

GUAM PUBLIC UTILITIES COMMISSION
REGULAR MEETING
MAY 28, 2013
SUITE 202, GCIC BUILDING, HAGATNA



MINUTES

The Guam Public Utilities Commission [PUC] conducted a regular meeting commencing at 7:09 p.m. on May 28, 2013, pursuant to due and lawful notice. Commissioners Johnson, Perez, Pangelinan, McDonald, Cantoria, and Montinola were in attendance. The following matters were considered at the meeting under the agenda made *Attachment "A"* hereto.

1. Approval of Minutes

The Chairman announced that the first item of business on the agenda was approval of the minutes of April 30, 2013. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the minutes.

2. Port Authority of Guam

The Chairman announced that the next item of business was PAG Docket 12-02, Transshipment Study, ALJ Report, and Proposed Order. Counsel indicated that the ALJ only proposes one change from the prior Order in this matter involving the POLA cranes. The amendment relates to the issue of transshipment. The issue was addressed in the original Order; on May 1, 2013, Senator Tom Ada, Chairman of the Utilities Committee of the Guam Legislature, requested that the PUC require PAG to include in its transshipment study the cost of service associated with fuel that is offloaded and then back-loaded and to determine if the current 50% discounted fee is justified; and if not, how the disparity should be rectified. In his Report, the ALJ cited a study by Captain & Associates indicating that some ports contend that the 50% discount would encourage certain business and was beneficial from a policy viewpoint. However, Captain study found that there is no good justification for the policy, or market data to support the 50% discount for transshipment. Captain recommended a termination of the 50% discount.

The ALJ is not presently recommending the termination of the discount, but that the Port review the matter and the impact of eliminating or changing this historical discount. The ALJ believes that Senator Ada's request is meritorious, and that the Port should review the possibility of eliminating or modifying the discount for the transshipment fees. The Proposed Order would amend only one paragraph of the August 27, 2012 Order. The Port would be required in its transshipment study whether the cost of service associated with fuel that is offloaded and later back-loaded justifies the 50% discount, and if not, how the disparity should be rectified. PAG is required to file a report with the PUC regarding the results of its study by August 30, 2013. Commissioner Montinola sought to clarify whether PAG was charging 100% inbound

and 50% on the outbound. The General Manager of the Port, Ms. Joanne Brown, indicated that Senator Ada proposed legislation in the last term of Legislature which would have required a 100% charge on the outbound. It did not pass. The Port has concerns about a 100% charge on the outbound and will indicate those in the study. The Port will be able to provide calculations as to the impact of charging 100% on the outbound. To the Port, the larger issue is the impact on Guam as a point of transshipment. Previously Guam was a major transshipment point, but now new shipping routes are being pursued. Shippers have recently bypassed Guam, by, for example, going directly to the Marshall Islands. The Port will respond to the request, but there are factors other than the simple numbers.

If the Port risks impacting its operations by reduction of the amount of cargo that comes through Guam because it is less competitive, this could impact the overall revenues that the Port generates and the volume of cargo that moves through the island. The Chairman asked the Port's GM whether the companies that transship at the 50% discount were still paying 100% for the incoming shipment. The GM indicated that was correct. The GM again expressed her concern about any increase in the 50% charge could impact the Port's business. For the record, Ms. Brown indicated that there was more to the issue than simple numbers and the assumption that Port revenues will multiply if it implements a higher rate. Commissioner Montinola asked what percentage of the Port's business was transshipment. GM Brown indicated that it was 31%. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the ALJ recommendation to include the additional requested information in the PAG study and adopted the Order made *Attachment "B"* hereto.

3. Guam Waterworks Authority

The Chairman announced that the next item for consideration by the Commissioners was GPA Docket 11-02, Program Management Office Contract with Brown & Caldwell and ALJ Report. Counsel clarified that this matter involves GWA; the reason that a GWA matter has a GPA Docket assignment is that GPA originally did the procurement for the Program Management Offices for both itself and GWA. Thus, PMO Office issues for GWA have arisen in a GPA Docket.

ALJ Mair has now assigned the matter with a GWA Docket No. (13-01) because the issue of the cost of the GWA PMO has shifted to the rate case. GWA has responded to the prior PUC Order which required the submission of information justifying GWA's projected use of the PMO. In his Report, the ALJ discusses Brown & Caldwell, the PMO, and its background. The ALJ states that the purpose of the PMO is not primarily for the military buildup but to help GWA with the stipulated order projects. GWA contends that the PMO has helped it to comply with the deadlines required under the Stipulated Order. The Report indicates that many states use a PMO, and GWA asserts that its overload of work for the in-house staff requires it to use the consulting experience possessed by the PMO. Hydraulic modeling, collection system analysis and other technical aspects require GWA to go off island to obtain consultants in these particularly specialized areas. ALJ has recommended that GWA provide PUC with

monthly reports generated by the PMO to track its progress. The Commission can then be updated on the effectiveness of the PMO and its progress. The cost is expensive: within a five-year timeframe, the cost is \$15.6M. Some of the funds do go to local contractors, including PMO's bidding out of contracts for construction management on local projects.

The ALJ finds that GWA has complied with the April 30 Order of the Commission. The required information was basically submitted. GWA has submitted information on staff development and the transfer of training and skills by the PMO to the local GWA employees. GWA has also submitted a program management office training plan in significant compliance with the training and staff development requirements of the PUC Order. The Proposed Order would require GWA to provide additional information. Since the PMO will be funded primarily through the 2010 Bond Funds, GWA is required, within sixty days, to provide the PUC with the current balance available from the 2010 Series Bond Proceeds net of any future project commitments. Secondly, GWA will provide PUC a complete copy of the Brown & Caldwell contract along with any amendments. Counsel indicated that this Contract apparently has already been submitted. Thirdly, GWA will provide information that confirms the percentage of Brown & Caldwell payments in 2012 which were used to pay local firms for the subcontracted services. Upon motion duly made, seconded and unanimously carried, the Commissioners approve the Order proposed by the ALJ, which Order made *Attachment "C"* hereto.

4. Guam Power Authority

The Chairman announced that the next item on the agenda was GPA Docket 11-09, GPA 2011 Multi Year Base Rate Filing Phase II Issues (Self-Insurance Fund Protocols and Debt Service Coverage Ratios), ALJ Report, and Proposed Order. Counsel indicated that the two issues before the Commission involve the Self-Insurance Protocols and the proper formula for debt service coverage, particularly for subordinate debt. The Commission has had the opportunity to review the Stipulation between GCG and GPA, and the ALJ Report and Proposed Order. For the Self-Insurance program, the main change is the cap, the amount that GPA can collect through the surcharge. Presently it is set at \$10M, although in GPA Docket 11-04, the Commission already allowed GPA to continue to collect the surcharge for the Self-Insurance program. The accumulated funds already are approaching \$15M. Under the new protocol, GPA would be able to collect up to \$20M. Once the \$20M cap is reached, the surcharge would stop and be removed from the rate payers bills. When GPA makes withdrawals from the fund, the surcharge would not be reinstituted until it reaches the level of \$18M. If the Self-Insurance fund goes below \$18M, the surcharge would be reinstituted. These protocols were negotiated between GPA and GCG, and a hearing conducted before the ALJ.

The Self-Insurance fund has now been expanded. Historically its purpose was mostly to enable GPA to recover from typhoons and storm related events. Now, the Self-Insurance fund could cover accidents, fires, explosions and equipment failures, to the

extent that these are “insurable events.” Certain mitigation and hardening activities not related to a storm can also be covered. Losses from normal wear-and-tear are not covered nor are losses that can be recovered under other insurance policies. Deductibles for other insurance policies, however, could be recoverable. At minimum, there must be a loss of at least \$200,000 before the self-insurance fund can be accessed. Upon a written certification by the GPA General Manager that a loss has occurred that exceeds the minimum threshold, indicating that the loss is associated with an insurable event or that pre-hazard preparation is necessary to minimize service interruptions, the GM can withdraw up to \$5M per insurable event from the fund.

Withdrawals are reviewable by the PUC. The PUC can always review the propriety of any particular withdrawal. Withdrawals above \$5M would have to be approved by the CCU. There is a provision for accounting for the self-insurance fund. If approved by the PUC, GPA will do an actuarial study within three years for determination as to whether the cap is set at the appropriate level. The ALJ report finds that the \$20M cap level is justified. The ALJ report notes that with regard to typhoons, Pongsonga and Chata’an, total expenses for both typhoons were over \$32M, and losses to customers were over \$16M. Based upon GPA’s prior history and experience, the \$20M cap seems to be a fairly accurate level for the self-insurance fund. The reporting requirements should insure that drawdowns by the GPA General Manager are appropriate. Expenditures for system hardening and underground projects, not directly related to a storm, must have prior approval by the PUC. There is an audit requirement for any drawdown in excess of \$2.5M; such audit must be conducted by an independent third party. PUC may adjust any transaction, after hearing, which does not meet the perimeters of the self-insurance protocols. The procedures established for self-insurance are somewhat different than the Contract Review Protocols.

The second issue before you involves the debt service coverage ratio for subordinate debt. Previously, PUC has used a debt service coverage ratio of 1.4x for subordinate debt. Originally there was a disagreement between GCG and GPA concerning the appropriate formula for calculating subordinate debt service coverage ratio. The parties have agreed to use the “S&P” methodology: for revenues, IPP costs are taken out. Net revenues are divided by the total debt service for both senior and subordinate debt. This formula will provide investors with the overall view they need of GPA’s debt situation, whether senior or subordinate debt is involved. There is still one remaining issue on the subordinate debt service coverage ratio. GCG suggests that, when it recommended the 1.4x ratio initially, it had calculated the subordinate debt service ratio in a different manner. Now GCG believes the ratio might more appropriately be 1.3x or based upon a more flexible approach depending on the circumstances. The ALJ report recommends that the commission leave the subordinate debt service coverage ratio at 1.4 at the present time. The parties will be free in the rate case to argue for a different subordinate debt service coverage ratio.

The Chairman asked how much longer the self-insurance surcharge would remain in place until GPA hits the \$20M level. CFO Randy Wiegand indicated that it would be in just over a year. The Chairman clarified that if the self-insurance fund falls below

\$18M, the surcharge would again go into effect. The Chairman asked what debt service coverage ratio the rating agencies were requiring. General Manager Joaquin Flores indicated that the rating agencies wanted a methodology consistent with analysis of the rating agencies. He believes the rating agencies will be pleased when they see that GPA's adopted methodology is consistent with the S&P methodology. The Chairman asked whether a specific minimum was required for subordinate debt. CFO Wiegand indicated that the rating agencies had not really focused on the subordinate debt. Mr. Wiegand indicated that the 1.75x was still applicable for senior debt. Mr. Blair of GCG clarified that the primary debt could meet the requirements but a rate increase could be driven by the need to meet that second (subordinate debt) ratio. Mr. Wiegand indicated that GPA's target was still 1.75x. Commissioner Montinola asked how much the average household would pay for the surcharge fund on a monthly basis. Mr. Wiegand indicated that amount was \$2.75 per month. Commissioner Montinola asked whether the Navy had any concerns about raising the self-insurance cap to \$20M, and Mr. Blair indicated that it did not. Commissioner Perez asked how the parties came up with the \$5M amount that the general manager could withdraw from the self-insurance fund. CFO Wiegand stated that GPA sought to insure the GM's ability to respond to a storm would not be impeded. GCG indicated that amount could be allowed.

Commissioner Perez stated that the contract protocol requires PUC review for expenditures of \$1.5M but prior PUC review apparently is not required for the self-insurance fund withdrawal by the GM up to \$5M. Counsel suggested that the self-insurance fund was the exception, a different situation from the ordinary contract review. The self-insurance fund is designed to meet emergency circumstances. Mr. Blair also indicated that there was an existing exception for emergencies under the current contract review protocol approval. GCG did not wish to limit GPA for emergency withdrawals under the contract review protocol- -those require a Governor's declaration and other requirements under procurement law. Here GPA is given broader authority than provided for in the protocol. The Chairman recognized that this approach would give GPA cash to get back on its feet even after Guam is hit by a typhoon or earthquake. GM Flores indicated that GPA has been working upon development of a typhoon spare critical materials inventory commonly used for typhoon repairs: bolts, connectors, wires, transformers, poles, etc. It generally takes about three weeks to secure such items. GM Flores indicated that GPA attempts to get the entire island recovered within a 30 to 60 day restoration time after a direct hit by super typhoons.

Commissioner Montinola asked whether these funds could be used for repairs such as the Cabras 3 repairs. GM Flores indicated that it is still uncertain whether the Cabras 3 repairs are an "insurable loss." A forensic study will be completed this week. Commissioner Montinola asked how much the Cabras 3 repairs will cost. CFO Wiegand indicated that costs would be about \$3.5M. Mr. Blair indicated GCG feels that the self-insurance fund could be used for such cost, as it is important to restore Cabras 3 as soon as possible. GPA Legal Counsel Graham Botha further indicated that if the Cabras 3 loss is insurable, GPA would also seek reimbursement from the self-insurance fund for the \$2.5M policy deductible. Commissioner Montinola asked whether the

increased cost of fuel from the loss of Cabras 3 would be reduced if the repairs were funded through the self-insurance fund. CFO Wiegand indicated that they would not. GM Flores stated that a 60 day deductible expense would mean that fuel costs for 60 days of downtime would not be covered. Mr. Blair explained that fuel costs would just automatically go through the LEAC. Not everything will be recovered.

Commissioner Pangelinan asked about allowable expenditures under Protocol 12. There could be some drawdowns from the self-insurance fund for items not specifically listed. Commissioner Pangelinan asked what the standard for review would be under such a provision. Counsel stated that it would probably be the "reasonable, prudent and necessary" standard. Commissioner Pangelinan felt that could cover any exception. Counsel believes that the expense would have to be related to one of the purposes of the self-insurance fund, either storm related or resulting from a loss. The exception is broad. Commissioner Montinola pointed out that if the drawdown report does not meet PUC standards, PUC can reverse any withdrawal from the fund and back it out. GM Flores reiterated that a detailed justification was required for PUC review within a month after a withdrawal. Mr. Blair stated that, in the negotiations between GCG and GPA, allowance was considered for mitigation projects with matching fund requirements for grants. However, GCG did not agree to GPA access to self-insurance funds to make up lost revenues or for loss of equity.

Commissioner Cantoria indicated that there was a danger to collect funds from customers that were not storm related. This could open the door to abuse. Counsel believes that safeguards are built in and PUC will always have the power to step in and examine any particular expenditure, and determine whether it is within the protocol. Commissioner Pangelinan indicated that if an item was not specifically listed in the protocol, it would need prior approval by the PUC. Thus, GPA would have to go through a petition process and appear before the PUC. Counsel confirmed Commissioner Pangelinan's understanding. Commissioner Montinola was satisfied that, because PUC could review the expenditures on a month-to-month basis, PUC would have an idea of how the funds were being used. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the self-insurance protocols and subordinate debt service coverage formula/ratio, and adopted the order made *Attachment "D"* hereto.

The Chairman announced that the next item on the agenda was GPA Docket 13-04, Petition for Approval of Insurance Invitation for Bids, PUC Counsel Report, and Proposed Order. Counsel stated that here GPA requests that it be allowed to go out to bid for its property insurance. Its present property insurance policy expires on November 1, 2013. GPA's request is reasonable: its bond indenture requires that GPA maintain property insurance on its facilities, and that GPA carry such insurance of a scope and nature as is usually carried in the industry. Previously in 2008, PUC authorized GPA to go out to bid for its property insurance. The policy, which had a three year term and two one year extensions, is now expiring. Present property insurance sought will include property insurance and boiler, machinery and terrorism coverage.

The CCU has already approved the procurement and the bid documentation. GPA has to go out to bid. The cost of the new policy will be between \$6M and \$7M. Since the cost of the policy is presently unknown, the Counsel Report recommends that GPA should come back to the PUC for final approval once the cost of the policy is known. The Proposed Order would approve GPA's procurement. The Chairman asked whether the deductible on the earthquake and typhoon coverage was \$10M. GM Flores indicated that is the cap. Commissioner Montinola clarified that the deductible under the policy for the Cabras 3 repairs would be \$2.5M. Commissioner Montinola also asked about the insurance limit at present of \$300M for the entire system. GM Flores indicated, however, that the total replacement value for GPA's system is \$1.3B. However, GPA cannot get insurance for transmission and distribution. CFO Wiegand indicated that the entire system cannot be insured. Upon motion duly made, seconded and unanimously carried, the Commissioners authorized GPA to issue a bid for property insurance and adopted the Order made *Attachment "E"* hereto.

The Chairman announced that the next item for consideration by the Commissioners was GPA Docket 13-05, Procurement of Equipment for Diesel RICE MACT Compliance and to Approve Environmental Program Project for Diesel Peaking Units, PUC Counsel Report, and Proposed Order. Counsel stated that the petition involves GPA's efforts to comply with new EPA regulations for its diesel generating units. The Petition only addresses what is referred to as the RICE MACT rules for the Talofoto, Manenggon, and Tenjo Vista diesel plants. The RICE MACT rules require that all diesel engines greater than 500 horsepower emit less than 23 parts per million carbon monoxide. GPA has obtained one year extension from USEPA for compliance (i.e. May 3, 2014). GPA hired TRC Environmental Corporation to assist it with such compliance, including design and installation of oxygen catalysts, smoke stacks, and maximum achievable control such equipment and materials for GPA. TRC prepared a bid package, received proposals and selected a company called Miratec, which had supplied this type of equipment in Hawaii previously. The cost for catalysts and smoke stacks for the ten diesel plants is \$1.495M. There will be additional costs of about \$4M for modifying existing structures and various civil works. The latter amount is just an estimate. GPA has not yet provided background information on that amount. Only the cost of the equipment, \$1.495M, is presently before the PUC. There is a report by TRC which evaluated the various proposals and found that Miratec had the best equipment, warranties, sound attenuation, and equipment dimensions. TRC recommended Miratec.

PUC Consultant Lummus also examined GPA's petition. Lummus feels that GPA's approach here is prudent and reasonable: it is necessary if GPA desires to maintain the diesel units as part of the present island wide power system. In its opinion, GPA should be authorized to proceed with this project. For the potential \$4M costs for civil and other works, there is presently no factual basis before the Commission to review that amount. The Commission should approve the procurement and equipment for the diesel RICE MACT compliance in the amount of \$1.495M. The additional \$4M requested should be addressed later on when appropriate background information is provided.

Commissioner Perez asked whether GPA was presently paying any fines to EPA. Legal Counsel Botha indicated that none were presently being paid. Commissioner McDonald asked what was the expected life span of the catalysts; must they be replaced? GM Flores stated that Miratec has convinced GPA that replacement could be beyond five years, potentially up to ten. But, there is uncertainty as to when replacement will be required. Commissioner Cantoria clarified that not all of GPA's plants were presently included in this pending petition. Counsel stated that the other plants would also have to comply with the RICE MACT rules. Commissioner Cantoria asked where the funding for environmental compliance was coming from. Counsel indicated that funding issues have not yet been determined. Counsel doubted that self-insurance funds could be used for this purpose. Upon motion duly made, seconded and unanimously carried, the Commissioners approved GPA's expenditure of \$1.495M for RICE MACT compliance and adopted the Order made *Attachment "F"* hereto.

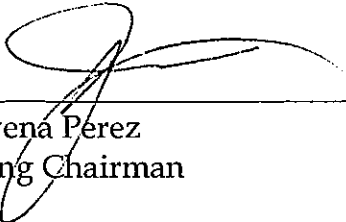
Chairman Johnson asked how GPA was proceeding with the smart meters. Is the US Department of Energy still paying for this? GM Flores indicated that there will soon be a DOE Audit. GPA is essentially complete with residential meters. Most of the government, in three phases, are complete. Now GPA is working with commercial customers. It should be done by June as anticipated. The Chairman asked how many people have opted out of the smart meters at this point in time. GM Flores indicated that it has been about 40 to 60, island wide. GM Flores indicated that a number of persons have been convinced, after education and outreach, to use the smart meters. There have been village meetings. Commissioner Perez confirmed that GPA had issued notices to customers before it came to their houses.

Chairman Johnson next asked GPA about the status of its fuel hedging program. GM Flores indicated that GPA had exercised a swap from May through August. However, GPA is not currently still doing zero-cost collars. An expert is assisting GPA to manage the hiring of a full time analyst. The analyst will be dedicated to fuel hedging. The person has not yet been picked.

5. Administrative Matters

The Chairman announced that the next item on the agenda was Resolution 13-02, authorizing the PUC to issue fiscal year 2014 Requests for Proposals for ALJ Services, Legal Counsel Services, and General Consulting Services. Counsel indicated that nearly five years had elapsed since the Commission last hired ALJ, Legal Counsel, and Consultant. Those contracts will all expire at the end of September of this year. It is prudent at this point for the Commission to put these matters out to bid. Procurement documents are now being prepared. Some revisions are required. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the proposed Resolution.

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



Rowena Perez
Acting Chairman

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION
REGULAR MEETING
SUITE 202, GCIC BUILDING
414 W. SOLEDAD AVE. HAGATNA, GUAM
7:00 p.m., May 28, 2013**

Agenda

- 1. Approval of Minutes of April 30, 2013**
- 2. Port Authority of Guam**
 - **PAG Docket 12-02, Transshipment Study, ALJ Report, Proposed Order**
- 3. Guam Waterworks Authority**
 - **GPA Docket 11-02, Program Management Office Contract with Brown & Caldwell, ALJ Report**
- 4. Guam Power Authority**
 - **GPA Docket 11-09, GPA's 2011 Multi Year Base Rate Filing, Phase II Issues (Self Insurance Fund Protocols/Debt Service Coverage Ratios), ALJ Report, Proposed Order**
 - **GPA Docket 13-04, Petition for Approval of Insurance Invitation for Bids. PUC Counsel Report, Proposed Order**
 - **GPA Docket No. 13-05: Procurement of Equipment for Diesel RICE MACT Compliance and to Approve Environmental Program Project for Diesel Peaking Units**
- 5. Administrative Matters**
 - **Consideration of draft Resolution 13-02 (authorizing the PUC to issue FY 2014 Requests for Proposals for ALJ Services, Legal Counsel Services, and general Consulting Services)**
- 6. Other Business**



BEFORE THE PUBLIC UTILITIES COMMISSION

**IN RE: PETITION FOR CRANE)
 SURCHARGE BY PORT)
 AUTHORITY OF GUAM)
_____)**

**PAG DOCKET 12-02

AMENDED ORDER**

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the September 20, 2012 Petition to Establish Crane Surcharge Rate (hereinafter referred to as the “Petition”) filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (hereinafter referred to as “PAG” or the “Port”). In the Petition, PAG requests that the PUC review and approve the proposed surcharge recommended by PAG related to the purchase, maintenance, and use of the Port of Los Angeles (“PoLA”) cranes owned by Matson Navigation Company, Inc. and Horizon Lines, L.L.C.

DETERMINATIONS

A. Regulatory Review

Under Section 12004 of the Public Utilities Commission and the Guam Telecommunications Act of 2004 (the “PUC and Telecommunications Act”), “[t]he Commission shall have regulatory oversight supervision of rates as set forth in this Chapter over each public utility and shall perform the duties and exercise the powers imposed or conferred upon it by this Chapter.” 12 G.C.A. §12004. “No rate change may be approved by the Commission unless it is affirmatively established, by a preponderance of the evidence, that a rate change is necessary.” *Id.* “The Commission shall conduct such investigation and hearings as to any such rate changes as it deems necessary.” *Id.*

“Any rate change shall be considered by the Commission using standards and financial criteria consistent with generally accepted ratemaking practices of public utilities and in full consideration of the requirement to establish and maintain General Lifeline Rates.” *Id.* The PUC is authorized to “seek advice from an independent utility expert, shall approve, disapprove, increase or reduce rates for each utility”; and “[a]t any public hearing concerning the establishment or modification of any rate, the commission may consider any factual testimony and evidence presented by the general public.” *Id.*

Section 12015 of the PUC and Telecommunications Act mandates that “[a]ll rates, charges, assessments, and costs made or charged by any public utility shall be just and reasonable and in conformance with public law, and shall be filed with the Commission; and no rate, charge or assessment cost shall be established, abandoned, modified, departed from or changed without a public hearing and the prior approval of the Commission.” 12 G.C.A. §12015(a).

B. Enabling and Special Legislation

Public Law (“P.L.”) 31-145 was enacted on November 21, 2011 and amended P.L. 30-57. Under this public law, PAG is required to obtain, through purchase or lease to own, at least two (2) gantry cranes by December 31, 2012.¹ In addition, the Guam Legislature specifically found that “the acquisition of the POLA Cranes by the Port has the potential to present a singularly unique opportunity and value to Guam given their presence on the rails, record of operational reliability, and the elimination of disruption to ongoing operations.”² The law additionally required the PUC to perform its regulatory review and dispose of the matter in a

¹ P.L. 31-145, Section 1, p. 3 (Nov. 17, 2011).

² *Id.* at Section 3, pp. 4-6.

timely and expeditious manner.³ As a result, PAG is under a statutory obligation to purchase, or lease to own, at least two (2) of the PoLA cranes.

C. PAG Board Approval

Pursuant to Resolution No. 2012-04A, PAG's Board of Directors approved a crane surcharge, of up to \$125.00 per loaded container and \$5.00 per tonnage for non-containerized cargo, in order to fund the debt service, repairs, and maintenance for the PoLA cranes, as well as to establish a sinking fund to plan for any replacement cranes in the future.⁴

D. PAG's Petition

The Petition filed by PAG requested that the PUC issue an order granting the following: (1) that the crane surcharge of \$105 be applied for each loaded container; (2) that this surcharge apply "to all first carriers bringing fully loaded containers to the Port"; (3) that the crane surcharge of \$5 be applied per revenue ton for "use of the cranes to handle non-containerized or breakbulk cargos"; (4) that the revenues of the crane surcharge be used to "support acquisition price, loan financing, insurance, operation, crane accessories and upgrades, implementation of a sustainable structured maintenance program (including parts room and spare parts inventory), and implementation of a long-term asset retirement, replacement and casualty management reserve."⁵ The Petition was supported by PAG Board Resolution No. 2012-04A, wherein PAG's Board of Directors approved a crane surcharge, of up to \$125.00 for loaded container and \$5.00 per tonnage for non-containerized cargo, to fund the debt service, repairs, and maintenance for the PoLA cranes, as well as to establish a sinking fund to plan for any

³ *Id.* at Section 3, p. 6.

⁴ *See* Petition, "Exhibit 7" (PAG Board Resolution No. 2012-04A).

⁵ Petition, p. 2.

replacement cranes in the future.⁶ The Petition was further supported by written testimony from PAG's management, namely: Mary C. Torres, General Manager; John B. Santos, Operations Manager; and Jose B. Guevara, III, Financial Affairs Controller. The Petition was also supported by financial schedules submitted by PAG, which included revenue requirements, income statements, as well as container counts used to project the revenue base of the proposed crane surcharge, and a fifteen (15) year projection of revenues, expenses, and cash flow statements related to the cranes.⁷

E. Public Hearings

Pursuant to 12 G.C.A. §12016, public hearings were held on November 28, 2012, and November 29, 2012, in the villages of Hagåtña, Asan, and Dededo. Five individuals provided public testimony during these times.

F. Senator Tom Ada's Comments

The record in this docket also reflects written comments submitted by the Honorable Senator Thomas Ada and PAG.

G. Slater Nakamura's Report

Pursuant to a request by the PUC, Slater Nakamura conducted the rate investigation related to PAG's proposed PoLA crane surcharge. Slater Nakamura transmitted its initial draft report on the rate investigation to PAG on October 26, 2012, affording PAG an opportunity to review the bases, findings, and recommendations detailed in the investigation. Thereafter, PAG transmitted its comments to the draft report to Slater Nakamura. Slater

⁶ See Petition, "Exhibit 7" (PAG Board Resolution No. 2012-04A).

⁷ Petition, "Exhibit 3," FAC-1; and p. 4.

Nakamura then filed its final Report on its investigation of the proposed crane surcharge on November 3, 2012.

Based on its investigation, Slater Nakamura issued the following recommendations. First, the consultants recommended that the PUC authorize a crane surcharge of \$105 “per each inbound, outbound and first carrier trans-shipment loaded/full container.”⁸ Second, it recommended that the PUC also authorize a crane surcharge of \$5 per ton of non-containerized or break bulk cargos with the charge being capped at \$105 per unit/item.”⁹ Next, it recommended that the PUC authorize PAG to begin implementation of the crane surcharge on January 1, 2013.¹⁰

In addition, Slater Nakamura recommended that the PUC “direct the PAG leadership to immediately begin the public announcement and discussion process to increase the surcharge from \$105 to \$125 per container”; and that PAG should file a petition for a \$125 per container surcharge petition by March 2013.¹¹ The consultants also recommended that the PUC “direct the PAG leadership to report annually on the variance between the revenues and costs that were forecast in their petition and as modified [in the Report]”; and that “[c]hanges in the surcharge rate should be adjusted in a timely manner to ensure that the costs of crane operations and debt amortization are properly offset by the surcharge.”¹²

The consultants further recommended that the PUC “direct PAG to use the FY13 baseline container throughput projection to be 44,400 containers and the breakbulk tonnage to be

⁸ Report, p. 30.

⁹ Report, p. 30.

¹⁰ Report, p. 30.

¹¹ Report, p. 30.

¹² Report, p. 30.

42,010 tons.”¹³ And finally, it recommended that the PUC also “direct that funds deposited in the crane reserve account be restricted for the purpose of future crane acquisitions or extraordinary corrective maintenance events.”¹⁴

H. The ALJ Report

On December 7, 2012, the ALJ filed an ALJ report detailing his review of the crane surcharge rate investigation, findings, and recommendations, based on the evidence presented in the record.

In particular, with respect to the baseline revenue calculations, the ALJ found that PAG is required to develop a projection for cargo throughput that can be used to forecast revenues from the crane surcharge. The ALJ additionally found that Slater Nakamura’s recommendation that the baseline throughput projection should be established at 44,400 containers, and breakbulk cargo tonnage at 42,010 tons, was reasonable; and that the record reflected that PAG and Senator Ada had agreed with these baseline throughput projections. Accordingly, the ALJ recommended that the PUC direct PAG to establish the FY2013 baseline container throughput projection at 44,400 containers and breakbulk cargo tonnage at 42,010 tons.

With respect to the crane surcharge, the ALJ found that a crane surcharge was necessary to “support acquisition price, loan financing, insurance, operation, crane accessories and upgrades, implementation of a sustainable structured maintenance program (including parts room and spare parts inventory), and implementation of a long-term asset retirement, replacement and casualty management reserve.”¹⁵ The ALJ also found that a crane surcharge of

¹³ Report, p. 30.

¹⁴ Report, p. 30.

¹⁵ Petition, p. 2.

\$125 for each inbound, outbound and first-carrier transshipment loaded/full container was just and reasonable. Furthermore, the ALJ found that a \$5 surcharge per ton on non-containerized, or breakbulk cargo, with the charge capped at \$105 per unit/item, is also just and reasonable.

Accordingly, the ALJ recommended that the PUC authorize PAG to assess a crane surcharge of \$125 for each inbound, outbound, as well as transshipment containers handled at the Port, which transshipment containers shall be assessed only on the first carrier and not on the feeder vessel. The ALJ further recommended that the PUC authorize PAG to assess a \$5 surcharge per ton on non-containerized, or breakbulk cargo, with the charge capped at \$105 per unit/item.

With respect to the implementation of the crane surcharge, the ALJ found that providing adequate notice to PAG's shipping agents and their customers regarding the \$125 surcharge was fair and reasonable. The ALJ, therefore, recommended that the PUC approve implementation of a \$105 interim surcharge, effective January 1, 2013, and terminating on February 28, 2013; as well as approve implementation of the \$125 surcharge, effective March 1, 2013, so as to afford the carriers adequate notice of the \$125 surcharge rate.

Furthermore, the ALJ additionally recommended that the PUC direct PAG to deposit 9.5% of the revenues from the crane surcharge into a crane replacement sinking fund, which shall include all revenue generated in excess of the baseline projections recommended by Slater Nakamura. The ALJ recommended that the funds deposited into this sinking fund should be restricted for the purpose of future acquisition of cranes, any loan payment due to default on any past due crane loan liability, or any extraordinary corrective maintenance events. Accordingly, the ALJ also recommended that PAG be directed to create General Ledger revenue

and expense accounts that directly link the crane surcharge monies to the Gantry Crane loan payments, insurance, a sustainable structured maintenance program, a spare parts inventory, and a long-term asset replacement and a casualty management reserve.

With respect to the application of the crane surcharge on transshipment containers, the ALJ found that the PUC should “consider that at least a portion of the surcharge be assessed to account for the additional wear and tear from the transshipment lifts,”¹⁶ but that “transshipment is a sensitive issue that should be studied further to ensure that we do not lose this revenue to our neighboring islands.”¹⁷ Consequently, the ALJ recommended that the PUC direct PAG to study this transshipment issue, which should include, at a minimum: a review of whether the operational and maintenance costs (such as man hours, parts, PMC fees, insurance, depreciation, fuel, other wharf fees, etc.) associated with each transshipment container, are appropriately captured; and, if not, determine whether a full or reduced container surcharge fee should be assessed for those transshipment containers being loaded onto a feeder vessel.”¹⁸ The ALJ recommended that the PUC require PAG to a report on such study by June 30, 2013.

Finally, with respect to annual reporting on the efficacy of the crane surcharge, the ALJ found that PAG was required to develop a tariff to fully fund the acquisition, financing, maintenance, of PoLA cranes 14, 16, and 17, as well as Crane 3, and partially fund the replacement of at least one crane within 15 years. The ALJ, therefore, recommended that the PUC direct PAG to file an annual report, the first report due by December 31, 2013, on the variance between the revenues and costs that were forecast in the Petition and as modified by

¹⁶ Senator Ada’s Supplemental Testimony, p. 1.

¹⁷ Audio CD, PAG Docket 12-02 (Nov. 29, 2012).

¹⁸ PAG’s Response to Senator Ada’s Comments, p. 2.

Slater Nakamura in its Report, and determining whether the overall application of the crane surcharge should be adjusted to ensure that the costs of crane ownership and debt amortization are properly offset by the surcharge.

The Commission hereby adopts the findings made in the ALJ Report and, therefore, issues the following.

ORDERING PROVISIONS

Upon careful consideration of the record herein, the December 7, 2012 ALJ Report, the May 24, 2013 ALJ Report, and for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS the following:

1. PAG shall establish the FY2013 baseline container throughput projection at 44,400 containers and breakbulk cargo tonnage at 42,010 tons.
2. With respect to the surcharge on containers, PAG shall assess a \$105 interim surcharge, applied to both foreign and domestic carriers, effective January 1, 2013, and terminating on February 28, 2013, for each inbound, outbound, as well as transshipment containers handled at the Port, which transshipment containers shall be assessed only on the first carrier and not on the feeder vessel; after February 28, 2013, PAG shall assess a \$125 surcharge, applied to both foreign and domestic carriers, for each inbound, outbound, as well as transshipment containers handled at the Port, which transshipment containers shall be assessed only on the first carrier and not on the feeder vessel;

3. With respect to breakbulk, non-containerized cargo, PAG shall assess a \$5 surcharge per ton with the charge capped at \$105 per unit/item, effective January 1, 2013, and which shall be applied to both foreign and domestic carriers;

4. PAG shall deposit 9.5% of the revenues from the crane surcharge into a crane replacement sinking fund, which shall include all revenue generated in excess of the baseline projections recommended by Slater Nakamura; the funds deposited into this sinking fund shall be restricted for the purpose of future acquisition of cranes, any loan payment due to default on any past due crane loan liability, or any extraordinary corrective maintenance events;

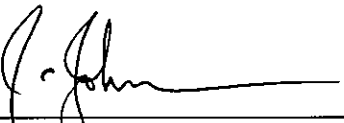
5. PAG shall establish General Ledger revenue and expense accounts that directly link the crane surcharge monies to the Gantry Crane loan payments, insurance, a sustainable structured maintenance program, a spare parts inventory, and to the crane replacement sinking fund;

6. PAG shall prepare a study related to transshipment, which shall include, at a minimum: a review of whether the operational and maintenance costs (such as man hours, parts, PMC fees, insurance, depreciation, fuel, other wharf fees, etc.) associated with each transshipment container, are appropriately captured; and, if not, determine whether a full or reduced container surcharge fee should be assessed for those transshipment containers being loaded onto a feeder vessel; the transshipment study shall also provide an examination of the cost of service associated with fuel that is off-loaded, and later back-loaded, to determine if the current fifty percent (50%) discount is justified, and if not, how the disparity should be rectified; PAG shall file a report with the PUC regarding the results of its study by August 30, 2013;

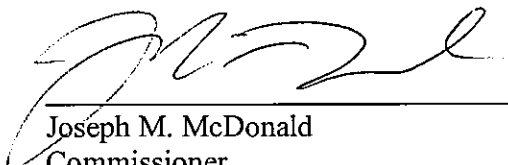
7. PAG shall file an annual report, the first report due by December 31, 2013, on the variance between the revenues and costs that were forecast in the Petition and as modified by Slater Nakamura in its Report, and determining whether the overall application of the crane surcharge should be adjusted to ensure that the costs of crane ownership and debt amortization are properly offset by the surcharge; and

8. PAG is ordered to pay the PUC's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses associated with the instant rate investigation and 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 PUC.

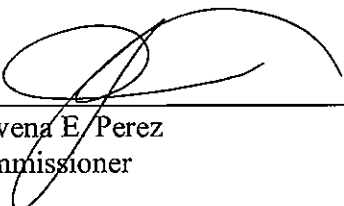
SO ORDERED this 28th day of May, 2013.




Jeffrey C. Johnson
Chairman



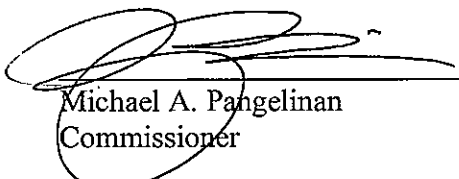
Joseph M. McDonald
Commissioner




Rowena E. Perez
Commissioner



Filomena M. Cantoria
Commissioner

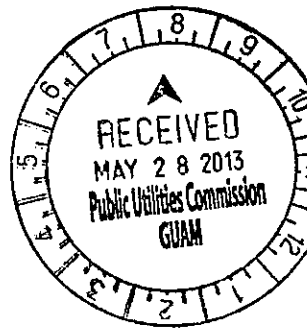


Michael A. Pangelinan
Commissioner



Peter Montinola
Commissioner

P134052.JRA



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

)	GWA DOCKET 13-01
)	
PETITION OF)	
GUAM WATERWORKS AUTHORITY)	ORDER
FOR RATE RELIEF)	
)	
)	
)	

INTRODUCTION

On April 30, 2013, the Guam Public Utilities Commission (the "PUC") issued an Order approving the Petition filed by Guam Waterworks Authority ("GWA") to increase by \$1.2 million GWA's Program Management Office Contract ("PMO" with Brown & Caldwell ("B&C")), but requested that GWA provide certain information within 60 days thereafter.¹ The Administrative Law Judge of the PUC, David A. Mair (the "ALJ"), who acts as the ALJ on GWA related matters, has been tasked with providing the PUC with a report on GWA's response to the April 30, 2013 Order. On May 17, 2013, GWA responded with the submission of information sought by the PUC.

DETERMINATIONS

In the April 30, 2013 Order, the PUC requested that GWA within 60 days submit a detailed report on: (a) immediate and long range plans for use of the PMO, including the remainder of this fiscal year and over the next five years and beyond, which explains general tasks proposed and general scope of work; (b) justification for use of the PMO, including whether the PMO remains necessary in light of the delay in the military buildup; (c) discussion of how the PMO plans to utilize and pass on its skills to the employees, what has been done to date, and what specific staff development and process improvement plans are in

¹ PUC Order, GPA Docket 11-02, p. 2 (Apr. 30, 2013).

effect; (d) GWA to provide the PUC with copies of staff development and process improvement plans proposed and executed by B&C, and portions of B&C's contract which specifies in detail precisely how the PMO will optimize the skills of GWA employees; (e) a brief outline of the major accomplishments of the PMO; and, (f) a description of the steps to date that the PMO has taken to develop the skills of GWA employees.

On May 17, 2013, GWA submitted its reports responsive to the PUC's requests. On May 24, 2013, the ALJ filed an ALJ Report detailing his findings based on GWA's submission. In the ALJ Report, the ALJ found that GWA substantially complied with the PUC's April 30, 2013 Order and provided the bulk of the information requested. However, with regard to certain matters, the ALJ determined that GWA should be required to supplement its responses with some additional information. Accordingly, the ALJ recommended that GWA provide the following supplemental information:

- A. GWA should provide within sixty (60) days the PUC, the ALJ and the PUC's consultants the current balance available from the 2010 Series Bond proceeds net of any future project commitments.
- B. GWA should provide within sixty (60) days the PUC, the ALJ and the PUC's consultants with a complete copy of the B&C contract with GWA, along with any amendments.
- C. GWA should commence providing the PUC, the ALJ and the PUC's consultants with the monthly reports generated by the PMO to track their progress. These reports shall be provided to the PUC and its consultant so that the consultant can monitor the effectiveness of GWA's PMO and update the Commissioners regularly on key findings relative to the initiative.
- D. GWA should provide within sixty (60) days the PUC, the ALJ and the PUC's consultants with information that would confirm the percentage of B&C payments in 2012 that were used to pay local firms for their subcontracted services. Additionally, GWA and B&C should establish realistic goals for increasing that percentage for each successive year and include realized results in their progress reporting.

The Commission hereby adopts the findings made in the ALJ Report and, therefore, issues the following.

ORDERING PROVISIONS

Upon careful consideration of the record herein, the May 24, 2013 ALJ Report, and for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS the following:

1. The PUC finds that GWA has substantially complied with the PUC Order of April 30, 2013, and provided the bulk of the information requested.

2. GWA shall provide the following supplemental information:

A. GWA shall provide within sixty (60) days the PUC, the ALJ and the PUC's consultants the current balance available from the 2010 Series Bond proceeds net of any future project commitments.


B. GWA shall provide within sixty (60) days the PUC, the ALJ and the PUC's consultants with a complete copy of the B&C contract with GWA, along with any amendments.

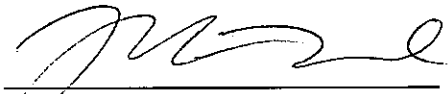
C. GWA shall commence providing the PUC, the ALJ and the PUC's consultants with the monthly reports generated by the PMO to track their progress. These reports shall be provided to the PUC and its consultant so that the consultant can monitor the effectiveness of GWA's PMO and update the Commissioners regularly on key findings relative to the initiative.


D. GWA shall provide within sixty (60) days the PUC, the ALJ and the PUC's consultants with information that would confirm the percentage of B&C payments in 2012 that were used to pay local firms for their subcontracted services. Additionally, GWA and B&C shall establish realistic goals for increasing that percentage for each successive year and include realized results in their progress reporting.

3. GWA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses associated with the contract review and rate investigation. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§12002(b), 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.


SO ORDERED this 28th day of May, 2013.

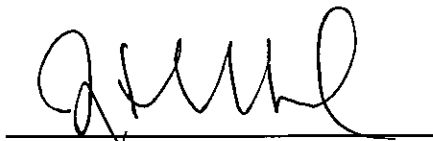

JEFFREY C. JOHNSON
Chairman


JOSEPH M. MCDONALD
Commissioner


ROWENA E. PEREZ
Commissioner


FILOMENA CANTORIA
Commissioner


MICHAEL A. PANGELINAN
Commissioner


PETER MONTINOLA
Commissioner

P134054.JRA

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:

GUAM POWER AUTHORITY'S 2011
MULTI YEAR BASE RATE RELIEF
FILING [PHASE II ISSUES]

GPA DOCKET 11-09

ORDER

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] as a part of the "PHASE II" issues in the Guam Power Authority's ["GPA's"] 2011 Multi Year Base Rate Relief Filing.
2. In the ORDER RE: PRELIMINARY ISSUES rendered by the Administrative Law Judge ["ALJ"] on February 8, 2012, certain issues, including the Self Insurance Surcharge and the formula for determination of the debt service coverage ratio on subordinate debt, were deferred until PHASE II of this proceeding.¹
3. This ORDER addresses the resolution of PHASE II issues concerning the Self Insurance Program Protocols and the formula for determining the debt service coverage ratio for subordinate debt.

BACKGROUND

4. The history of the Self Insurance Program ["SIP"] has been addressed in the ALJ Report filed herein on May 23, 2013.² The background and conclusions stated in the Report are adopted herein. The program has generally been designed to provide a source of funding which enables GPA to make repairs to the island wide power system resulting from natural disasters, particularly typhoons.
5. Since the inception of the Program, the PUC has broadened the scope of permissible expenditures under the program and has increased the cap on the SIP to \$10 million.³ In GPUC Docket 11-04, the Commission authorized GPA to continue collecting the SIP amounts from customers pending completion of GPA's general rate case (even though the cap had already been reached).⁴

¹ ORDER RE: PRELIMINARY ISSUES, GPA DOCKET 11-09, issued February 8, 2012.

² ALJ Report re: PHASE II ISSUES, GPA Docket 11-09, filed on May 24, 2013.

³ Letter from GPA General Manager Joaquin Flores to Frederick J. Horecky, PUC ALJ, Re: GPA Docket 11-09-Phase II Self Insurance Fund Protocols

⁴ Id. at p. 2.

6. Both GPA and the PUC Independent Consultant, the Georgetown Consulting Group ["GCG"] have filed reports on the Self-Insurance Program and the applicable protocols.⁵ On April 15, 2013, both GPA and GCG also submitted their respective positions regarding subordinate debt service ratio coverage.⁶
7. Initially there was a difference of opinion between GPA and GCG as to the formula by which the debt service coverage ratio on subordinate debt should be calculated. GPA's proposed formula was based upon total debt service costs, whereas GCG proposed to determine the ratio based upon subordinate debt service costs.⁷
8. Subsequent to conversations between GCG and GPA in April of 2013, the parties agreed that the methodology proposed by GPA for determining the subordinate debt service coverage ratio may be utilized.
9. However, GCG believes the PUC should reconsider its current standard of 1.4x for subordinate debt service coverage: "The regulatory standard should be reset to 1.3x and the "S&P" Method should be used for the computation."⁸
10. On May 15, 2013, GPA and GCG entered into a proposed Stipulation concerning the Self Insurance Program Protocols and the Subordinate Debt Service Coverage Ratio.⁹ On May 17, 2013, the parties met for a hearing conducted before the Administrative Law Judge at the PUC Conference Room.
11. The parties, through their various representatives, were in attendance. The Navy, although not a party to the Stipulation, also appeared at the hearing. At that time the parties presented their positions concerning the two issues and the proposed Self Insurance Protocols. The ALJ conducted an inquiry into the provisions agreed to and also requested that the parties consider certain revisions to the Protocols.

⁵ SAIC, Report on SELF-INSURANCE PROTOCOLS, Guam Power Authority, GPA Docket 11-09, filed April 15, 2013; GCG Report of the Technical Consultants, GPA Docket 11-09 concerning the setting of self-insurance cap, possible protocols for accessing funds, and debt service coverage ratio requirements on subordinate revenue bonds, filed April 15, 2013.

⁶ GCG Report, Id.; Black & Veatch, FINANCIAL MEMORANDUM: Debt Rating Criteria and the Utility Rate Making Process, GPA Docket 11-09, filed April 15, 2013.

⁷ Letter from GPA GM Joaquin Flores to ALJ Fred Horecky, GPA Docket 11-09 Phase II, Re: Subordinate Debt Service Coverage Ratio Filing, filed April 15, 2013.

⁸ Report of the Technical Consultants Madan, Gawlik & Margerison, GPA Docket 11-09, filed April 15, 2013.

⁹ STIPULATION RE: PHASE II ISSUES, GPA Docket 11-09, filed May 15, 2013.

DETERMINATIONS

12. On May 15, 2013, GPA and GCG filed their STIPULATION RE: PHASE II ISSUES. The Stipulation has been the result of extended discussion between the parties; attached as Exhibit A to the Stipulation are the Self Insurance Program Protocols. The Protocols appropriately define the scope, draw down procedures, review process, and other aspects of the Self-Insurance Program. The parties filed revised Self Insurance Protocols on May 22, 2013.
13. The further extension of the scope of GPA's use of Self Insurance Funds from losses resulting from natural disasters, such as typhoons and earthquakes, to "all unanticipated and extraordinary expenses associated with insurable events, including losses from accidents, explosions, fires and similar events", and equipment failures, is a beneficial development. GPA will have readily available financial resources to address unanticipated losses from uninsurable events. It will be able to address natural and other disasters in a timely manner.
14. Under the proposed Protocols, the SIP Reserve will continue to accrue until it reaches the SIP Reserve Cap of \$20,000,000. The parties have established that it is appropriate to raise the Cap from \$10M to \$20M. GPA will be required to retain an outside consultant specializing in actuarial analysis to perform an analysis of the Cap by June 2016, if acceptable to the PUC. Any further request for changes in the SIP Cap to the PUC shall contain a recommendation from such consultant.
15. In the SAIC Report, certain disaster charge figures are cited. In 2002, the total disaster charges to GPA work orders for Typhoons Chataan and Pongsona were \$38,453,272. GPA Ratepayer Cost for those typhoons was \$16,204,919.¹⁰ The amount of damage incurred to Guam as a result of those storms, as well as the significant ratepayer cost, substantiate that the proposed level for the self-insurance cap approximates an amount that could be necessary for disaster repairs in a worst case storm scenario.
16. Both the Consultants for the PUC and GPA gave their opinions at the scheduled hearing on this matter that the proposed cap of \$20M represents a reasonable amount to protect GPA against potential losses. The proposed cap should be adopted by the PUC.
17. Under the proposed protocols, the Self-Insurance Surcharge remains the same as

¹⁰ SAIC, Self-Insurance Protocols (Guam Power Authority) April 15, 2013.

the present surcharge: \$0.0029 per kilowatt hour (kWh) sold by GPA to civilians and \$0.0007 per kWh sold by GPA to U.S. Navy customers.

18. The Protocols have protections which should be sufficient to insure that GPA properly expends the Self Insurance Funds. The Consolidated Commission on Utilities ["CCU"] must authorize all SIP draws above \$5M. There are various reporting requirements that GPA must undertake, to the CCU and the PUC, for the drawdown of funds from the SIP reserve. Use of the SIP Reserve for mitigation activities not associated with a storm event requires the prior approval from both the CCU and the GPUC.
19. All SIP reserve draw downs and Draw Declarations in excess of \$2.5M must be audited by an independent third party for SIPP compliance on an annual basis.
20. The PUC retains its express and inherent regulatory oversight authorities under the protocols to review all expenditures by GPA under the Self Insurance Protocols, to determine whether any expenditure is in accordance with the Protocols, and to fashion appropriate remedies for any transaction found not to meet the parameters of the Protocols.
21. The Self Insurance Protocols are the product of careful deliberation and should be approved and adopted by the PUC.
22. With regard to Debt Service Coverage Ratio, GPA and GCG have essentially agreed to use the methodology proposed by GPA to calculate debt service coverage ratio on subordinate debt. The agreed upon formula in the Stipulation is as follows:
$$\frac{(\text{Net Revenues as defined by the PUC or S\&P Method})}{(\text{total debt service for senior and subordinate debt})}^{11}$$
23. It is appropriate to utilize a formula for the calculation of the debt service coverage ratio on subordinate debt in a manner that analyzes the financial strength of GPA in the perspective of overall strength of the utility organization, not merely from the view of an investor in subordinate bonds. The proposed formula should be adopted.
24. The parties have not reached an agreement at the present time as to the proper DSCR standard to be adopted by the PUC for regulatory purposes for subordinate debt.

¹¹ Stipulation Re: Phase II Issues, GPA Docket 11-09, filed May 23, 2013.

25. In its ORDER dated June 3, 2010, in GPA Docket 10-01, the PUC stated as follows:
"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." (Emphasis added).
26. At the hearing before the ALJ on this matter, GPA, through its Consultant Joseph Trainor, suggested that it would not, in any event, be appropriate to change the current debt service coverage ratio for subordinate debt without examining all of the new data and rate information submitted in the pending petition for the FY2014 rate case.
27. It would not be appropriate to change that 1.4x standard for subordinate debt without a full consideration of that issue and within the context of consideration in a larger rate proceeding. Therefore, the parties will be permitted to further examine this issue, and to present their respective positions, in the context of the FY 2014 rate petition case.

ORDERING PROVISIONS


After careful review and consideration of the above Determinations, the Reports of GPA's Consultants and GCG, the Report and Recommendations of the ALJ, all matters of record herein, the STIPULATION RE: PHASE II ISSUES, and the SELF INSURANCE PROGRAM PROTOCOLS, 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 STIPULATION RE: PHASE II ISSUES, filed herein, is hereby adopted and approved.
2. The SELF INSURANCE PROGRAM PROTOCOLS, attached as Exhibit A to the STIPULATION RE PHASE II ISSUES, are hereby approved. GPA shall carry out the Self-Insurance Program in accordance with the Protocols.
3. The Self-Insurance Cap is hereby raised from \$10M to \$20M. The current Self-Insurance Surcharge amounts to civilian and Navy customers will remain the same.
4. In accordance with the STIPULATION of the parties, the recommended formula


for calculation of the debt service coverage ratio on subordinate debt is adopted. Such method is the determination of net revenues as defined by the PUC or S&P Method divided by Total Debt Service for senior and subordinate debt.

5. As to the current DSCR standard of 1.4x for subordinate debt, such standard shall remain in effect as it has previously been approved through PUC Order.
6. The parties may revisit the issue of the appropriate standard in the context of the current rate petition filed for the establishment of FY2014 rates.
7. 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 the 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 28th day of May, 2013.




Jeffrey C. Johnson
Chairman




Rowena E. Perez
Commissioner



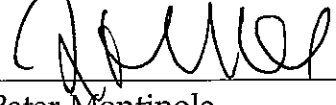
Michael A. Pangelinan
Commissioner



Joseph M. McDonald
Commissioner



Filomena M. Cantoria
Commissioner



Peter Montinola
Commissioner

GPA DOCKET 13-04

ORDER

BACKGROUND

- ATTACHMENT E**

6. The PUC approved GPA's request and authorized it to extend its Property Insurance and Casualty Policy through November 1, 2013.⁶
7. On March 12, 2013, the Consolidated Commission on Utilities adopted Resolution No. 2013-23, which among other matters, authorized the General Manager to submit the bid documents to the PUC and seek approval for issuance of the IFB for Property Insurance.⁷
8. Since its current Property Insurance Policy will expire on November 1, 2013, GPA now seeks to obtain property insurance for the policy period from November 1, 2013 through November 1, 2016.

DETERMINATIONS

9. GPA is required by its Bond Indenture Agreement to maintain insurance coverage. Thus, it has little choice as to whether to issue the proposed Invitation for Bids. Its present policy is expiring on November 1, 2013.
10. The Invitation for Bid documents submitted by GPA are in a standard form and contain the provisions which GPA has ordinarily included in its insurance procurement bids. This bid has been reviewed by GPA's independent Insurance Consultant.⁸
11. GPA is required to seek PUC review under the Contract Review Threshold of \$1.5M for its Property Insurance Policy, which includes Boiler and Machinery Coverage and Terrorism Coverage.
12. GPA's current property insurance costs exceed \$5.8 Million.⁹ However, GPA estimates the projected cost of the policy for which it now seeks to issue bids will be "between \$6-\$7 Million per year."¹⁰ Thus, the cost for its new property insurance policy is presently undetermined.

⁶ PUC Order, GPA Docket 11-05, dated June 20, 2011. It is the policy which PUC originally approved in 2008 which will soon be expiring on November 1, 2013.

⁷ Consolidated Commission on Utilities Resolution No. 2013-23, at pg. 2.

⁸ On May 21, 2013, GPA Legal Counsel confirmed to PUC Counsel that GPA's Insurance Consultant Mark Grennan has reviewed the IFB.

⁹ Guam Consolidated Commission on Utilities Resolution No. 2013-23, issued March 12, 2013, at p. 1.

¹⁰ GPA Petition for Approval of Insurance Invitation for Bids, GPA Docket 13-04, filed May 14, 2013.


13. GPA has demonstrated that it is required by its Bond Indenture to have property insurance. Therefore, its request to issue an Invitation for Bids for its property insurance program is reasonable, prudent, and necessary.

ORDERING PROVISIONS

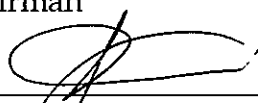
After review of the record herein, GPA's Petition for Approval of Insurance Invitation for Bids, and the PUC Counsel Report, for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY ORDERS** that:

1. GPA's Petition for approval of Insurance Invitation for Bids for GPA Property Insurance Policy for the period of November 1, 2013, to November 1, 2016, is hereby approved.
2. GPA is authorized to issue an IFB in the form attached to its Petition.
3. However, since the price of the cost of which GPA seeks to procure is presently unknown, GPA shall be required to seek approval from the PUC for the cost of the policy before it makes a final award.
4. GPA shall file a copy of its property insurance contract with the PUC when such policy is finalized.
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 the 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 28th day of May, 2013.




Jeffrey C. Johnson
Chairman



Rowena E. Perez
Commissioner




Joseph M. McDonald
Commissioner




Filomena M. Cantoria
Commissioner

Order
GPA Petition for Approval of
Insurance Invitation for Bid
GPA Docket 13-04
May 28, 2013



Michael A. Pangelinan
Commissioner



Peter Montinola
Commissioner

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:

GUAM POWER AUTHORITY'S
REQUEST TO PROCURE EQUIPMENT
FOR DIESEL RICE MACT
COMPLIANCE AND TO APPROVE
ENVIRONMENTAL PROGRAM
PROJECT FOR DIESEL UNITS

GPA DOCKET 13-05

ORDER

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon Guam Power Authority's ["GPA"] Petition for Approval of Procurement of Equipment for Diesel RICE MACT Compliance and for approval of Environmental Program Project for Diesel Units.¹

BACKGROUND

2. GPA currently operates and maintains 10 diesel peaking units, located at the Tenjo, Talofofo and Manenggon power plants, where power is generated by reciprocating internal combustion engines (RICE) which burn diesel fuel.²
3. GPA asserts that these diesel engines are subject to U.S. EPA RICE MACT rules, which require compliance with emissions standards by May 3, 2013.³
4. The RICE MACT standards call for a significant reduction of carbon monoxide (CO) emissions.⁴ The standards require all Diesel Engines greater than 500 hp to emit less than 23 ppm Carbon Monoxide.⁵
5. GPA is expected to add Oxidation Catalysts to the exhaust streams.⁶ GPA has obtained a one-year extension from the U.S. EPA for compliance with the RICE MACT rules until May 3, 2014.

¹ GPA Petition for Contract Review of Request to Procure Equipment for Diesel RICE MACT Compliance and to Approve Environmental Program Project for Diesel Units, GPA Docket 13-05, filed May 17, 2013.

² Id. at p. 1.

³ Id.

⁴ Id.

⁵ Id., Environmental Strategic Plan (ESP) Addenda February 2013, at p. 4.

⁶ Id.

6. GPA has also commissioned TRC Environmental Corporation (TRC) to negotiate with catalyst and smoke stack vendors to provide the required equipment and materials.⁷ TRC prepared a bid package, including equipment specifications and site drawings, and requested proposals from four potential vendors. Three proposals were received, and TRC recommended that the necessary equipment be procured from Miratech.⁸
7. TRC's recommendation that Miratech be selected was based upon certain factors, including the dimensions of Miratech's equipment, the delivery time for the units, and Miratech's length of catalyst warranty.⁹
8. The approximate cost of the catalysts and smoke stacks for the ten diesel peaking units is \$1,495,000.00. GPA believes that the additional costs to modify existing structures and civil works are expected to be approximately \$4M.¹⁰
9. In Resolution No. 2013-28, the CCU approved the procurement of equipment for Diesel RICE MACT compliance and authorized GPA to petition the PUC for approval of its Environmental Program Project.

DETERMINATIONS

10. PUC adopts the opinion of Lummus Consultants, set forth in its Letter Opinion, that GPA has limited options for meeting the RICE MACT standards for the diesel peaking units.¹¹
11. The diesel units included in the Petition are important assets for maintaining reliability of the electrical system and therefore eliminate the retirement or long-term layup options.¹²

⁷ Consolidated Commission on Utilities Resolution No. 2013-28, Resolution to Procure Equipment for Diesel RICE MACT Compliance and to Petition PUC to Approve Environmental Program Project, issued May 15, 2013.

⁸ Id. at p. 1; See also TRC Report Re: Equipment Bid Evaluation-Diesel Oxidation Catalyst Retrofits (Guam Power Authority Tenjo, Talofofo, and Manenggon Generation Stations, TRC Project No. 196140), dated May 14, 2013 and attached to GPA's Petition for Contract Review in this Docket.

⁹ Id. at p. 2.

¹⁰ GPA Petition for Contract Review of Request to Procure Equipment for Diesel RICE MACT Compliance and to Approve Environmental Program Project for Diesel Units, filed May 17, 2013, at p. 2.

¹¹ Lummus Consultants Review of GPA Docket 13-05, filed May 23, 2013, at p. 2.

¹² Id.

12. The competitive evaluation conducted by TRC of alternative equipment suppliers appropriately considered important factors such as delivered equipment costs, warranties, sound attenuation, pressure drop, and other factors.¹³ GPA concurred with the selection of Miratech as the most qualified supplier.
13. However, at the present time, GPA has not submitted sufficient details or documentation for the PUC to be able to rule on the reasonableness of the remaining \$4M to modify existing structures and civil works.
14. GPA has demonstrated a need to proceed expeditiously to obtain the necessary equipment for meeting the RICE MACT standard for the diesel peaking units. The expenditure of \$1.495M for equipment purchases for RICE MACT compliance should be approved.

ORDERING PROVISIONS

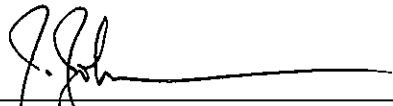
After careful review and consideration of the above determinations, the GPA Petition for Contract Review, Lummus Consultants' Review of GPA Docket 13-05, the PUC Counsel Report, and the record herein, for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY ORDERS** that:

1. GPA's Request to procure equipment for Diesel RICE MACT Compliance is hereby approved.
2. GPA may purchase oxygen catalysts, smoke stacks and other applicable equipment for the diesel units specified in the petition.
3. GPA is authorized to expend up to the amount of \$1.495M for such equipment purchase.
4. PUC will not rule, at the present time, upon GPA's request for approval of the Environmental Compliance Program in an approximate amount of \$4M to modify existing structures and civil works. The ruling on such request will be made upon provision by GPA to the PUC of appropriate details and documentation.
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 the PUC's regulatory fees and

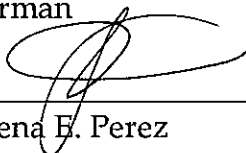
¹³ Id.

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.

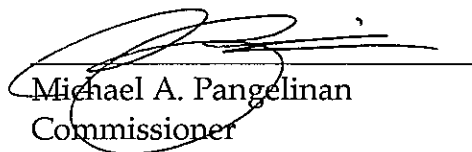
Dated this 28th day of May, 2013.



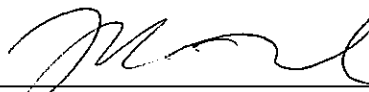
Jeffrey C. Johnson
Chairman



Rowena E. Perez
Commissioner



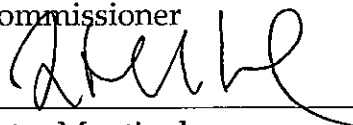
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