

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:

) GPA DOCKET 19-09

)
)
) PETITION OF THE GUAM ASSOCIATION
) OF REALTORS AND CERTAIN GUAM
) SENATORS TO ESTABLISH A
) RESIDENTIAL RATE FOR MULTI-
) FAMILY ACCOMODATIONS

IN THE MATTER OF:

) GPA DOCKET 20-10

)
)
) THE PETITION OF THE GUAM POWER
) AUTHORITY FOR CREATION OF
) CONDOMINIUM RATE SCHEDULE.

ORDER

INTRODUCTION

This matter comes before the Guam Public Utilities Commission [“PUC”] upon the Petition of the Guam Association of Realtors and certain Senators of the Guam Legislature for Allocation of Residential Rate Schedule for Residential Multi-Family Accommodations.¹ The Petition sought the establishment of a residential power rate for residents living in apartment buildings, condos, and other multi-family residential buildings. According to the Petition, such residents are presently charged at a commercial power rate. Based upon principles of fairness and equity, the Petition sought the creation of a new power rate schedule for residential multi-family

¹ Petition of the Guam Association of Realtors and Certain Senators of the 35th Guam Legislature, GPA Docket 19-09, Allocation of Residential Rate Schedule for Residential Multi-Family Accommodations, filed March 20, 2019.

accommodations so that residents in such accommodations are not charged higher rates than those that reside in single family residences.²

The Administrative Law Judge [“ALJ”] conducted proceedings in GPA Docket 19-09. He requested that GPA indicate its position on whether equivalent residential rates should be extended to condominiums and apartment residents. Subsequently, after GPA’s Consultant had conducted a Cost of Service Study, and a review of Condominium and Apartment power rates, the Guam Consolidated Commission on Utilities [“CCU”] determined that it would authorize GPA to file a Petition for the Creation of a Condominium Rate.³ On March 10, 2020, GPA filed its Petition with the PUC for Creation of Condominium Rate, GPA Docket 20-10.⁴ The issues now before the PUC are whether it should approve the new Rate Schedule “D”, Condominium Service, and authorize the inclusion of “three phase” service in the current Schedule “R” for Residential Service.

BACKGROUND

1. The Legislative History

The concept that residents of condominiums, apartments, and multi-family accommodations should be accorded residential power rates initially seems to have been developed in a series of Bills introduced in the Guam Legislature. Over the past five years, Senators of the Guam legislature have introduced three separate bills that would have mandated the Guam Power Authority to implement “comparable Rate

² Id.

³ Guam Consolidated Commission on Utilities Resolution No. 2020-05, Authorizing the Management of the Guam Power Authority to Petition the Guam Public Utilities Commission to create a Condominium Rate Schedule, adopted and approved on February 21, 2020.

⁴ GPA Petition for Creation of Condominium Rate, GPA Docket 20-10, filed March 10, 2020.

Schedule Charges for Residential Multi-Family Accommodations.”⁵ Each bill would require GPA to develop and establish a residential rate schedule for residential multi-family accommodations (condominiums and apartments) providing equitable, comparable residential rates notwithstanding if the building complex was on a master meter or meters, “on par with the Rate Schedule R, as is accorded residential dwellings with individual metering.” Each of the three bills included similar provisions; none of the bills has been enacted into law.

The bills were each premised upon a finding that residents of condominiums, apartments, and multi-family accommodations were charged excessive commercial rates even though they were not businesses, but residences. Christopher Felix, a past President of the Guam Association of Realtors, testified in favor of Bill 8-33 by stating that multi-family complexes had to be wired for generators and large meters. Since large meters were utilized for multi-family accommodations, GPA billed such residences by meter size, not consumption. He believed that system created an inequity of “15-35%, such that people who lived in condo’s paid higher power rates.”⁶

In 2019, a public hearing was held on Bill 37-35, the most recent Bill which sought to require residential rates for multi-family accommodations. The Guam Public Utilities Commission submitted testimony in opposition the Bill 37-35. The testimony of Chairman Jeff Johnson stated that Bill would “undermine the independent rate-making authority of the PUC”, and would interfere with the powers of the PUC in violation of GPA rate covenants. The testimony advised that if ratepayers or interested parties sought the creation of a new residential rate schedule for residential multi-

⁵ These Bills include: Bill 408-32 (Introduced October 9, 2014, by Senators D. Rodriguez & T. Ada); Bill 8-33 (Introduced January 5, 2015 by Senator D. Rodriguez); and Bill 37-35 (Introduced on February 6, 2019, by Senators T. Taitague, C. Ridgell, and Speaker T. R. Muna Barnes).

⁶ Notes of Beatrice P. Limtiaco, GPA Assistant GM, Administration, of Public Hearing on Bill 8-33, January 29, 2015, transmitted to ALJ Fred Horecky on March 11, 2019.

family accommodations, they should file a request with the Guam Public Utilities Commission.⁷

2. GPA Docket 19-09

Approximately nine days after the Legislative public hearing on Bill No. 37-35, the Guam Association of Realtors and certain Senators of the 35th Guam Legislature filed their Petition for Allocation of Residential Rate Schedule for Residential Multi-Family Accommodations, dated March 20, 2019, with the PUC. The ALJ first scheduled a Preliminary Scheduling Conference in the matter.⁸ GPA was ordered to report to the parties and the ALJ concerning its efforts to obtain a cost of service study regarding rates currently charged to residents of multi-family accommodations, and the process by which it would determine the financial impact upon GPA and ratepayers of changing such rates from commercial to residential.⁹ GPA was also asked to determine when it would be able to make a final recommendation in this matter and to submit any request for action to the PUC.¹⁰

At the Conference, GPA indicated that it had engaged a consultant to conduct a cost-of-service study which would determine the financial impact upon GPA and its ratepayers of changing the power rates for residents of multi-family accommodations from commercial to residential.¹¹ GPA also agreed to have its consultant develop a cost-based ideal rate structure. Subsequent actions would include presentation of the studies to the Consolidated Commission on Utilities and recommendations/proposed

⁷ Testimony of the Guam Public Utilities Commission on Bill No. 37-35 (COR), Chairman Jeffrey C. Johnson, dated March 11, 2019.

⁸ ALJ Order for a Preliminary Scheduling Conference, GPA Docket 19-09, dated May 1, 2019.

⁹ *Id.*, at par. 1.

¹⁰ *Id.*, at par. 3.

¹¹ Letter from GPA Consultant UFS, GPA Docket 19-09, addressed to John Kim, Chief Financial Officer, GPA, dated April 29, 2020.

rate modifications to be submitted to the Public Utilities Commission.¹² After GPA's Consultant had completed much of the work on a Cost-of-Service Study, a subsequent hearing was held on November 19, 2019. Various parties appeared, including condominium residents. At that time GPA had not yet determined its position on implementing a new condominium rate schedule but hoped to present its position to the Consolidated Commission on Utilities at its January 2020 meeting. The ALJ continued his efforts in following up with GPA concerning its position on implementing a condominium rate schedule.¹³

In GPA Docket 19-09, GPA's consultant Utility Financial Solutions LLC completed a substantial amount of work, including: Electric Cost of Service Study and Financial Projection, dated October 24, 2019; Electric Department Cost of Service Overview; and Guam Power Authority Electric Rate Preliminary Study Results by Mark Beauchamp, President, Utility Financial Solutions. These reports are part of the record in this Docket, and copies have been provided to the Commissioners.

3. GPA Docket 20-10

In Consolidated Commission on Utilities Resolution No. 2020-05, enacted on February 21, 2020, the Guam Consolidated Commission on Utilities authorized the management of GPA to petition the Guam PUC to create a condominium rate schedule.¹⁴ In response to the PUC request for a recommendation from GPA and CCU on the Realtors/Senators petition to provide residential rates for condominium homes, the CCU indicated that "GPA seeks an **equitable rate plan** which reflects actual cost of

¹² Id.

¹³ Email from PUC ALJ Fred Horecky to GPA Assistant General Manager Beatrice Limtiaco dated December 10, 2019.

¹⁴ Guam Consolidated Commission on Utilities Resolution No. 2020-05, Authorizing the Management of the Guam Power Authority to Petition the Guam Public Utilities Commission to create a Condominium Rate Schedule, adopted and approved on February 21, 2020.

service...” (emphasis added).¹⁵ The CCU authorized GPA file a petition which would “... create a rate for condominiums with master meter servicing multiple dwelling units not individually metered, and amend Rate Schedule R to include 3-phase service metered single family dwellings...”.¹⁶ The proposed new tariff, Schedule “D”, Condominium Service, was attached to the CCU Resolution as Exhibit “A”. Schedule “D” is attached to the ALJ Report as Exhibit “1”. The tariff is available to condominium buildings in service or within the active building permit process as of the approved date by the tariff by the Public Utilities Commission. The CCU indicated that some condominium customers might now wish to change their Rate Schedule (G, J, or P) and afforded customers a “one-time option to elect to transfer to Rate Schedule D.”¹⁷

In its Petition filed on March 10, 2020, GPA petitioned PUC to create a Condominium Rate Schedule, and to amend Rate Schedule R to include three phase service metered single family dwellings.¹⁸ On March 11, 2020, the ALJ advised the Senator and Realtor parties that GPA had filed its petition to create a Condominium Rate Schedule.¹⁹

The ALJ filed his Report in this docket dated January 25, 2021. The PUC adopts the conclusions and recommendations in the ALJ Report.

PUBLIC HEARINGS

The ALJ further advised the parties that the PUC would need to conduct three public hearings before the new rate, if approved, could be effective.²⁰ On May 7, 2020,

¹⁵ Id., at p. 1.

¹⁶ Id.

¹⁷ Id., at p. 2.

¹⁸ GPA Petition for Creation of Condominium Rate, GPA Docket 20-10, filed March 10, 2020.

¹⁹ Email from PUC ALJ Fred Horecky to Senator/Realtor/GPA parties, GPA Docket 19-09, dated March 11, 2020.

²⁰ Id.

the ALJ indicated to the parties that the PUC was unable to schedule public hearings in the villages due to the corona virus situation.²¹ Subsequently, in early August 2020, PUC Administrator Palomo was able to secure permission from the Mayors of the Villages of Dededo and Asan to schedule public hearings on this matter at village facilities. Three Notices of Public Hearings were published in the Pacific Daily News, indicating that a public hearing would be held in Hagatna on August 20 and public hearings in Dededo and Asan would be held on August 25.²² However, on August 14, the Governor declared that Guam was back in PCOR1 due to the coronavirus pandemic. The Mayors Offices in Dededo and Asan no longer wanted the public hearings to be held in the villages. The PUC had to cancel the public hearings.²³

In December 2020, the PUC Administrator was able to arrange for the holding of public hearings. The PUC caused Public Notices for Public Hearings on GPA's Petition to create a Condominium Rate Schedule to be issued. The Notice of Public Hearings were published in the Pacific Daily News on December 29, 2020, January 5, 2021, and January 11, 2021.²⁴ The PUC conducted three public hearings on the proposed Condominium Service Rate Schedule D: on January 13, 2021, at 6:30 pm on the Third Floor, GCIC Building, Hagatna; on January 14, 2021, at 5:30p.m. at the Asan Community Center; and on January 14, 2021, at 7:00p.m. at the Dededo Senior Citizens Center.

John Kim, the Chief Financial Officer of the Guam Power Authority, gave a summary presentation on the proposed condominium Service Schedule "D" at each of the three public hearings. His presentation is attached to the ALJ Report as Exhibit "2".

²¹ Email from ALJ Fred Horecky to Senator/Relator/GPA parties advising that public hearings could not yet be scheduled, GPA Docket 19-09, dated May 7, 2020.

²² Notice of Public Hearing was published in the Pacific Daily News on August 6, August 13, and August 18.

²³ Notice of Cancellation of Public Hearings was published in the Pacific Daily News and the Guam Post on August 19, 2020.

²⁴ Notice of Public Hearing was published in the Pacific Daily News on December 29, 2020, January 5, 2021, and January 11, 2021.

His presentation demonstrated that 22 out of 25 condos/multi-family units will have rate reductions if Schedule “D” is adopted. The proposed rates are **less expensive** for the condo/apartment customers than residential rates.

At the Hagatna hearing, Shawn Blas, the President of the Guam Association of Realtors, voiced his support for the decrease in rates for condo residents. He noted that at least two former presidents of the Guam Association of Realtors had supported providing residential rates to condominium residents.

Senator Telo Taitague, one of the petitioners in GPA Docket 19-09, did not feel that GPA’s proposal accomplished the intent of Bill 37-35, which was the establishment of comparable residential rates for customers residing in multi-family buildings. Some condominium residents would not benefit from the proposed condo rate. A copy of Senator Taitague’s Testimony is attached to the ALJ Report as Exhibit “3”. Senator Taitague testified at all three public hearings.

At the Asan Public Hearing, Senator Taitague stated that the proposed condo rate schedule did not accomplish the intent of Bill No. 37-35, which was “parity” and “equality.” Residential rates should be charged to those living in condos as to those in residences. The PUC should assess if GPA has met the intent of Bill 37-35 which is rate parity. If not, the proposal should be rejected. John Duenas, a resident of Villa Kanton Tasi [“VKT”], believed that power consumption of condo residents’ units should be the same as residential rates. In his view, GPA at all but admitted that charging a commercial rate for condo dwellers was a mistake. Mr. Duenas argued that under Schedule “D”, VKT would pay higher rates. The demand charge has increased. A true and correct copy of Mr. Duenas’s testimony is attached to the ALJ Report as Exhibit “4”.

Richard Long testified and questioned why there was a demand charge for condominium units. He did not understand why there was a condo rate, but that

condos should all be charged at the residential rate. A true and correct copy of Mr. Long's Testimony is attached to the ALJ Report as Exhibit "5".

At the Dededo Public Hearing, another resident of Villa Kanton Tasi, Jere Johnson, testified that the intent of the proposed changes by GPA was good. However, it may not accomplish its purpose. Demand charges would be increased from \$5.80 to \$12.00. There could be an increase in monthly charges. He felt that with the proposed condo rate, VKT would pay more in December 2020.

After the hearings, President Shawn Blas of the Guam Association of Realtors submitted written testimony, which stated in part as follows: "GARs stance on the petition is that we would like to see equal or close to equal residential power rates for all individually owned residences on Guam, to include condominiums and other multi-family dwellings. We believe that this is fair and what is good for the homeowners of such residences regardless of the classification their power meter has."²⁵ His testimony is attached to the ALJ Report as Exhibit "6".

DETERMINATIONS

1. New Rate Schedule D, Condominium Service

This new Schedule would be applicable to condominiums with master meters servicing multiple dwelling units but would not include units individually metered. The new schedule would be available for condominiums in service or applied for before the effective date of this Schedule. The ratepayers, which in this case are the condominiums and apartments, would have the right to make a one-time election to move to rate schedule D from rate schedule G, J, or P. Once the customer is transferred

²⁵ GAR President Shawn Blas' Testimony is attached hereto as Exhibit "6".

to rate schedule D, the customer cannot move to another rate schedule. The Condominium Rate Schedule D would not be available to new condominiums or multi-family construction. New construction would need to consider metering and energy efficiency to obtain residential rates.²⁶

The following charges are applicable under Schedule "D":

Monthly Rate:

Energy Charge:	-per kWh	\$0.06060
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Demand Charge:

Per kW of billing demand per month	-per kW	12.00
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Customer Charge:	-per month	\$59.25
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Determination of Demand:

The maximum demand for each month shall be the maximum average load in kW during any fifteen-minute period as indicated by a demand meter. The billing demand for each month shall be the maximum demand for such month or, 85% of the customer's highest metered maximum demand for the preceding (11) eleven months. The Fuel Recovery, Insurance, Emergency Water Well Wastewater, and Working Capital Fund charges would be applicable to ratepayers under Schedule "D", similar to residential ratepayers.²⁷

²⁶ Summary Presentation by John Kim, GPA CFO, Exhibit "2"

²⁷ GPA Petition, Exhibit "A", Guam Power Authority Schedule "D", Condominium Service.

The Energy Charge for Schedule D is less than the per kWh charge for the first 500kWh per month for Residential Service under Schedule R. The Energy Charge is designed to recover the power supply and capacity costs for the Schedule D service.²⁸ The Demand Charge, based upon peak demand, recovers distribution costs.²⁹

At present, GPA has determined that there are 26 condominium and apartment customers that are presently served under Rate Classes G, J, and P:

Rate Class	Number of Customers	kWh	Demand
G	1	1,244,529	3,186
J	15	5,725,954	13,343
P	10	16,642,461	33,661
Total	26	23,612,943	50,189³⁰

These customers would all be eligible to transfer to Schedule “D” Condominium Service.

The most recent listing of condominium and apartments that would be affected through classification under Schedule “D” is attached to the ALJ Report as Exhibit “7”.³¹ The list was provided as the “most updated listing.” Attached to the ALJ Report as Exhibit “8” is a listing of Customers and the projected annual rate change for each under Schedule “D”.³² The vast majority of customers would experience a rate

²⁸ Zoom conference between PUC ALJ Fred Horecky, GPA Legal Counsel Graham Botha, GPA CFO John Kim, and GPA Rate Consultant Mark Beauchamp on August 14, 2020.

²⁹ Id.

³⁰ Draft Report, Guam Power Authority Cost of Service & Condominium and Apartment Rate Development, dated October 24, 2019 (prepared by Utility Financial Solutions, LLC) at p. 29.

³¹ Exhibit “7” was provided to ALJ Horecky by GPA Legal Counsel Graham Botha through email dated August 11, 2020, in Response to Discovery Questions.

³² Id., at p. 30.

reduction, but the amount of such reduction ranges from 1% to 27%.³³ Because of the variance in Rate impacts upon customers who elect to be covered by Schedule “D”, each customer will need to confer with GPA to determine how it will be affected by such Schedule.

GPA estimates that implementation of the Schedule “D” rates to Condominium and Apartment customers would reduce overall revenues to GPA by \$533,000, and that the average condominium and apartment rates reduction is 8.4%. Such reduction is indicated in the graph below:

Rate Class	Current Revenues	Proposed Revenues	Percent Change
G	326,337	311,591	-4.5%
J	1,472,643	1,422,813	-3.4%
P	4,525,948	4,057,080	-10.4%
Total	6,324,928	5,791,484	-8.4%³⁴

GPA has also proposed a change to Schedule “R”, Residential Service. This change would extend Schedule “R” to “three-phase” service.³⁵ The purpose of this proposed change is to allow certain large single-family residences to be classified as “residential”; those residences previously could not be classified as residential because Schedule “R” only allowed “single phase” residences to be classified as residential.³⁶

³³ Id.

³⁴ Draft Report, Guam Power Authority Cost of Service & Condominium and Apartment Rate Development, dated October 24, 2019 (prepared by Utility Financial Solutions, LLC) at p. 29.

³⁵ GPA Petition, Exhibit “A”, Guam Power Authority Schedule “D”, Condominium Service, Schedule “R”, Residential Service.

³⁶ Zoom conference between PUC ALJ Fred Horecky, GPA Legal Counsel Graham Botha, GPA CFO John Kim, and GPA Rate Consultant Mark Beauchamp on August 14, 2020, explanation of GPA CFO John Kim.

The ALJ concurs with this recommendation. It is fair and equitable to allow single family residences to be under Schedule “R” regardless of whether they are “single-phase” or “three-phase.”

Attached to the ALJ Report as Exhibit “9” is a comparison of a proposed Condominium Rate to Residential Rates, Cost of Service Rate.³⁷ With regard to current condominium/apartment Schedule P customers, placing such customers under Schedule “D” will result in substantial rate reductions. The reductions are not as great for condominium/apartment customers presently in Rate Schedules J and G.³⁸

2. The Fairness/Equity Justification for Schedule “D”

The Guam Association of Realtors and the Senators of the Guam Legislature based their petition in GPA Docket 19-09 upon principles of fairness and equity. Their position was that homeowners that reside in multi-family residences, such as condominiums and apartments, should not be charged with higher rates than those that reside in single family residences. As a matter of fairness and equity, all residents of single family and multi-family accommodations should be billed at the same residential rate.

GPA, in proposing a Schedule for “Condominium Service”, agreed that residents of condominiums and apartments would be billed at similar rates to residential customers under Schedule “R”. In approving the Condominium Rate Schedule, the Guam Consolidated Commission on Utilities stated that it sought “an **equitable rate plan** which reflects actual cost of service...”.³⁹ In addition, the various Bills of the

³⁷ GPA Condo Rate Proposal (Summary Power Point), February 17, 2020, submitted by GPA Counsel Graham Botha to PUC ALJ Fred Horecky on August 11, 2020 in response to Discovery Questions dated August 10, 2020.

³⁸ Id.

³⁹ Guam Consolidated Commission on Utilities, Resolution No. 2020-05, adopted and approved on February 21, 2020, at p. 1.

Guam legislature requiring “Comparable Rate Schedule R Charges for Residential Multi-Family Accommodations” have likewise been based upon the assumption that rates for residents of condominiums and apartments should be “equitable”, and comparable to Schedule R for residential dwellings with individual metering.⁴⁰

Although the proceeding commenced as a “contested” proceeding, GPA ultimately decided, by filing the new Schedule D for Condominium Service in this Docket, that the power charges for residents of multi-family accommodations should be comparable to, and equitable with, those accorded to residential dwellings with individual metering. GPA undertook its best efforts to come up with a rate schedule for condominiums that would be fair and equitable. It was not under PUC compulsion or order to do so.

There is much discussion in rate making literature that supports consideration of principles of fairness and equity in allocating rates. After a cost-of service study is performed, rates are designed to collect the utility’s allowed revenues. The factor of “equity” is one of the considerations in rate setting. One of the Rate Design Fundamentals is that “rates should be designed so that costs are fairly apportioned among different customers, and “undue discrimination” in rate relationships is avoided.⁴¹ Rates should be allocated such that condominium and apartment residents do not pay a disproportionate share of the revenue requirement of GPA.

One of the leading scholars of ratemaking policy, James C. Bonbright, has indicated that considerations of “fairness” and “equity” – including “fairness among the different classes of consumers when the rate *relationships* are under inquiry” can be

⁴⁰ See Bill No. 37-35 (COR) Section 1, dated February 6, 2019.

⁴¹ Synapse Energy Economics, Inc., The Ratemaking Process, July 2017;
<https://www.synapse-energy.com/sites/default/files/Ratemaking-Fundamentals-FactSheet.pdf>

taken into account.⁴² Professor Bonbright stated: “At the risk of being subject to the prejudices of my profession, I am convinced that the modern tendency to view fairness criteria of reasonable rates as secondary criteria, to be accepted primarily as constraints on the application of the so-called economic criteria, is a mark of progress in the development of rate-making policies designed to serve the public interest. But this means merely that fairness issues should be kept in their place. It does not mean that they should be cavalierly dismissed or even belittled.”⁴³

To the extent that there is unfairness or inequity resulting from the power rates charged to residents of single-family dwellings and residents of multi-family accommodations, the Guam Power Authority did not cause such “unfairness” or “inequity.” Under the Guam Power Authority Rules for Rates and Services (28 GAR Chapter 3), it is clearly the customer who determines what class of service is being applied for. All of the apartment and condominium owners who are presently in rate classes P, G, and J, are charged in such rate classes because that is the class of service that they applied for in their original application to GPA.

A “Customer” is a person “who has made application for service.”⁴⁴ When an applicant for an electric service submits the application, it furnishes information to GPA including the “Rate schedule desired if an optional rate is available.”⁴⁵ Some condominiums and apartments have master meters, and the owners thereof did not provide individual meters to each residential unit. It was the choice of such owners to determine whether they would place master meters in condominiums and apartments, or individual meters for each unit. It was the choice of such owners to apply for commercial, or residential service. During proceedings in GPA Docket 19-09, it was

⁴² James C. Bonbright, *Principles of Public Utility Rates* (first published by the Columbia University Press in 1961 reprinted by permission © 2005 Powell Goldstein LLP), at p. 121; www.powellgoldstein-bonbright-principlesofpublicutilityrates-1960-10-10.

⁴³ *Id.*

⁴⁴ 28 GAR § 3102(e).

⁴⁵ 28 GAR § 3110(i).

suggested that the cost to now provide such individual meters to condominiums or apartments which do not have individual unit meters could be prohibitive.

GPA has presented a Condo Service Schedule that will reduce rates for most eligible ratepayers. During the docket proceedings, there were no objections raised to the Condo Service Schedule proposed by GPA. Guam Power Authority states that a Condominium Rate Schedule will provide a more fair and equitable service by reducing the rates that are presently paid by residents of multi-family accommodations. It will benefit most of the eligible ratepayers and provide rates that are less than those of residential customers.

GPA has accomplished goals of fairness and equity in proposed Schedule D. As will be demonstrated, under that Schedule, nearly all of condominium customers are in fact provided **rates that are less expensive than residential rates**.

3. Condominium Service Schedule D is a fairer and more equitable Tariff for Condominium and other Multi-Family Accommodations than the present commercial rate schedules; the vast majority of Condominium Customers will experience substantial rate reductions by implementation of Schedule D

If Schedule D is not approved by the PUC, residents of condominiums will continue to be billed at existing commercial rates. The substantial progress in rate reduction for nearly all condominium customers would be thwarted. All the work of GPA in honestly seeking an improved billing for condominium customers would be for naught. Approval of the Schedule D by the PUC will mean a substantial reduction in rates for most condominium residents. A stark choice faces the PUC: either approve a Schedule D which positively reduces the rates of the vast majority of condominium ratepayers or condemn such ratepayers to the same existing commercial rates that they have complained about.

Here the PUC should consider the “greatest good for the greatest number.” This principle was developed by British Philosopher Jeremy Bentham. The meaning of ‘the greatest good for the greatest number of people’ is that any decision made which produces the greatest good for the greatest number of people is good and ethical under western philosophical theory. All ratepayers have different power use characteristics, and it is impossible to expect that any rate schedule will affect all ratepayers in the same manner. Here Schedule D will work to the benefit of the vast majority of condominium ratepayers.

The ALJ notes that, at the public hearings, the only complaints from condominium residents came from the residents of Villa Kanton Tasi. No residents of any other condominium or apartment building testified against the approval of Condominium Service Rate Schedule D. The “Customer Impacts” section of CFO Kim’s Presentation demonstrates that 22 out of 25 condominium customers will pay reduced power rates because of the implementation of Schedule D. Schedule D rates are less than residential rates.

There will be no improvement reducing the inequity of condominium rates unless the PUC approves Schedule D. For the Rate P class condominium customers, all 10 of them will experience positive rate reductions from 21.3% down to 5.7% under Schedule D. 8 of such customers experience reductions of over 8%. For Rate J customers, 12 out of 15 customers experience rate reductions by virtue of Schedule D. 7 of those customers experience reductions of over 11%. There are a few Rate J Customers that do not experience rate decreases. However, no two customers are the same. The reason that some customers do not experience decreases is based upon their individual power consumption characteristics and amount of energy utilized. There can never be any rate tariff that will exactly affect all ratepayers in the same fashion.

Both Senator Taitague and VKT residents argue that Condominium Service Schedule D has not established “comparable residential rates for customers residing in multifamily buildings.” That contention is untrue. In fact, the proposed rates under Condominium Service D establish rates that are **lower than residential rates**. To begin with, if one reviews the comparison of proposed condominium rates to residential rate in Mr. Kim’s presentation, the overall rate revenue collected by GPA under Schedule D from all customers is less than the revenue which would be collected under residential rates.

The “Sample Customer Bill Matrix” for existing Rate J condominium residents shows that the rates charged to 10 customers under Proposed Rate D is less than the rate which would be charged to such customers under residential rates. The same result is evident for Condominium residents under Rate P class. All such customers experience lower rates under Proposed Rate D than under the residential rate.

Contrary to the assertion of the opponents to Schedule D, Schedule D provides lower rates to condominiums than residential rates. Why is this the case? Under Schedule D, all condominium ratepayers would be charged a flat charge of \$0.06060 for all energy consumed. This rate is far lower than residential rates. Under Schedule R, a ratepayer is charged more for the first 500kWh at \$0.06955 per/kWh. For over 500kWh, ratepayers are charged \$0.08687 per kWh. Residential ratepayers pay \$0.08687 for all kWh over 500, whereas condominium ratepayers will pay \$0.06060 for all kWh consumed.

In Schedule D, GPA has substantially reduced the per kWh charges for condominium owners under commercial Schedule J and Schedule P. These charges are indicated on the Sample Customer Bill Matrix of the CFO Kim presentation. Schedule J customers pay \$0.19437 for the first 500kWh, and \$0.06484 for kWh over 500. The Schedule P rates are \$0.14170 for the first 55,000kWh, and \$0.06444 for over 55,000kWh.

Under Schedule D, condominium ratepayers will pay a flat kWh charge of \$0.06060, which is lower than both Class J and Class P rates.

Also, under residential rates, each resident of a condominium would be charged a monthly customer charge of \$15.00. However, under proposed Schedule D, the condominium would only be charged one monthly charge of \$59.25. There is no additional charge to the residents of the condominiums.

There is a “Sample bill for Rate Schedule J Customer” included in CFO Kim’s presentation. Customer B, upon information and belief, is VKT. That sample bill, based upon December 2019 figures, shows that VKT will pay less in power rates under the proposed Schedule D than under Rate Schedule J. In his testimony, Mr. Duenas indicated that VKT would experience an increased rate under Schedule D for December 2020. No documentation was submitted to establish such contention.

CFO Kim has demonstrated that Mr. Duenas’ allegation that VKT would experience an increased rate and power bill under Schedule D is erroneous. Mr. Kim has prepared what is, upon information and belief, a excel spreadsheet of VKT power bills from October 2019 through December 2020. The spreadsheet demonstrates that for every month, VKT’s power bill under Schedule D would have been less than the actual bill under Schedule J, and less than the bill would have been under Schedule R (Residential). VKT pays less for power under Schedule D than under the Residential Rate.

For the period of October 2019 through December 2020, VKT would save \$4,915.63 under Schedule D as opposed to its actual bill under Schedule J. For the same period, VKT would save \$1,537 under Schedule D than under Schedule R. VKT’s saving under Schedule D are not as high as some Schedule J customers. The reason appears to be VKT’s status as a high-power consumer. There are only 22 units in VKT,

and they are each over 2,000 sq. ft. The monthly power consumption for the VKT residents of the 22 units utilized averages more than 2,500kWh per month, which is significantly higher than the average residential use of 1,000 kWh per month. In addition, the building has an elevator, swimming pool, and lighted garage. VKT has the option to elect not to be under Schedule D if it so chooses. However, the benefits to most condominium ratepayers from Schedule D should not be denied to them because of objections from one condominium ratepayer.

The opponents of Schedule D have stated that “if GPA’s rate schedule for condos shows the same charge for single family residences”, they would support the rate schedule. An application of the Residential Schedule R to condominiums would, in fact, result in higher rates to condominium residents than under the proposed Schedule D. Demand charges for condominium customers under Schedule D are increased. They increase from \$5.80 to \$12.00. The reason for the increase in demand charges is the drastic reduction of per kWh charges. Under proposed Schedule D, condominium residents will be paying lower kWh charges than any other rate classes, including a substantially reduced rate charge to that paid by the residential class. The increased demand charge merely offsets, to a lesser degree, the substantial decrease in per kilowatt charges. The Demand charge does not constitute a major cost in the bill. Even with the increased demand charge, VKT will still pay less under Schedule D than under Schedule R. The demand charge is to offset the loss of revenue through the reduction in kilowatt charges. GPA is voluntarily accepting a loss of \$533,390 by virtue of adopting Schedule D. Schedule D does accomplish “parity” and “equity” with residential rates. It exceeds “parity” and “equity” by establishing a less expensive rate under Schedule D than under Schedule R, residential rates.

Condominium Service Schedule D satisfies all tests for approval of a rate tariff. President Shawn Blas of the Guam Association of Realtors argued for a standard that there should be equal or close to equal residential power rates for all individually

owned residences in Guam, to include condominiums and other multi-family dwellings.” That goal is accomplished by Schedule D. In truth, condominium units and single-family residences are not the same in terms of the load and other requirements they impose upon the power system. As large units, condominiums impose higher load requirements on the transmission system than do individual single-family residences.

The proposed rate under Schedule D is a substantial improvement for most condominium residents. It would be unfortunate to disregard the vast improvement that Schedule D provides to be overwhelming majority of condominium residents owners because of the interests of one condo. The condominium Service Schedule D meets the requirement of 12 GCA § 12116(a) that all rates charged by a public utility be **just and reasonable**.

4. Revenue Recovery Options

A significant issue faced by GPA’s loss of \$533,000 in revenues from the adoption of the new Condominium Rate is what option should be pursued to recover such lost revenue. Of course, reduction of revenues paid by condominium and apartment owners reduces the overall revenue recovery that GPA has presently been provided in rates. Ordinarily, when there is a rate reduction for one class, that loss of revenue must be recovered from another class or classes of ratepayers. Rates are a “zero sum” game. When rates are reduced for one class of ratepayers, ordinarily such rates must be paid for by another class or classes of ratepayers. This presumes that the original rate structure is “reasonable.”

The Guam Power Authority has set forth various “Revenue Recovery Options”:

- Increase all rate classes (Except Navy) by 0.4%

- Residential Impact \$0.35/Month
- Apply increase only to residential class:
 - Residential Impact \$1.05/Month
- Postpone adjustment until 2023:
 - Base rate adjustment of 8.4% is anticipated
 - Fuel costs are projected to decline 13.1%
 - Anticipated overall residential rate reduction of 8.1%⁴⁶

In the Discovery Questions posed to GPA on August 10, 2020, the following question was presented: “GPA has outlined different “Revenue Recovery Options” by which GPA could recover the over \$550,000 [now reduced to \$533,000] that it will lose by creating the new condominium rate. These include spreading the loss over all rate classes, recovering the loss only from the Residential class, and “Postpone adjustment until 2023.” The ALJ needs to address how the PUC should respond to this issue. Which option does GPA suggest?”⁴⁷ GPA responded to this question as follows: “**GPA plans to absorb the cost.**”⁴⁸

GPA’s response apparently means that, for the present time, GPA is not requesting that the PUC take any formal action to recover the loss of revenue that will result from implementation of the Condominium Rate Schedule. At the Public Hearings, GPA CFO John Kim indicated that GPA had no present plans to recover the revenue loss. However, GPA has indicated its possible intent to file for a base rate adjustment of 8.4% in 2023. It is also unclear at present whether such base rate adjustment that actually result in an increase for ratepayers, as GPA also estimates a fuel cost decline (i.e. in the LEAC Factor) of 13.1%. The fact remains that such loss of

⁴⁶ Guam Power Authority Electric Rate Preliminary Study Results, Mark Beauchamp, President, Utility Financial Solutions, at p. 26.

⁴⁷ Email from PUC ALJ Fred Horecky to GPA Legal Counsel Graham Botha, Discovery Questions regarding GPA Docket 19-09 and 20-10, dated August 10, 2020 at no. 4.

⁴⁸ Id.

revenue will need to be addressed by the PUC in the future. Since GPA is not presently making any request for increase in base rates, the ALJ concludes that GPA should be allowed to implement Schedule “D”, the Condominium Rate.

5. One Time Election and Prohibition of Subsequent Transfer to Another Rate Class

A few remaining issues arise concerning the procedure for implementing Schedule “D”. Under the procedure, the ratepayers under Schedule “D” will be able to make “a one-time election to move to rate schedule D from rate schedule G, J, or P. Once the customer is transferred to rate schedule D, the customer cannot move to another rate schedule.”⁴⁹ It is the condominium or apartment owner that will have the right to make the election, not individual unit owners. This is appropriate, as it is the condominium or apartment that is the “customer.”

The “one-time election” makes sense, as it applies to condominiums and apartments that are presently in operation, as well as those that have been approved prior to the date of implementation of Schedule “D”. For purposes of rate stability, it is not desirable to have a system which encourages constant changes from one rate class to another. Constant changes back and forth between different rate schedules would lead to a lack of continuity in rate administration and create administrative cost and burden. However, the ALJ has recommended that condominium ratepayers should have an opportunity to switch back from Schedule D to the applicable commercial rate class after three (3) years. Ratepayers should have the opportunity to switch classes if they find Schedule D to be unsuitable.

Furthermore, service under Condominium Rate Schedule “D” will not be available to future condominiums or apartments that are built. GPA takes the position

⁴⁹ GPA Petition, Exhibit “A”, Guam Power Authority Schedule “D”, Condominium Service, Schedule “R”, Residential Service.

that “[T]he condo rate was designed for condominiums that were built before the modern appliances and equipment. Technology has changed and architects can design more efficient condominiums for future builds.”⁵⁰ This restriction as to future condominiums or apartments is also appropriate. If the developers or owners of such buildings desire to have units that are built for power service at residential rates, such sub-metering can be built into the plans for condos and apartments.

ORDERING PROVISIONS

After carefully reviewing the record in this proceeding, having considered the GPA Petition for Creation of Condominium Rate, the Summary Report of the GPA Chief Financial Officer, and the Administrative Law Judge Report, and after discussion at a duly noticed regular meeting held on January 28, 2021, 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. Schedule D shall be amended to provide that ratepayers under Schedule D shall have the opportunity to switch back from Schedule D to the applicable commercial class of service after three years from the date of election for such service.
2. With the amendment, Condominium Service Schedule D is approved.
3. GPA is authorized to implement Condominium Service Schedule D as amended.

⁵⁰ GPA Condo Rate Proposal, February 17, 2020 (Power Point), submitted by GPA Counsel Graham Botha to PUC ALJ Fred Horecky on August 11, 2020 in response to Requests for Information updated August 10, 2020, at Request No. 5.

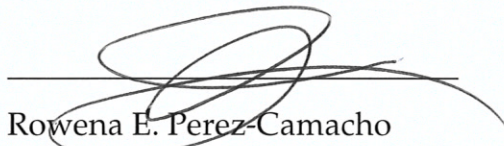
4. The amendment of Rate Schedule R, Residential Service, to include three phase service metered single-family dwellings, is also approved.
5. GPA shall file a final Amended Condominium Service Schedule D, and a Revised Schedule R, with the PUC.
6. GPA is ordered to pay the Commission's regulatory fees 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 §§12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

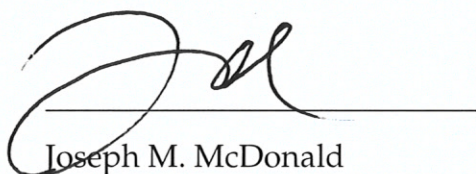
Dated this 28th day of January 2021.

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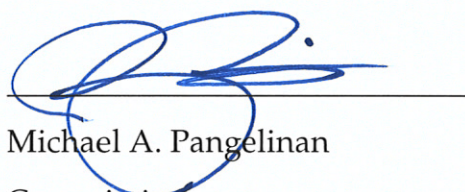
Jeffrey C. Johnson
Chairman

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Rowena E. Perez-Camacho
Commissioner

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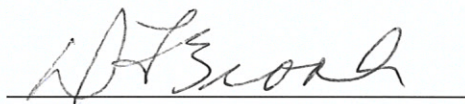
Joseph M. McDonald
Commissioner

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Michael A. Pangelinan
Commissioner

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Peter Montinola
Commissioner

A handwritten signature in blue ink, appearing to be 'Doris Flores Brooks', written over a horizontal line.

Doris Flores Brooks
Commissioner

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Pedro S.N. Guerrero
Commissioner