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Public Utilities Commission of Guam

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

GUAM POWER AUTHORITY
REGULATORY REVIEW DOCKET 02-4

Regulatory Order

[LEAC, Regulatory Asset, FY07 CIP Ceiling, Contract Protocol Amendment]

This Order reviews: a] GPA's November 16, 2006 petition for approval of a LEAC factor for the period January 1, 2007 through June 30, 2007 and related issues; b] GPA's September 22, 2006 petition, as amended, for establishment of a regulatory asset to assure its recovery of $17.2 million dollars of T&D and generation natural disaster losses; c] GPA's October 5, 2006 petition for the establishment of an FY07 CIP ceiling; and d] Georgetown's October 17, 2006 recommendation that the GPA contract review protocol be amended.

Findings

1. **LEAC.**

In its November 16, 2006 petition, GPA requested the following regulatory relief with regard to its LEAC: a] an adjustment of the six month LEAC cycle *from* October 1 through March 31 and from April 1 through September 30 *to* January 1 to June 30 and from July 1 to December 31; b] an increase in the LEAC factor to $0.110292 per kWh; and c] allowance of its TCP interest expense as a fuel related cost subject to recovery under the LEAC tariff.

a. **Cycle adjustment.**

GPA's LEAC tariff provides only that there shall be a semi-annual regulatory review and adjustment of the LEAC. The tariff does not prescribe when this review will occur. By order dated January 29, 1996 in Docket 94-4, PUC established a semi-annual review on a fiscal year cycle. GPA has expressed concern that this cycle injects politics into the LEAC review every two years. Accordingly, it would prefer that it be changed to a calendar year cycle [January through December]. Georgetown opposes this change. After review, PUC finds that GPA's request is reasonable; provided, however, that as the current factor adjustment will become effective on February 1, the new cycle should run from February through July and from August through January of each year. At PUC's January 23, 2007 regulatory workshop, GPA general manager posed no objection to a February cycle start date.

b. **TCP interest expense [$1.1 million].**

In its petition, GPA requested that it be permitted to recover its TCP interest expense as a fuel related cost under the LEAC. By ruling dated January 21, 2007, PUC's administrative law judge found that GPA failed to adequately petition and document this request. Accordingly, he ruled that the interest expense would not be allowed as a recoverable LEAC expense in this proceeding. In making this ruling, ALJ referenced PUC's October 24, 2004 LEAC Order in which PUC cautioned that it would closely examine any cost which GPA seeks to recover under LEAC as the inclusion of such costs is an exception to traditional rate regulation. Moreover, PUC's October 25, 2005 LEAC Order informed GPA that it would bear the burden of providing convincing evidence why a proposed cost should be allowed as a LEAC expense. Within the context of these requirements, GPA may in due course file a properly documented petition for PUC review of the allowability of this expense.

c. **LEAC Factor.**

With the removal of the TCP expense from the calculation of the next factor, Georgetown computes that the factor should be set at $0.108893 per kWh for implementation effective February 1, 2007. Pursuant to the findings made in section 1[a] above, this factor should remain in force through July 31, 2007[1]. The factor is computed to enable GPA to recover its estimated $16.3 million ($17.3 million less the impact of recording the interest expense to fuel) deferred fuel expense balance over the next twelve months. PUC finds that GPA is currently suffering from a serious cash shortage resulting from its deferred fuel expense balance and its Government receivable. Accordingly, any extension of the deferred expense recovery period beyond a twelve-month period would materially impair GPA operations. PUC also finds that given GPA's financial condition[2], Georgetown should be directed, under ALJ oversight, to investigate and report on the need for GPA to undergo a base rate case review.

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[1] Under PUC's February 1, 2005 *Administrative Order* in Docket 99-12, an existing LEAC factor shall remain in force until a new factor is established. The purpose of this order is to deal with those occasions when regulatory action may be delayed beyond the cycle end date.

[2] During the January 23, 2007 workshop, GPA's general manager informed PUC that GPA would not have available cash during this fiscal year to fund any of its budgeted capital projects, that it would be near the 1.25 debt service ratio established in its bond covenants and that preliminary review shows that GPA will have operated at a loss in FY06.

d. Replacement of excess bond funds [$4.58 million].

By PUC Order dated September 28, 2006, GPA was authorized to utilize up to $4.85 million of excess bond funds as a short term facility, subject to the requirement that these withdrawals be refunded to the excess bond fund. GCG recommends that the funds be repaid with LEAC revenues over a period of twelve months at the rate of $382 thousand per month. The purpose of the facility was to assist GPA in managing the cash shortfall , which was caused by its decision to defer a LEAC adjustment from September 2006 to January 2007. Given that the shortfall exceeded GPA estimates ($16.3 million vs. $10 million estimate), GPA should be required to report how the shortfall was financed and the source of these funds.

2. Regulatory Asset [$17.2 million].

ALJ has deferred regulatory consideration of GPA's petition until the May 2007 session, based on concerns raised in Georgetown's January 24, 2007 letter[3]. The GPA petition deserves close scrutiny as it seeks regulatory authorization to recover from the self-insurance reserve account established by PUC's December 30, 1992 Rate Order in Docket 92-01, as amended, $17.2 million dollars in disaster loss expenses[4], which have been disallowed by FEMA. PUC concurs with Georgetown's recommendation that GPA should be prohibited from recovering any portion of the expenses under review from the reserve account pending PUC authorization.

3. FY07 CIP Ceiling [$10.2 million] and protocol amendment.

By letter dated September 16, 2006, GCG supports GPA's petition for a $10.2 CIP ceiling. PUC finds that GPA's request is reasonable. In addition, PUC agrees that the GPA contract review protocol should be amended to clarify that line extensions and blanket job orders are not included in the ceiling.

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[3] These concerns include: a] substantial changes in GPA's position regarding the amount of costs for which it is seeking recovery; b] the import, which PUC should give to FEMA's disallowance of the petitioned costs; c] the need to undertake a "due diligence" review of the petitioned costs; and d] the need to develop a reporting requirement for the reserve fund.

[4]The $17.2 million dollar amount represents a total $40.3 million claim of disaster losses *less* $21 million FEMA reimbursement *[which GCG assumes represents 90% of allowable claims] less* 10% FEMA co-pay of $2.1 million *[which GCG does not dispute].*

Ordering Provisions

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

1. A new LEAC semi-annual cycle is hereby established, which shall run from February 1 through July 31 and from August 1 through January 31.

2. A LEAC factor of $0.108893 per kWh shall be used by GPA for all civilian bills, for meters read on and after February 1, 2007 and through the period July 31, 2007 to recover its forecasted fuel and related expenses for that period and a portion of its deferred fuel expense.

3. GPA is ordered and directed to reimburse the excess bond fund from LEAC revenues for the $4.58 million dollars it withdrew under PUC's authorization at the rate of $382 thousand dollars per month commencing March 2007 until fully refunded.

4. On or before April 15, 2007 GPA shall file a report regarding how the $16.3 million LEAC shortfall was financed during the period September 2006 to January 2007 and the source of these funds.

5. GPA's petition for the establishment of the next LEAC factor shall be filed with PUC not later than June 15, 2007. PUC emphasizes its continuing concern regarding line losses, which impose additional rate burden on GPA customers. GPA is directed to fully comply with ALJ directives, which will prepare this subject for regulatory consideration in the May 2007 regulatory session.

6. ALJ is authorized and directed to oversee regulatory proceedings to investigate and make recommendations regarding GPA's $17.2 million dollar claim for reimbursement under the self insurance reserve account and GPA's petition that said amount be designated by PUC as a regulatory asset. Pending this investigation, GPA is prohibited from withdrawing funds from the self-insurance reserve account to reimburse itself for any portion of this claim under review.

7. Georgetown is authorized and directed, under ALJ oversight, to investigate and report in advance of the May regulatory session on the need for GPA to undergo a base case rate review.

8. An FY07 GPA $10.2 million dollar CIP ceiling for FY07 is approved.

9. Section 1 of PUC's February 2, 2006 order establishing a GPA contract review protocol is amended by adding to the end of the section the following sentence: *Blanket job orders and line extensions shall not be subject to the requirements of this Order.*

Dated this 1st day of February 2007.

Terrence M. Brooks

Joseph M. McDonald

Edward C. Crisostomo

Filomena M. Cantoria

Rowena E. Perez

Jeffrey C. Johnson