission/distribution levels). The Chairman confirmed that GPA was in agreement with the reduction in the LEAC factor. Furthermore, the Chairman asked questions following up on outstanding issues, such as fuel hedging and reduction in the LEAC PUC review period from six months to three or four months. GPA, thru its Chief Financial Officer Randy Wiegand, indicated that these matters were still under consideration and review by GPA. Commissior Cantoria indicated that perhaps if there was a reduction in the LEAC factor, it should be given immediately to the customers. Counsel indicated that the present setting of a six month LEAC factor was designed to smooth rates, and to lower the volatility of rates. Upon motion duly made, seconded and unanimously carried, the Commissioners approved a reduction in the LEAC factor in accordance with the Order made *Attachment "C"* hereto.

The PUC next considered GPA Docket 10-01: Request for Authorization to Payoff Cathay Bank Loan, Deposit Funds to Working Capital Fund, and Reimburse Loan Principal Payments to GPA; Chairman's Order dated July 1, 2010. The Chairman indicated that on July 1, 2010, he had issued an Order authorizing GPA to pay off the Cathay Bank Loan and to deposit funds to the working capital fund. This matter was before the Commissioners for "ratification". Counsel indicated that GPA had come to Counsel at the end of June, 2010, requesting an Order authorizing it to pay off the Cathay Bank Loan and to fill the working capital fund. These were conditions for issuance of the bonds. Since the Commission could not meet to address these issues, the Chairman signed an Order authorizing GPA to pay off the Cathay Bank Loan Guam funds, and secondly, to fill the WCF amounts approved under the bond issuance. The bond indenture indicated that the bonds could not be issued without approval of both of these matters.

Commissioner Pangelinan noted that there was one deferred item in the Order, which was a "request for reimbursement" by GPA. Counsel indicated that the matter of reimbursement of GPA in the amount of $6 Million was still a pending, unresolved issue. Upon motion duly made, seconded and unanimously carried, the Commissioners ratified the July 1, 2010 Order of the Chairman authorizing the payoff of the Cathay Bank Loan and the filling of the Working Capital Fund with bond proceeds.

The Chairman indicated that the next matter for PUC consideration would be Docket 07-10, GPA Petition to Modify Working Capital Fund Surcharge and Proposed Order. Counsel reported that this matter was before the Commissioners because of a need to modify the prior PUC Working Capital Fund Surcharge Order. Previously, the Commission had ordered a surcharge to be implemented effective August 1, 2010 by which ratepayers would fill the Working Capital Fund through surcharge payments. However, the prior Order had indicated that, if GPA was successful in obtaining bond issuance, and the WCF could be filled through bond funds, there would no longer be a need for the WCF Surcharge effective August 1.

Since the WCF has been filled, an alternative surcharge can potentially be implemented on April 1, 2011- - that surcharge would seek to recover principal and interest on bond issuance related to the filling of the Working Capital Fund Surcharge. A new surcharge has not yet been developed. For the time being, it is important for the Commission to halt the effectiveness of the surcharge that would otherwise go into effect on August 1,

2010. A second issue is whether a new WCF Surcharge should subsequently go into effect. The Proposed Order would refer this matter to the Administrative Law Judge for consideration and would not, in any event, go into effect until April 1, 2011. The ALJ would make recommendations to the PUC as to what Surcharge should be adopted. Commission Pangelinan noted the need to correct a error in a date on the Order. Thereafter, upon motion duly made, seconded and unanimously carried, the Commissioners voted to halt the effectiveness of the WCF Surcharge that would otherwise have gone into effect on August 1, 2010, and approved the Order made *Attachment "D"* hereto.

The next matter to come before the Commission was GPA Docket 10-01: Petition for Contract Review for Approval of 2010 Bond Projects, Counsel Report and Proposed Order. Counsel reported that these twelve GPA projects were before the Commission when it considered and approved the bond issuance. These twelve projects relate to different aspects of GPA operations, such as upgrades to substations, pole hardening, fire protection, distribution projects concerning the reliability of the power system, and an underground fuel line among others. GPA filed justifications for each project when it filed its request for bond issuance.

There could be a deleterious impact on the ratepayers if some of these projects are not completed, such as the upgrades to the Agana, Agat and Tumon substations. The substations are using transformers that were put in place in the 1960s. They could go out and cause serious power consequences. Counsel indicated that his Report has listed the projects for which approval is sought and those projects are also set forth in the Proposed Order. The total cost of the projects is over $34 Million, and they would be funded through bonds. In each case GPA has provided a well documented substantial costs/benefit analysis, where alternatives are addressed, and risks set forth if the projects are not undertaken. All of the projects have a positive costs/benefit ratio, although some have a higher ratio than others. These projects have been discussed for a number of years by GPA; they had to be deferred by GPA because of it lack of liquidity.

These projects should protect customers by resulting in a quicker recovery time after typhoons. One project concerns an ambient air quality study. GPA has indicated that it may build a new power plant around 2017: however, before it can do so, federal law and standards require that certain testing be done with regard to ambient air quality. Other projects continue the placing of power lines underground. All of the projects appear necessary and the Proposed Order would approve all twelve projects. Counsel recommends approval in his Report. GPA would be authorized to use bond funds for the projects. However, the "office relocation" project is not in included in this group. The Chairman asked whether the projects were bid out. GPA's General Manager responded that the Agana project is ready to bid. The Chair asked whether in the case of projects cost over runs, projects were prioritized in certain patterns. The General Manager responded that the projects go in rank order, according to the benefits/costs.

Commission Cantoria asked how much the projects cost, and Counsel responded about $34 Million. Commissioner Cantoria asked why there was no alternative energy project included. The General Manager responded that some of the distribution projects were for energy efficiency. However, wind and other alternative energy projects were not included in this listing. The Chairman indicated for the record that Commissioner Perez had now joined the meeting. Commissioner Pangelinan asked whether the office relocation was the only project that was not included. The General Manager of GPA responded that there were also a number of generation projects that need to done, in an approximate amount of $17 Million. Furthermore, Smart Grid has not yet been approved by the Commission. Upon motion duly made, seconded, and unanimously carried, the Commissioners approved the twelve projects listed in GPA's Petition under the contract review protocol. GPA was authorized to expend funds on those projects in the approximate amount of $34.6 Million. The Commission adopted the Order made *Attachment "E"* hereto.

The next matter to come before the Commission was GPA's Petition for Use of 2010 Bond Funds, GPA Docket 10-01, filed July 19, 2010. Counsel had filed a Report and a Proposed Order. Here GPA is seeking: (1) approval of the expenditure of bond funds in conjunction with the "Smart Grid" project in the amount of approximately $17 Million and (2) approval to use excess bond funds in the amount of $6.1million, which funds were not needed to pay off the Cathay Bank Loan. Counsel indicated that GPA had already provided substantial information to the PUC concerning the Smart Grid project, including the plans, federal grant application, budget estimates, etc. There was a significant amount of discussion between PUC Commissioners and GPA on this project at the June 3, 2010 meeting. In addition, Georgetown had provided the PUC with the Gawlik Report, which basically recommended that GPA should be authorized to proceed with the Smart Grid project.

With regard to the $6 Million, GPA only used approximately $13.9 of the $20 Million in bond funds authorized for the pay down of the Cathay Bank Loan, leaving an excess of $6.1million. GPA seeks authorization to use those funds. With the $17 Million draw down sought by GPA for Smart Grid, such funds constitute the local matching contribution of GPA for its federal grant. Counsel suggested that the entire amount should not be authorized by the PUC, but that funds were needed to start the process. The first stage in the process is the "strategic planning" stage, which includes development of the initiative and setup of the Project Management Office. The PMO will manage the project and give GPA advice and recommendations. GPA's CFO had provided a cost estimate for the planning stage in the amount of approximately $3.277million. This amount would enable GPA to begin the "strategic planning" stage of the project.

The Proposed Order requires GPA to report to the PUC monthly, providing the same reports as required for the U.S. Department of Energy. GPA would also be required to provide its anticipated consumer education program to the PUC before implementation. The Administrative Law Judge would be authorized to work with GPA on any further necessary protocols to implement PUC review of the Smart Grid Project. With regard to the $6 million dollar issue, PUC counsel recommended that there be further review and study on the matter. Chairman Johnson asked GPA's CFO whether the money comes in for the Smart Grid project on a per dollar basis as GPA spends. The CFO indicated that GPA will spend the money within 30 days of incurring the costs. Commissioner Perez asked whether, when GPA spends the $3.2 Million, it would get reimbursed for the $3.2 million from the grant. GPA's CFO indicated that actually it would be spending about $6.5 Million, half from the grant and half from bond funds.

Commissioner Pangelinan asked whether, with regard to the $6 Million, one of Counsel's concerns is whether the expenditure of funds is consistent with the purpose for which they were issued, i.e. to pay off the loan. If the bond funds are not needed for that purpose, it would have to be determined that expenditure of such funds would not constitute non-compliance with the bond requirements, and that there was no violation of the bond covenants. Counsel concurred with such point and also indicated that there was a question of how the funds could be used. GPA did claim various expenses relating to the Cathay Loan payoff. . Upon motion duly made, seconded and unanimously carried, the Commissioners approved the Smart Grid Project under the contract review protocol. GPA was authorized to expend up to $3,277,902 for the Strategic Planning Stage of the Smart Grid project; the issue of the $6 Million draw down proposed by GPA was referred to the Administrative Law Judge for further review. The Commission adopted the Order made *Attachment "F"* hereto.

3. Pacific Data Systems Inc.

The Chairman announced that the next matter to come before the Commission was PDS Docket 10-02: GTA's Request for Clarification and to Amend the June 16, 2010 Order, and Proposed Amended Order. Counsel indicated that, after the last PUC hearing on this matter, GTA had filed a request for clarification of the PUC's order. The "ordering provisions" therein had approved the Order of the Administrative Law Judge, which included rulings involving §25 Liability under the PDS/GTA Interconnection Agreement. Although the prior PUC Order did not contain any specific provision approving the ALJ recommendation on §25 Liability, the Order could be interpreted as approving such recommendations on §25 Liability, which is inconsistent with the action that the PUC took. GTA requests the Order be clarified to reflect that the ALJ Order was approved with the exception of his recommendation on §25 Liability. On that issue, the PUC did not have a quorum to rule upon ALJ's §25 Liability. GTA's request is in the nature of a correction and Amended Order. Counsel indicated that an Amended Order has been submitted to the Commissioners—the "Amended" Order only orders what the Commissioners in fact approved on the date of the prior hearing. The PUC did approve the ALJ Order with the exception of §25 Liability provisions. On motion duly made, seconded, and unanimously carried, the Commissioners adopted the Amended Order, a true and correct copy of which is made *Exhibit "G"* hereto.

4. GTA Telecom LLC

The next matter to come before the Commission was GTA Docket 10-05: Tariff Transmittal No. 14 (Promotional Offering), GTA Request for Tariff, and Proposed Order. Counsel reported that he had met with Mr. Eric Votaw, Vice President of GTA, to discuss this proposed tariff. On June 7, 2010, GTA filed Tariff Transmittal No. 14, whereby residential subscribers who subscribe to Spyder Broadband Services would be eligible to have a residential one-party access line, with certain limitations. GTA customers of Spyder Broadband Services can have access to a line which would allow outgoing E911 and 611 (GTA repair center) calls, abbreviated dialing only, with unlimited incoming calls. Service would apply to people who do not have telephone services with GTA. GTA offers internet customers a broader access to E911 and repair calls. During the promotional period applicable non-recurring rates would be charged and the promotional monthly rate would be $1.00 per line. Customers with this service cannot make outgoing calls on the line, but they can receive incoming calls.

GTA is required to file all tariffs with the PUC and to give the PUC thirty days advance notice before the tariff is effective. Here the Tariff was filed June 7, 2010. The tariff would not go in effect for thirty days thereafter, until July 9, 2010. The tariff went into effect on July 9, 2010. Even though PUC did not rule before the tariff became effective, it still has a period of four months after the tariff is filed to suspend the tariff or take other action, if it finds that the tariff is problematic for any reason. The Counsel recommends approval of GTA's promotional offering. This offering will enable residential customers of GTA to have greater access to E911 and the GTA repair service. The offering is limited in time. After September 28, 2010 GTA would have to come back to the Commission to keep the tariff in effect. This limited period would give GTA and the Commission time to determine if the promotional offering is a good idea, and to assess its impact/effect. The Proposed Order would approve the offering as a revision to GTA's Exchange Tariff 1. Commissioner Perez asked whether as a customer she could opt not to subscribe to the program. Counsel responded that the program was completely voluntary. Upon duly motion made, seconded, and unanimously carried, the Commission voted to approve GTA Tariff Transmittal No. 14. The PUC adopted the Order made *Attachment "G"* hereto.

The Chairman announced the next matter for consideration by the PUC was GTA Docket 10-02: Financial Incentive Plan for Incumbent Local Exchange Carriers (ILECs) and Competitive Local Exchange Carries (CLECs), Administrative Law Judge Order dated June 8, 2010, PUC Counsel Report and Proposed Order. Counsel reported that the issues concerning Financial Incentive Plan had previously been discussed with the

Commissioners. The Administrative Law Judge had recommended that PUC look into the remedy provisions concerning interconnection agreements in situations where one party contended that another party violated the terms of the interconnection agreements. This issue concerning the interconnection agreement had risen in the context of arbitration proceedings between GTA and PDS. In his Report, the ALJ found that the existing remedy provisions in interconnection agreements did not allow an ILEC to recover lost revenues or profits. The ALJ thought that the party who loses profits from an existing contract as a result of a breach by the other party of an interconnection agreement should have a remedy to recover lost revenues or profits. In addition, he recommended that there be a provision to allow attorneys fees for a prevailing party in an arbitration dispute.

The ALJ suggested certain revisions to §25 of the existing interconnection agreement regarding liability. The PUC does have the authority to review interconnection agreements of all telecommunications carriers and to require certain provisions to be included therein. The ALJ recommends that henceforth, all interconnections agreements between ILECs/CLECs should contain consequential damages and attorney fee provisions. The Proposed Order would require all future interconnection agreements to include the remedy provisions recommended by the ALJ. Commissioner McDonald asked whether these provisions would apply to future agreements, but not current agreements. Counsel indicated that the Commissioner's understanding was correct. The ALJ would open further proceedings to examine the situation. The present order only effects future agreements. Upon motion duly made, seconded, and unanimously carried, the Commissioners approved the recommendations made by the ALJ concerning remedy provisions. The PUC adopted the Order made *Attachment "H"* hereto.

5. Guam Telecom

The Chairman announced that the next matter before the Commission was GT Docket 10-01, General Exchange Tariff No. 1: The Chairman's Order dated May 27, 2010, and Request for Ratification by PUC of Chairman's Order. Counsel reported that GT had previously filed its General Exchange Tariff No. 1. Counsel's Report indicated that the Tariff was appropriate. It was modeled after the IT&E Tariff, which the Commission had previously approved, to provide resold and facilities based local exchange services. When the PUC previously addressed this matter, there had not been a quorum of Commissioners who could vote. Counsel finds that the Tariff meets all appropriate tests concerning pricing and non discriminatory impact. The Chairman had signed an Order on May 27, 2010 approving the Tariff. The matter was now before the Commission upon a request to ratify the Chairman's Order. Upon motion duly made, seconded, and unanimously carried, the Commissioners ratified the Chairman's Order dated May 27, 2010. Commissioner Pangelinan did not participate in this matter.

6. PUC Website

The Administrator reported that the implementation of the website was proceeding. A "drop box" had been created wherein the Administrator can forward all documents to the PUC consultant, ICON. She was working together with ICON, and the hoped for implementation date would be late August or September.

7. Other Business

Counsel reported that the Federal Receiver for solid waste, Mr. David Manning of GBB, had requested an opportunity to meet with the Commissioners. The Commissioners suggested a lunch time meeting on an acceptable date.

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

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. July 27, 2010

Agenda

1. **Approval of the Minutes of the Meetings of April 29, May 27, June 3, and June 16, 2010.**

2. **Pacific Data Systems Inc.**
   - PDS Docket 10-02, GTA's Request for Clarification and to Amend the June 16, 2010 Order; Proposed Amended Order.

3. **GTA Telecom LLC**
   - GTA Docket 10-02, Financial Incentive Plan for Incumbent Local Exchange Carriers (ILECs) and Competitive Local Exchange Carriers (CLECs); Administrative Law Judge Order dated June 8, 2010; PUC Legal Counsel Report and Proposed Order.

   - GTA Docket 10-05, Tariff Transmittal No. 14 (Promotional Offering); GTA Request for Tariff and Proposed Order.

4. **Guam Power Authority**
   - GPA Docket 10-02, Navy Complaint on LEAC Billing Issues; GPA Response; ALJ Order dated July 12, 2010; and Proposed Order.

   - Docket 02-04, GPA's June 15, 2010 LEAC Filing; Consideration of GCG Report and Proposed Order.

   - GPA Docket 10-01, Request for Authorization to Payoff Cathay Bank Loan, Deposit Funds to Working Capital Fund, and Reimburse Loan Principal Payments to GPA; Chairman's Order dated July 1, 2010 authorizing payoff of Cathay Bank Loan and filling of Working Capital Fund with bond proceeds; Request for Ratification by PUC.

   - Docket 07-10, GPA Petition to Modify Working Capital Fund Surcharge; Proposed Order.

   - GPA Docket 10-01: Petition for Contract Review for Approval of 2010 Bond Projects; Counsel Report and Proposed Order

5. **Guam Telecom**
   - GT Docket 10-01, General Exchange Tariff No. 1; Chairman's Order dated May 27, 2010; Request for Ratification by PUC of Chairman's Order.

6. **Administrative Matters**
7. **PUC Website**
8. **Other Business**

ATTACHMENT A

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JUL 27 2010
Public Utilities Commission of Guam

BEFORE THE GUAM PUBLIC UTILITES COMMISSION

IN THE MATTER OF:	)	GPA Docket 10-02
NAVY LEAC ISSUES	)	

ORDER ON NAVY LEAC ISSUES

This matter comes before the Guam Public Utilities Commission [PUC] upon the Administrative Law Judge [ALJ] Order dated July 12, 2010 and the Joint Stipulation of Settlement of GPA and Navy.

After careful review and consideration of the record herein, the ALJ Order dated July 12, 2010, the Joint Stipulation, and for good cause shown, on motion duly made, seconded and carried, by the undersigned Commissioners, the Guam Public Utilities Commission hereby ORDERS that:

1. The PUC hereby adopts and approves the Joint Stipulation of Settlement between Navy and GPA, a copy of which is attached as Exhibit "A" to the ALJ Order.

2. Navy billing will be adjusted to refund the amount of $4,117,098.39 covering the period of October 2008 thru April 2010 to account for the error in the calculation of Unit Fuel Cost. Future Unit Fuel Costs will be calculated using the methodology specified in Attachment III of the CSA.

3. GPA will credit the Navy with the amount of the refund indicated above in equal installments over a one year period beginning with the August 2010 invoice. In accordance with Section 28.9.3 of the CSA, the overcharge in a billing error will be computed back for a period of twelve (12) months. Navy initially brought the billing error in the October 2009 billing to the attention of GPA.

4. The billing credit agreed to by GPA to Navy will be included in the calculation of the LEAC factor effective August 1, 2010.

ATTACHMENT B

5. The contentions in Navy's Complaint regarding fuel inventory charges and the inclusion of the wind study as a fuel related cost are hereby withdrawn, in accordance with the Joint Stipulation.

6. GPA shall bear the regulatory costs and expenses of this proceeding, including the costs of hearing.

Dated this 27th day of July, 2010.

Jeffrey C. Johnson
Chairman

Joseph M. McDonald
Commissioner

Filomena M. Cantoria
Commissioner

Rowena E. Perez
Commissioner

Michael A. Pangelinan
Commissioner

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Public Utilities Commission of Guam

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

GUAM POWER AUTHORITY
LEVELIZED ENERGY ADJUSTMENT
CLAUSE [LEAC]

DOCKET 02-04

ORDER

In accordance with the protocol established by Guam Public Utilities Commission [PUC] Order dated January 29, 1996, as amended by Order dated March 14, 2002, Guam Power Authority [GPA], by Filing dated June 15, 2010, requested that the current LEAC factor [$0.15046 per kWh] for its civilian customers be decreased to $0.13076 per kWh for meters read on and after August 1, 2010 and continuing until January 31, 2011.[1]

After conducting a review of GPA's Filing, and engaging in communications with GPA, PUC Regulatory Consultant Georgetown Consulting Group, Inc. [GCG] filed its Report Re: GPA Request for a LEAC Factor Effective August 1, 2010. [2] During GCG's investigation, it became aware of downward pressure on the price of oil since the time when GPA had prepared its Petition. [3] Based upon updated Morgan Stanley fuel price forecasts for both No. 2 and No. 6 oil, the July 7, 2010 price forecasts were lower than those projected by GPA in its Petition. [4]

Thus, in its Summary of LEAC Calculations [Table 1], GCG has updated the total projected fuel costs for the 6 month period ending January 31, 2011.[5] GCG also examined "Fuel Handling Costs", which includes various costs utilized in the computation of the LEAC Factor. Presently, L/C bank charges [which are for a line of credit used to make fuel purchases by GPA] are included within Fuel Handling Costs. However, GCG indicates that such charges are not typically an item that should be included within the determination of the LEAC factor. GCG recommends that, based upon GPA's additional liquidity as a result of its recent bond issue, the PUC should revisit the issue of whether this expense should be included in the LEAC factor in the next change of base rates.[6]

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[1] GPA LEAC Filing, Docket 02-04, filed June 15, 2010; the basis for GPA's LEAC filing is that there has been a decrease in fuel prices from $80/bbl to around 70.00/bbl, which represents a decrease in fuel costs from the prior LEAC.
[2] GCG Report re GPA Request for a LEAC Factor Effective August 1, 2010, filed July 16, 2010, in Docket 02-04.
[3] Id. at p. 1.
[4] Id. at pgs. 3-4.
[5] Id. at p. 2.
[6] Id. at p. 5.

ATTACHMENT C

GCG also considered another aspect of Fuel Handling Costs, which is the inventory valuation cost. In its Petition, for the period ending January 31, 2011, GPA originally requested that $1.5 Million be included in the cost of fuel related to the forecasted increase in inventory cost levels over this period. However, with the revised estimate of prices (i.e. July 7, 2010, the valuation adjustment is lower-- the amount recoverable for six months is $605,198.46.[7] For the period ending July 2010, GPA has calculated a net credit (savings to the ratepayer) due to the dropping price of oil (and inventory) over those six months.[8]

GPA calculated that there was a total increase in inventory valuation of about $405,000 for the months of February, March and April 2010. A significant decrease in inventory costs is estimated for May, June and July of 2010. The net amount of $2.1 Million of inventory credit shown on table (405,000 less $2.53 Million) reduces the deferred fuel balance and is a significant reason that GPA is estimating an over-recovery of fuel expenses as of June 30, 2010.[9]

As requested by the PUC, GCG has not engaged in any extended analysis of line loss in this LEAC proceeding.[10] However, it has made certain recommendations concerning PUC analysis of line loss issues and the approaches the PUC might take in that regard, particularly with regard to Smart Grid projects.[11] GCG suggests that the PUC may wish to consider a differentiation for line losses for LEAC rate purposes among customers served at different voltage levels.[12] It recommends that loss factors should be used in the development of differentiated LEAC recovery rates should be determined based upon specific engineering studies reflecting actual line losses experienced. In its view, the PUC should, as a policy matter, require that such studies be performed and that differentiated LEAC recovery rates be implemented at GPA's next LEAC rate proceeding.[13]

On July 22, 2010, GPA filed a Response to GCG's Report on LEAC Findings. GPA suggests that it should be given an opportunity to develop in house proposals for the development of new line loss standards, and for a differentiated LEAC rate structure.[14]

[7] Id. at p. 8.
[8] Id. at p.8.
[9] Id. at p. 8.
[10] Id. at p. 9.
[11] Id. at p. 10.
[12] Id. at p. 11.
[13] Id. at p. 12.
[14] GPA Response to GCG's Report on LEAC Findings, filed July 22, 2010.

After carefully reviewing the record in this proceeding and the July 16, 2010 Report of GCG, and after discussion at a duly noticed public meeting held on July 27, 2010 for good cause shown and on motion duly made, seconded and carried by affirmative vote of the undersigned Commissioners, the Guam Public Utilities Commission hereby **ORDERS THAT:**

1. A LEAC factor of $0.12465 per kWh shall be used by GPA for all civilian customer bills, for meters read on and after August 1, 2010 to recover its forecasted fuel and related expenses, in accordance with the right hand column of Table 1 as set forth in the GCG Report dated July 16, 2010. This change reflects a 11.5% decrease in the total bill for a residential customer utilizing an average of 1,000 kilowatt hours per month.

2. GPA should file its next LEAC adjustment filing on or before December 15, 2010.

3. On or before September 15, 2010, GPA shall file a petition with the PUC, along with a proposed schedule, which outlines its proposal and solutions for the development of new line loss standards. Such petition shall address the timing and benchmarks for the implementation of such standards, and shall take into consideration the potential impacts of the Smart Grid project.

4. On or before September 15, 2010, GPA shall file a position statement with PUC concerning whether differentiated LEAC rates should be implemented for customers served at different voltage levels, and if so, how such rates should be implemented.

5. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

Dated this 27th day of July, 2010.

Jeffrey C. Johnson	Rowena E. Perez
Chairman	Commissioner

Joseph M. McDonald
Commissioner

Michael A. Pangelinan
Commissioner

Filomena M. Cantoria
Commissioner

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of Guam

BEFORE THE GUAM PUBLIC UTILITES COMMISSION

IN THE MATTER OF:	)	GPA Docket 10-01
Guam Power Authority's Request to Payoff Cathay Bank Loan and Deposit Funds to the Working Capital Fund, Etc.	)	

ORDER

Pursuant to 12 GCA §12004, I Jeffrey J. Johnson, Chairman of the Guam Public Utilities Commission [PUC] issue this Order. On June 22, 2010, the Guam Power Authority [GPA] requested that the PUC authorize GPA to payoff its bank loan with Cathay Bank in the approximate amount of $13.9 Million with funds from its 2010 Subordinate Bond Issue. In addition, GPA asked for authority to fill its Working Capital Fund with approximately $27.4 Million in funds from its 2010 Subordinate Bond Issue. GPA must payoff the Cathay Bank loan on July 1, 2010, or it will be unable to secure funds from its bond issuance.

Previously, on June 3, 2010, the PUC authorized GPA to issue the 2010 Senior and Subordinate Bonds. Said bonds contain a condition that the bonds can be issued only upon payoff by GPA of its loan with Cathay Bank. Thus, the PUC impliedly authorized the payoff of the Cathay Bank loan by approving the bond issuance. The exigency of the circumstances dictates that GPA should be authorized to payoff the Cathay Bank loan. In addition, the PUC has previously recognized that there is a deficiency in the Working Capital Fund of GPA in the amount of $27.4 Million. It is proper for GPA to fill the Working Capital Fund with funds from the bond issuance in that amount.

WHEREFORE, the **PUC ORDERS** THAT:

1. GPA is authorized to payoff its existing Cathay Bank loan with 2010 subordinate bond proceeds in the approximate amount of $13.9 Million.

2. GPA is authorized to fill its Working Capital Fund with 2010 subordinate bond proceeds in the approximate amount of $27.4 Million.

3. Action on GPA's request for reimbursement of loan principal payments is hereby deferred.

4. This Order is subject to ratification by the PUC

Dated this 1st day of July, 2010.

J. Johnson

Jeffrey C. Johnson
Chairman

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Public Utilities Commission of Guam

BEFORE THE GUAM PUBLIC UTILITES COMMISSION

IN THE MATTER OF:	)	GPA Docket 10-01
Guam Power Authority's Petition for	)	
Contract Review Approval of 2010	)	
Bond Financed Projects	)	

ORDER

This matter comes before the Guam Public Utilities Commission [PUC] upon Guam Power Authority's [GPA] Petition for PUC Review and Approval of certain 2010 Bond financed projects.[1] Previously, on June 3, 2010, the PUC approved the 2010 GPA Revenue Bond and Subordinate Bond issuance.[2] At that time, the PUC was advised by GPA as to specific projects for which it would seek PUC approval; the projects for which bond funding was sought were set forth in its Supplemental Filing.[3]

PUC Counsel issued his report herein on July 15, 2010.[4] Counsel recommends that the PUC approve the twelve projects which GPA seeks to fund from bond proceeds under the 2010 Revenue Bond issue.[5] For each of the twelve projects which it seeks to finance through Revenue Bonds, GPA has provided detailed project descriptions, justifications, consideration of alternatives and cost-benefit analyses.[6] In each case, GPA's projections showed that the benefits of the project outweigh the costs. Overall, projects such as Substation Upgrades, Pole Hardening, Fire Protection Upgrades, and Distribution Projects should improve the reliability of the power system and protect it against potential harm and damage. PUC finds that each of the projects proposed are prudent and in the interest of rate payers.

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[1] GPA Petition for Contract Review and Approval of 2010 Bond Projects, GPA Docket 10-01, filed July 12, 2010.
[2] PUC Order Approving Revenue and Subordinate Revenue Bonds and Order Approving Long Term Debt, GPA Docket 10-01, issued June 3, 2010.
[3] GPA Supplemental Filing, GPA Docket 10-01, filed May 20, 2010.
[4] PUC Counsel Report, GPA Docket 10-02, issued July 15, 2010.
[5] Id. at p. 4.
[6] See Project Descriptions attached to GPA's Petition for Contract Review of Approval of 2010 Bond Projects.

ATTACHMENT E

Upon consideration of the record herein, the Petition of GPA for approval of 2010 Bond Projects, the PUC Legal Counsel Report, and for good cause shown, upon motion duly made seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS that:

1. The GPA Petition for Review and Approval of 12 2010 bond projects is hereby approved.

2. The twelve 2010 bond projects for which GPA seeks to expend bond funds are reasonable, prudent and necessary.

3. Approval is granted for the following projects, and in the following amounts:

Projects	**Total Cost**
1. Agana Substation Capacity Upgrade	$1,250,000
2. Agat Village Pole Hardening & Hybrid	$3,800,000
3. Ambient Air Quality Monitoring	$1,900,000
4. Dededo Substation Upgrade	$4,655,000
5. Distribution System Performance Improvements	$1,000,000
6. Fire Protection Upgrades at Power Plants	$3,880,000
7. Line Reclosing and Load Profiling	$1,200,000
8. P003 Underground Extension to Port Authority	$4,775,650
9. System Protection Relaying Improvement	$1,893,000
10. Tumon Bay Lateral Conversion	$6,582,838
11. Tumon Substation Upgrade	$1,530,000
12. Underground Fuel Pipeline Conversion	$2,150,000
GRAND TOTAL	**$34,616,488**

4. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

Dated this 27th day of July, 2010.

Jeffrey C. Johnson
Chairman

Joseph M. McDonald
Commissioner

Rowena E. Perez
Commissioner

Filomena M. Cantoria
Commissioner

Michael A. Pangelinan
Commissioner

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Public Utilities Commission of Guam

BEFORE THE GUAM PUBLIC UTILITES COMMISSION

IN THE MATTER OF: GPA Petition for Use of 2010 Bond Funds	)	GPA Docket 10-01

ORDER

This matter comes before the Guam Public Utilities Commission [PUC] upon Guam Power Authority's [GPA] Petition for Use of 2010 Bond Funds.[1] GPA asks PUC to approve two specific uses of bond funds. First, GPA seeks authorization to begin drawing down funds in conjunction with the "Smart Grid" Project in the amount of approximately $17 Million. The "Smart Grid" project seeks to modernize GPA's electric power grid. Second, GPA seeks authorization to draw down $6 Million, which are funds in excess of the amount used to pay off the Cathay Bank Loan. [2]

PUC Counsel has filed a report which analyzes the GPA Petition and the two requests for use of bond funds.[3] Based up budget estimates provided by GPA's CFO, Counsel recommends that the PUC approve GPA's use of approximately $3,277,902 in Bond Funds to fund the Planning Stage of the Smart Grid Project. With regard to GPA's request for expenditure of $6M, Counsel recommends that this matter be referred to the Administrative Law Judge for further review and consideration.[4]

Upon consideration of the record herein, the Petition of GPA for Use of 2010 Bond Funds, the PUC Legal Counsel Report, and for good cause shown, upon motion duly made, seconded, and carried by the affirmative vote of the undersigned Commissions, the Commission hereby **ORDERS** that:

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[1] GPA's Petition for Use of 2010 Bond Funds, GPA Docket 10-01, filed July 19, 2010.

[2] GPA Petition for Use of 2010 Bonds Funds at p.1.

[3] PUC Counsel Report, GPA Docket 10-01, filed July 27, 2010.

[4] Id., p. 3.

1. For purposes of GPA Bond's Financing, the inclusion of the Smart Grid Project in the funding requirements is affirmed and approved. Bond financing is necessary to enable GPA to meet the Department of Energy requirements of GPA's grant agreement.

2. In accordance with the Contract Review Protocol, GPA is authorized to expend up to $3,277,902 for the Strategic Planning stage of the Smart Grid Project, which includes, but is not limited to, development of the Smart Grid Initiative Project Management Office, creation of the PMO Infrastructure, development of Process Road maps, establishment of project reporting requirements and guidelines, grant reporting and change management.

3. With regard to further funding requirements of the Smart Grid Project, GPA shall comply with the contract review protocol requirements for any project elements which exceed threshold requirement for contract review.

4. GPA shall provide the PUC with periodic reports on the status of the implementation of the "Smart Grid" Project. This reporting requirement is an extension (copy) of the monthly reports provided by GPA to the Department of Energy by the Project Management Office, and copies of internal reports provided to GPA Executive Management.

5. GPA shall provide the PUC with its proposed consumer education program which it intends to implement as a part of the deployment of the Smart Grid Project. Information shall be provided to the PUC prior to GPA implementation of such education program.

6. The ALJ is authorized to work with GPA to implement any further protocols needed with regard to PUC review of the Smart Grid Project.

7. With regard to the $6 million draw down proposed by GPA, this matter is referred to the Administrative Law Judge for further review and consideration. The ALJ shall make such recommendation(s) to the PUC as he deems appropriate for the use of such funds.

8. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12002(b)

and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

Dated this 27th day of July, 2010.

Jeffrey C. Johnson
Chairman

Joseph M. McDonald
Commissioner

Rowena E. Perez
Commissioner

Filomena M. Cantoria
Commissioner

Michael A. Pangelinan
Commissioner

Guam Power Authority
Smart Grid Project
Breakout of Planning Costs

Line Number	Description of Expense	Project Total	Funded by Grant	Funded by Bonds
1	Program Management and Reporting	3,859,080	1,929,540	1,929,540
2	Pre-Submission Planning and Business Case Development	376,500	188,250	188,250
3	Performance Assessment, Strategic Planning, and Project Management	900,000	450,000	450,000
4	Program Marketing and Operations	1,420,224	710,112	710,112
	Totals	6,555,804	3,277,902	**3,277,902**

EX. A

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Public Utilities Commission of Guam

BEFORE THE GUAM PUBLIC UTILITES COMMISSION

IN RE: Tariff Transmittal No. 14, Promotional Offerings) GTA DOCKET 10-05

ORDER

On June 7, 2010, GTA TeleGuam LLC [GTA] filed a petition with the Guam Public Utilities Commission [PUC] for approval of Tariff Transmittal No. 14, Promotional Offerings, which adds a new proposed service to General Exchange Tariff No. 1.[1] Tariff Transmittal No. 14 supplies a residential one-party access line, with certain limitations, to residential subscribers who subscribed to Spyder Broadband Services. The line will be provisioned to allow outgoing E911 and 611 (GTA repair center) abbreviated dialing only with unlimited incoming calls. The Promotional Offerings states that it will only be in effect for the period of July 1, 2010 through September 28, 2010. [2]

During the promotional period, all applicable non recurring rates will be charged and the promotional monthly rate will be $1.00 per line.[3]

Any new proposed Tariff filed by a telecommunications company does not go into effect until thirty (30) days after notice to PUC, unless there has been prior authorization by the PUC. Since GTA filed Tariff Transmittal No. 14 on June 8, 2010, it did go into effect until July 9, 2010. PUC still has the statutory authority, for a period of not more than four months after the notice is filed, to further review such tariff and to suspend the operation or effectiveness thereof.[4]

[1] GTA Petition, GTA Docket 10-05, filed June 8, 2010
[2] 12 GCA §12106(b)
[3] New Par. XVIIB, Promotional Offerings, General Exchange Tariff No. 1

[4] 12 GCA §12106(d)

In his report, issued July 15, 2010, PUC Counsel recommends approval of the Promotional Offering. It is likely that this Promotional Offering will enable residential customers of GTA to have greater access to E911 service and GTA's repair services. Such offering is only for a period of short duration, and this test period will give both GTA and the PUC an opportunity to determine if such offering should continue after September 28, 2010.

Upon consideration of the record herein, Tariff Transmittal No. 14 filed by GTA on July 8, 2010, and the Report of PUC Legal Counsel, for good cause shown and on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners the Commission hereby ORDERS that:

1. GTA's Tariff Transmittal No. 14, Promotional Offering, was properly filed pursuant to 12 GCA §12106(a), which requires telecommunications companies such as GTA to file tariffs indicating the rates, classifications, and terms and conditions of its telecommunications services.

2. Tariff Transmittal No. 14, including all changes, revisions, and additions therein to GTA's General Exchange Tariff No. 1, is hereby approved and adopted.

3. However, since GTA did not file Tariff Transmittal No. 14 until June 8, 2010, it was not effective until July 9, 2010.

4. The Promotional Offerings contained in Tariff Transmittal No. 14 are hereby approved effective for the period of July 9, 2010 through September 28, 2010.

5. GTA shall amend its Promotional Offerings tariff, at Par. XVIIB(1) to provide that the CAP Line Service is effective "during the period July 9, 2010 through September 28, 2010…"

6. Should GTA seek to extend the Promotional Offering beyond September 28, 2010, it shall first obtain the prior approval of the PUC.

7. GTA shall file its Revised/Corrected Tariff with the PUC, and shall also provide notice of the same to its Customers on its website.

8. GTA is ordered to pay for the PUC's regulatory fees and expenses incurred in this Docket, including, without limitation, consulting and counsel fees and expenses. Assessments of the PUC's regulatory fees and

expenses is authorized pursuant to 12 GCA §12002(b) and 12024(b), 12104, 12103, the Rules Governing Regulatory fees for Telecommunications Companies, and Rule 40 of the Rules of Practice and Procedure before the PUC.

Dated this 27th day of July, 2010.

Jeffrey C. Johnson
Chairman

Joseph M. McDonald
Commissioner

Filomena M. Cantoria
Commissioner

Rowena E. Perez
Commissioner

Michael A. Pangelinan
Commissioner

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BEFORE THE GUAM PUBLIC UTILITES COMMISSION

IN RE: FINANCIAL INCENTIVE PLAN FOR INCUMBENT LOCAL EXCHANGE CARRIERS AND COMPETITIVE LOCAL EXCHANGE CARRIERS	)	GTA Docket 10-02

ORDER

Introduction

This matter comes before the Guam Public Utilities Commission [PUC] upon the Order of the Administrative Law Judge [ALJ] dated June 8, 2010.[1] There the ALJ recommends that incumbent local exchange carriers and competitive local exchange carriers adopt certain provisions in their Interconnection Agreements [ICAs]. These recommended provisions would allow the parties to recover consequential damages and attorneys fees in dispute resolution proceedings before the ALJ and the PUC. The ALJ also requests that the PUC authorize him to commence proceedings which would mandate the modification of ICAs between telecommunications parties to reflect these recommended provisions, and to require such parties to include these remedy provisions in ICAs negotiated hereafter.[2]

The PUC, in its Order issued January 29, 2010 in Docket 08-11, authorized the ALJ to commence appropriate proceedings to solicit comments and testimony from the telecommunications companies and thereafter propose a "financial incentive" or "remedy provision" to the PUC for consideration, which would assess fines or fees to be paid to CLECs when service failures occur.[3] Subsequently the ALJ issued a Notice in this docket soliciting Comments and Testimony by interested parties concerning the need for a financial incentive plan and/or remedy provisions.[4] The parties, including GTA, PDS, and MCV, responded with comments, which are a part of the record herein.

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[1] ALJ Order In Re: Financial Incentive Plan, GTA Docket 10-02, issued June 8, 2010.
[2] Id. at p. 18.
[3] PUC Order Re: Arbitration of Interconnection Disputes, Docket No. 08-11, issued January 29, 2010.
[4] Notice issued by ALJ Soliciting Comments and Testimony, GTA Docket 10-02, February 18, 2010.

There is a need for the adoption of Remedy Provisions in the ICAs

Both the ALJ Order and the PUC Counsel Report filed herein[5] establish that the PUC has broad authority over interconnection agreements entered into between telecommunications companies. Under both the federal Telecommunications Act of 1996 and the Guam Telecommunications Act, the Commission must review and approve all interconnection agreements entered into by ILECs and CLECs. The PUC has a special role in ensuring that interconnection agreements adequately promote competition in the telecommunications market.[6]

PUC has established Interconnection Implementation Rules [IIRs] to provide for Commission resolution of disputed issues arising under or pertaining to ICAs approved by the Commission.[7] Under the IIRs the ALJ acts as an "arbitrator" of disputes including the "terms and conditions in the ICA" and the "implementation of activities explicitly provided for, or implicitly contemplated in the ICA."[8]

Existing remedy provisions in the ICAs do not allow a competitive local exchange carrier to recover lost revenues, profits or attorneys fees from an ILEC in circumstances where the ILEC fails to provide required network elements or services.[9] An ILEC has little incentive to comply with the ICA if it is only required to reimburse the CLEC for amounts already paid by the CLEC for such services or network elements. There is a need for remedy provisions which will insure that ILECs provide services and facilities to wholesale customers that are both adequate and nondiscriminatory.[10]

Interconnection Agreements are not ordinary commercial contracts. Their creation is mandated by the federal Telecommunications Act. The PUC can impose terms in such agreements through involuntary arbitration and can disapprove such agreements where their terms are unacceptable.[11] The PUC has broad authority to approve or reject any interconnection agreement. PUC has the authority to determine that, in the interest of promoting competition and adequate remedies to CLECs, that consequential damage and attorney's fee provisions should be included in ICAs.[12] Inclusion of a provision in the ICA providing for consequential damages will clarify that parties do not waive

[5] PUC Legal Counsel Report, GTA Docket 10-02, filed on June 15, 2010.
[6] Global Naps, Inc. v. Massachusetts Dep't of Telecommunications and Energy, 427 F.3d 34, 47 (1st Cir. 2005).
[7] Id. at p. 10; IIR 4(a).
[8] ALJ Order at p. 11; IIR 4(b)(1)-(4).
[9] ALJ Order, GTA Docket 10-02, p. 3.
[10] ALJ Order, p. 4.
[11] See e.g. WorldNet Telecommunications, Inc. v. Puerto Rico, 497 F.3d 1, 7 (1st Cir. 2007).
[12] ALJ Order, p. 14.

liability for special, incidental, or consequential damages. However, any loss of "anticipated profits or revenues" will continue to be unavailable as a remedy.[13]

The new attorney's fee provision recommended for inclusion in the ICA by the ALJ would authorize the award of attorney's fees, costs, and expert witness fees, to a "prevailing party in any action to enforce or interpret the terms of an ICA."[14] Paragraph 25 in the ICA between the incumbent local exchange carrier and competitive local exchange carriers should be revised as set forth in Exhibit A hereto, which is incorporated herein by reference.[15]

The ALJ Order dated June 8, 2010, as well as the recommendations made therein, should be adopted and approved by the PUC. The PUC should also approve the revisions recommended by the ALJ to existing ¶25 of the ICA, and require the incumbent local exchange carrier and competitive local exchange carriers [including the parties hereto] incorporate such provisions into their Interconnection Agreements. The provisions recommended, which provide for consequential damages and attorneys fees, should serve as an incentive for compliance by the ILEC with the ICA. In addition, CLECs will have a more adequate remedy to recover the damages and fees incurred by them as a result of a service failure by the ILEC.

Ordering Provisions

Having considered the record of the proceedings herein, the pleadings of the parties, and the Order of the ALJ issued on June 8, 2010, and good cause appearing, the Guam Public Utilities Commission hereby ORDERS as follows:

1. The Order issued by the ALJ on June 8, 2010 is hereby adopted and approved.

2. The recommendations of the ALJ contained in his Order are also approved. All ICAs entered into between an ILEC and a CLEC shall contain a consequential damages provision, as well as a provision for attorneys' fees. Paragraph 25 of such ICAs shall be in the form set forth in Exhibit A hereto.

[13] ALJ Order, p. 17.
[14] ALJ Order, p. 25.
[15] Exhibit A, revision of Liability Provisions in ¶25 of the ICA.

3. The ALJ is authorized to undertake such proceedings as are necessary to mandate the modification of ICAs submitted for the PUC's approval to reflect the remedy provisions set forth in Exhibit A hereto.

4. The ALJ may also commence any proceedings required under law to incorporate and/or mandate such remedy provisions in the existing rules and regulations.

5. All future ICAs reviewed and approved by the PUC shall include the remedy provisions set forth in Exhibit A hereto.

6. All local telecommunications parties shall pay, in equal shares, the regulatory fees and expenses incurred in this Docket, including, without limitation, consulting and counsel fees and expenses, and the fees and expenses for conducting the hearing process.

Dated this 27th day of July 2010.

Jeffrey C. Johnson
Chairman

Joseph M. McDonald
Commissioner

Rowena E. Perez
Commissioner

Filomena M. Cantoria
Commissioner

Michael A. Pangelinan
Commissioner

25. Liability

25.1 As used in this Section 25, "Service Failure" means a failure to comply with a direction to install, restore or terminate Services under this Agreement, a failure to provide Services under this Agreement, and failures, mistakes, omissions, interruptions, delays, errors, defects or the like, occurring in the course of the provision of any Services under this Agreement.

25.2 Except as otherwise stated in Sections 25.3 and 25.5, the liability, if any, of a Party, a Party's Affiliates, and the directors, officers and employees of a Party and a Party's Affiliates, to the other Party, the other Party's Customers, and to any other person, for Claims arising out of a Service Failure shall not exceed an amount equal to the pro rata applicable monthly charge for the Services that are subject to the Service Failure for the period in which such Service Failure occurs.

25.3 In no event shall the parties waive liability in contract, tort, strict liability, warranty or otherwise, for any special, incidental or consequential damages, such as but not limited to, service failure, breach, delay or failure in performance, disruption, loss of product, loss of use of the equipment or system, non-operation or increased expense of operation of other equipment or systems, cost of capital, or cost of purchase or replacement equipment, systems, or power. Dispute resolution over any such claims shall be initiated pursuant to the Dispute Resolution provisions under this Agreement.

25.3.1 Loss of anticipated profits or revenue, or other commercial or economic loss, however, shall not be available as a remedy, even if the party whose liability is excluded by this Section has been advised of the possibility of such damages.

25.4 Section 25.1 through 25.3 shall apply regardless of the form of a claim or action, whether statutory, in contract, warranty, strict liability, tort (including but not limited to, negligence of a Party), or otherwise.

25.5 Nothing contained in Sections 25.1 through 25.4 shall exclude or limit liability:

25.5.1 under Sections 20, Indemnification, or 41, Taxes;

25.5.2 for any obligation to indemnify, defend and/or hold harmless that a Party may have under this Agreement;

25.5.3 for damages arising out of or resulting from bodily injury to or death or any person, or damage to, or destruction or loss of, tangible real and/or personal property of any person, or Toxic or Hazardous Substances, to the extent such damages are otherwise recoverable under Applicable Law;

EXHIBIT A

25.5.4 for a claim for infringement of any patent, copyright, trade name, trade mark, service mark, or other intellectual property interest;

25.5.5 under Section 258 of the Act or any order of FCC or the Commission implementing Section 258; or

25.5.6 under the financial incentive or remedy provisions of any service quality plan required by the FCC or the Commission.

25.6 In the event that the liability of a Party, a Party's Affiliate, or a director, officer or employee of a Party or a Party's Affiliate, is limited and/or excluded under both this Section 25 and a provision of an applicable Tariff, the liability of the Party or other person shall be limited to the smaller of the amounts for which such Party or other person would be liable under this Section or the Tariff provision.

25.7 Each party shall, in its tariffs and other contracts with its Customers, provide that in no case shall the other Party, the other Party's Affiliates, or the directors, officers or employees of the other Party or the other Party's Affiliates, be liable to such Customers or other third-persons for any special, indirect, incidental, consequential, reliance, exemplary, punitive or other damages, arising out of a Service Failure.

25.8 In any action to enforce or interpret the terms of this Agreement, the prevailing party shall be awarded, in addition to any other remedy or compensation, its attorneys' fees and costs, including fees of expert witnesses.