

**GUAM PUBLIC UTILITIES COMMISSION  
SPECIAL MEETING  
January 4, 2021  
GCIC CONFERENCE ROOM, GCIC BUILDING, HAGATNA**



**MINUTES**

The Guam Public Utilities Commission [PUC] conducted a regular meeting commencing at 6:38 p.m. on January 4, 2021, pursuant to due and lawful notice. Commissioners Johnson, Perez-Camacho, Montinola, Pangelinan, McDonald, Flores-Brooks, and Guerrero were in attendance. The following matters were considered at the meeting under the agenda included as *Attachment "A"* hereto.

**1. Approval of Minutes**

The Chairperson announced that the first item of business on the agenda was approval of the minutes of November 30, 2020. Upon motion duly made, seconded, and unanimously carried, the Commission approved the minutes subject to correction.

**2. Guam Waterworks Authority**

The Chairperson announced that the next item of business on the agenda was Guam Waterworks Authority [GWA] Docket 21-01, Petition for Approval to Reallocate Funds from the 2010, 2013 and 2016 Bond Proceeds, PUC Counsel Report, and Proposed Order. ALJ Horecky stated that this matter has not been completed for the PUC's review and that it will hopefully be ready for the next PUC meeting.

**3. Administrative Matters**

The Chairperson announced that the next item of business was GPA Docket 20-10, Notice of Public Hearing on GPA Petition to Establish Condominium Rate (for Informational Purposes Only). ALJ Horecky stated that this is GPA's petition to create a new rate for condominiums, that this matter has been in process for a long time, and that the matter was almost complete except for the public hearings to take public testimony, and that the first hearing will be here on January 13, 2021 at 6:30 p.m., and the second hearing will be on January 14, 2021 at 5:30 p.m. at the Asan Community Center, and that the third hearing will be on that date at 7:00 p.m., at the Dededo Senior Citizen Center, and that the Commissioners are invited to attend. The Chairperson that historically, the Commission's Chairperson and the ALJ attend such public hearings but do not engage in discussions with the public at those meetings. A discussion ensued





between the Commissioner and ALJ Horecky concerning the public hearing for the new power plant, the completion date for the new power plant, whether GPA should provide the Commission with a Gantt chart showing the construction schedule of the new power plant, the contractor's penalties if there is a delay in construction of the new power plant, and the load capacity of the new power plant.

The Chairperson announced that the next item of business was the Chairman's Report on Bill No. 219 (Providing for Purchase or Lease-back of Renewable Energy for the Guam Department of Education and Other Educational Institutions) (for Informational Purposes Only). The Chairperson stated that Bill 219 looks good on its face initially until you dig down a little deeper and realize that this wouldn't have been such a good deal for the ratepayers and that the legislature set it aside for now. The Chairperson stated that he and ALJ Horecky had to work on this matter very quickly because of the short notice that the being put in the voting file at the end of the legislative session and that he had been informed that the bill was likely to pass. The Chairperson stated that GPA submitting testimony expressing its concerns about the bill that included statements from its bond counsel stating that passage of the bill would violate GPA's bond covenants and that the bill was usurping the PUC's authority. The Chairperson stated that ALJ Horecky and he spoke out against the bill and explained why they were not in favor of the bill's passage. The Chairperson stated that he did not believe the legislature understands that GPA has really done a pretty good job of bringing renewable energy into the equation at a very good rate and that they tried to explain that the bill would take the Government of Guam, a large customer base which helps support ratepayers, out of the equation and that the ratepayers would be stuck with the bill on their own at that point in time and that he believed the legislature saw reason and set the bill aside for now. A discussion ensued between the Commissioners and ALJ Horecky concerning foreign contractors building and operating portions of Guam's power system, the power rates, GPA's Dandan Facility, rate savings from renewable energy, whether GPA should operate GPA's power generating facilities or whether private contractors should continue to operate them, whether the PUC should require GPA to produce a Gantt chart showing when the new renewable energy facilities will be online, the experience of other jurisdiction with renewable energy, GPA's net metering program, the Dededo CT plants, the closure of GPA's older baseload plants and the effect on GPA's employees working at those sites, the effect of using ultra low Sulphur diesel fuel on GPA's costs, and the negative effect of taking large ratepayers such as the Government of Guam and large commercial entities out of the rate system.





#### 4. Other Business

The Chairperson announced that the next item was other business. Commissioner Montinola inquired as to whether the public hearings for GPA Docket 2010 would be conducted by any of the PUC's consultants and ALJ Horecky stated that they would be conducted by PUC. Commissioner Montinola inquired as to whether the printed materials in the Commissioner's binders could be inputted into iPads and whether such iPads could be given to the Commissioners in lieu of the hard copies in the binders. A discussion ensued between the Commissioners concerning their preferences for digital or hard copies of their binders, and the majority of the Commissioners expressed their preference for the hard copies in the binders. Commissioner Flores-Brooks inquired as to whether the PUC's financial information could be submitted in a different form that includes the PUC's budget and actual expenditures for the year, with a comparison to the prior year. A discussion ensued between the Commissioners and Lou Palomo regarding the format of the PUC's financial reports.

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



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Jeffrey C. Johnson  
Chairperson



**ATTACHMENT A**  
**THE GUAM PUBLIC UTILITIES COMMISSION**  
**NOTICE OF PUBLIC MEETING**

**NOTICE IS HEREBY GIVEN** that the Guam Public Utilities Commission [PUC] will conduct a special business meeting, commencing at 6:30 p.m. on January 4, 2021, on the third floor, GCIC Building, 414 W. Soledad Ave., Hagatna.

The following business will be transacted:

**Agenda**

- 1. Approval of Minutes of November 30, 2020**
- 2. Guam Waterworks Authority**
  - **GWA Docket 21-01, Petition for Approval to Reallocate Funds from the 2010, 2013 and 2016 Bond Proceeds, PUC Counsel Report, and Proposed Order**
- 3. Administrative Matters**
  - **GPA Docket 20-10, Notice of Public Hearing on GPA Petition to Establish Condominium Rate (for Informational Purposes Only)**
  - **Chairman's Report on Bill No. 219 (Providing for Purchase or Lease-back of Renewable Energy for the Guam Department of Education and Other Educational Institutions) (for Informational Purposes Only)**
- 4. Other Business**

Due to the current public health emergency, all persons attending the meeting will be required to wear masks. Social distancing protocols will be observed. Further information about the meeting may be obtained from the PUC's Administrator Lou Palomo at 472-1907. Those persons who require special accommodations, auxiliary aids, or services to attend the meeting should also contact Ms. Palomo.

**This Notice is paid for by the Guam Public Utilities Commission**





**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF:**

**GPA DOCKET 20-10**

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

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**NOTICE OF PUBLIC HEARING**

**NOTICE IS HEREBY GIVEN** that the Guam Public Utilities Commission [PUC] will conduct a public hearing on Guam Power Authority's [GPA] Petition for Creation of Condominium Rate Schedule. The public hearing will commence at 6:30 p.m. on January 13, 2021, at Suite 202 GCIC Building, 414 West Soledad Avenue, Hagatna, Guam.

In GPA Docket 19-09, the President of the Guam Association of Realtors and Senators of the 35<sup>th</sup> Guam Legislature filled a Petition for Allocation of Residential Rate Schedule for Residential Multi-Family Accommodations. The Petition sought the establishment of a residential power rate for residents living in apartment buildings, condos, and other multifamily residential buildings. 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 multifamily accommodations so that residents in such accommodations are not charged higher rates than those that reside in single family residences.

GPA retained a consultant to conduct a cost-of-service study and financial projection. As a part of that study, the Consultant examined present rates for condos and apartments. It presented a proposal for creation of a Condominium Service, Schedule D, which would charge residents of multifamily accommodations in accordance with residential rates. Based upon its Consultant's study, GPA determined that it would present its Petition for Creation of a Condominium Rate Schedule in this Docket. The GPA Petition is subject to the approval of the PUC, as all rate changes must be approved by the PUC pursuant to 12 GCA §12116.

The purpose of the public hearing will be to provide PUC with public input and comment to assist it in determining whether GPA's proposal, to include Condominiums within a new Condominium Service Rate Schedule D, and to provide residents of condominium units power rates similar to those afforded to members of the Residential





Rate Class, should be adopted. Reclassification of residents of condominium and multifamily accommodations from current rate classes J3, P, and G1 will result in an estimated reduction of revenue to GPA in an amount of \$535,748. Various recovery options are available to recover such income for GPA. GPA's Consultant has presented different options, such as increasing all rate classes (except Navy) by 0.4%; applying an increase only to the residential class in the amount of \$1.05 per month; or postponing any adjustment to 2023, when the Consultant anticipates a base rate adjustment of 8.4% (however, to be offset by reduced fuel prices). After the public hearings, at its next regularly scheduled meeting, the PUC will determine the appropriate action to be taken on GPA's Petition, including which rate option to implement and when such rate increase should be effective.

Interested parties may review GPA's Petition for Creation of Condominium Rate Schedule at the PUC Website, [www.guampuc.com](http://www.guampuc.com), or at the PUC Office, Suite 207, GCIC Bldg., Hagatna. Copies of documents related to the Petition will be maintained at the PUC Office.

Interested persons may participate in the public hearing pursuant to Public Law 23-30:1, by application to the PUC at Suite 207, GCIC Building Hagatna. PUC will also welcome public comments, whether oral or written. Public comments will be entertained in the order registered with PUC staff at Suite 202 GCIC Building, commencing at 6:15 p.m. on the evening of the hearing.

PUC will also invite public comments on GPA's Petition at additional hearings, which have been scheduled for the public's convenience in accordance with Public Law 26-23 and will be held at the following locations and times:

5:30 p.m. January 14, 2021, Asan Community Center

7:00 p.m. January 14, 2021, Dededo Senior Citizens Center

Public comments at the supplemental hearings will be welcomed in the order registered with PUC staff prior to the hearings.

Due to the current public health emergency, all persons attending the meeting will be required to wear masks. Social distancing protocols will be observed. Further information about the hearings can be obtained from the PUC's Administrator Lou Palomo at 472-1907. Those with disabilities who need special accommodation to attend the hearings should also contact Ms. Palomo.





**PUBLIC UTILITIES COMMISSION  
OF GUAM**

Jeffrey C. Johnson  
Chairman

Rowena E. Perez-Camacho  
Vice Chairwoman

Commissioners  
Joseph M. McDonald  
Michael A. Pangelinan  
Peter Montinola  
Doris Flores Brooks  
Pedro S.N. Guerrero

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Lourdes R. Palomo  
Administrator

Frederick J. Horecky  
Chief Administrative Law Judge

Joephet R. Alcantara  
Administrative Law Judge

Anthony R. Camacho  
Legal Counsel

October 23, 2020

Senator Joe S. San Agustin  
Chairman of the Committee on  
General Government Operations,  
Appropriations and Housing  
[senatorjoesanagustin@gmail.com](mailto:senatorjoesanagustin@gmail.com)

Re: Testimony of Chairman Jeffrey C. Johnson, Guam Public Utilities Commission, on  
Bill No. 219-35(COR)

The Guam Public Utilities Commission ["PUC"] appreciates the opportunity to  
comment on proposed Bill No. 219-35(COR). For the reasons stated herein, the PUC  
opposes the enactment of Bill 219-35(COR).

The PUC supports the intent of the Bill to promote solar energy on Guam and "to aid in  
attaining a lower cost for cleaner electricity production and usage..." Since 2008, the  
PUC has been the entity that established and implemented the net metering program.  
However, the actual impact of the proposed Bill, rather than reducing power rates, will  
be to increase such rates for the ratepayers of Guam.

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**I. NO STUDY HAS BEEN DONE TO DETERMINE THE IMPACT OF THIS BILL UPON THE GPA TRANSMISSION AND DISTRIBUTION SYSTEM.**

Before any Bill such as 219 is enacted, there must be a study and determination as to how it will impact the power system. This Bill will potentially damage the island wide power system by creating an influx of solar power into the GPA transmission and distribution systems, without any assessment or determination of whether GPA's system can handle the amount of solar energy produced by the net metering of these "institutions", and whether there would be a "demonstrated adverse impact on Guam Power Authority's transmission and distribution system." Net metering systems provided by the "institutions" will likely have no battery storage and will be useless in providing power to meet the peak load of the system for evening hours.

This Bill provides that many educational "institutions", including from Guam Department of Education (GDOE), Guam Academy Charter Schools, Guam Community College, and the University of Guam, and other "institutions" occupied under a lease agreement' "would all be authorized to enter into power purchase or sale Lease-Back agreements to purchase solar energy from "qualified providers". These agreements are alleged to be "in the best financial interest of the Government of Guam for a period of up to twenty-five (25) years and not to exceed forty (40) years."

Neither the Guam Legislature nor anyone else has conducted an inquiry or study as to how many megawatts of renewable solar energy this Bill would add into GPA's transmission and distribution systems if the "institutions" avail themselves for the provision of 80% of their power needs from net metering systems. The Bill will obviously impact the amount of renewable energy produced by net metering in the GPA system, and such providers are even authorized to locate solar energy systems "off-site", not just on the rooftops of such institutions.

**John Benavente, General Manager of the Guam Power Authority, and John Cruz, GPA Assistant General Manager, Engineering & Technical, estimate that an additional 24.6MW of solar energy would be added to the power system by this Bill. If Bill 219 were fully utilized by the institutions, there would be 49.2MW of net metering energy in the system. Before such a Bill is enacted, there should be a study determining what total amount of renewable solar energy could impact the transmission and distribution systems, and whether such energy would have a negative impact on the system or cause intermittent frequency outages. 12 GCA § 8502(c)(2)(c) provides that GDOE may only exceed present net metering capacity limitations (i.e. 100kw for non-residential customers "as long as there is no demonstrated adverse impact on Guam Power Authority's transmission and distribution system..."**

The Guam PUC, with its available utility consultants and experts, is the appropriate body to conduct such study. This Bill should not be enacted into legislation without a



study demonstrating that there would be no adverse impact upon GPA's distribution and transmission system through the substantial expansion of net metering.

## **II. BILL NO. 219-35 WILL RESULT IN AN INCREASE IN RESIDENTIAL POWER RATES.**

The stated purpose of this Bill is to promote economy and "aide in maintaining a lower cost for cleaner electricity production and usage..." In fact, the actual impact will be the opposite—there will be higher power rates as a result of this Bill. The Bill presumes that the "institutions" power bills will be reduced, but does not even consider the negative rate impacts on GPA and non-net metering customers. There will be a tremendous loss of revenue for GPA. This amount of such loss should also be studied and determined before the Bill is enacted. Before the pandemic, GDOE was paying over \$1M per month in power bills, or \$12M per year; other institutions such as UOG and GCC may pay in excess of \$2M per year. Conversion of the institutions to net metering will cause a significant loss of revenue for GPA. Instead of receiving full retail rate payments from the "institutions", GPA will be forced to grant full retail rate credits to the institutions for solar power produced. Rate making is a "zero sum game". When GPA loses revenues from one source, it will need to make up such revenue loss by charging the non-net metering customers. Non net metering customers, which constitute 96% of ratepayers, will have to pay higher power rates.

Bill 219 essentially targets one of GPA's largest ratepayers and deprives GPA of the same level of revenues it presently receives. Why should "educational institutions" be



granted special treatment as net metering customers? Using the same logic, the Legislature could target all the government entities that are GPA's customers (DOA, DPW, GEDA, GHURA, GUAM HOUSING, etc.), and authorize net metering arrangements for all government entities. At present, the power rates for government entities subsidize residential power rates. By authorizing these arrangements, the Legislature negatively impacts the rate subsidies provided by government customers to the residential class. The impact will be an increase in residential rates. The residential subsidies, which have been in effect since the 1970s, will be effectively destroyed.

Rather than reducing power costs, this Bill will increase costs to GPA and the ratepayers of Guam. GPA will be compelled to credit such institutions for solar energy produced at the rate of approximately twenty-five cents (\$.25) per kilowatt hour. This will require increases in power costs for all non-net metering customers. Net metering arrangements are simply not a cost-effective method for reducing power costs to the ratepayers of Guam. The 120MW Utility scale production of renewable energy by GPA, which should be in operation within two years, will cost roughly six to eight- and one-half cents per kilowatt hour. Net metering energy that would be produced by the institutions would be three times the cost of utility scale solar energy produced by GPA. Even if reduced fuel costs are deducted, net metering energy is more than twice as expensive as GPA produced utility scale solar energy.

How can the net metering provisions of Bill 219-35 possible be viewed as economical or lower cost? GPA's utility scale production for 45MW net metering plants on Naval properties, with battery storage, will produce power at a cost of eleven cents per kilowatt hour. GPA's utility scale power is far cheaper than the net metering arrangements supported in Bill No. 219-35. Power cost would be more "economical" if provided through utility scale solar energy plants, rather than net metering facilities.

Bill 219-35 is simply not in the interest of ratepayers.

### **III. BILL NO. 219-35 INTERFERES WITH THE INDEPENDENCE OF THE PUC AND ITS RATEMAKING FUNCTIONS, AND VIOLATES THE GPA/GWA BOND COVENANTS.**

It is presently within the power of the Guam Public Utilities Commission to determine what penetration levels there should be for solar energy produced through net metering in the island wide power system. Net metering can cause instability and intermittent power outages in the power system. GPA has already demonstrated that the 25MW NRG solar plant in Dandan has caused such problems.

Issues concerning the penetration level for net metering energy in the GPA power system are for the determination of the independent rate setting body, the Guam Public Utilities Commission. What Bill No. 219 would do is actually increase the penetration level for net metering in the GPA power system far beyond what has been presently



been authorized by the PUC. Without a study, it is difficult to determine the full extent to which Bill 219 would increase current net metering levels. If 80% of the power produced by the "institutions" is through meter metering, John Cruz' estimate is a 24.6MW increase in net metering production. Such an increase would grossly exceed the current net metering cap established by the PUC.

In PUC Docket 19-04, the PUC already set a penetration level of 10% of total GPA power production for net metering. When net metering produced energy of 26MW is reached, PUC has ordered a reevaluation of the net metering program. Net metering presently accounts for roughly 24MW. With the addition of 24MW, the cap would be greatly exceeded. This should not be allowed without prior review and approval of the PUC. In recent testimony provided on October 7, 2020, by GPA Bond Counsel John Wang, of the Orrick Law Firm, in opposition to Bill No. 315-35, he stated as follows:

**"Any transaction that would involve net metering arrangements with GPA, the use of GPA's transmission system, the use of GPA's distribution system, ...must be subject to the approval of the GPUC after consideration of appropriate ratemaking policies, including the appropriate allocation of costs on various ratepayer classes."**

As with Bill 315, Bill No. 219-35 also involves net metering arrangements with GPA, the use of GPA's transmission system, and the use of its distribution system. These arrangements must be subject to the prior review and approval of the PUC. Bill 219 will

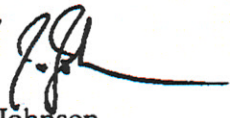
definitely impact rates on various ratepayer classes. The PUC, not the Guam Legislature, must consider and evaluate the rate impacts.

Bill 219's attempt to increase the penetration level of net metering is a violation of the independence of the Guam Public Utilities Commission, a body created by the Organic Act of Guam as an "independent rate setting body." Bill 219 also violates the GPA/GWA Bond Covenants. In those covenants, the Guam Legislature agreed not to impair the powers, duties, or effectiveness of the PUC. Violation of the Bond Covenants by the Legislature could result in a bond default.

#### CONCLUSION

Bill No. 219-35 should not be enacted, as there has been no study concerning its impact upon the GPA distribution and transmission systems. The Bill would result in higher power rates for the residential ratepayers of Guam. It would interfere with the PUC's independence, as well as the Bond Covenants, by creating net metering relationships involving the use of the power system, and would negatively impact rate policies.

Sincerely,

  
Jeffrey C. Johnson  
Chairman  
Guam Public Utilities Commission



*I Mina'trentai Singko Na Liheslaturan Guåhan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
219-35 (COR)	Joe S. San Agustin Tina Rose Muña Barnes William M. Castro Clynton E. Ridgell	AN ACT TO AMEND § 7120 OF CHAPTER 7 OF DIVISION 2, TITLE 17, GUAM CODE ANNOTATED; TO AMEND § 8502 OF ARTICLE 5, CHAPTER 8 OF TITLE 12, GUAM CODE ANNOTATED; AND TO AMEND § 5008.2 OF PART A, ARTICLE 1, CHAPTER 5 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO STRENGTHENING THE PURCHASE OR LEASE-BACK OF RENEWABLE ENERGY PURCHASE OF SERVICE FOR THE DEPARTMENT OF EDUCATION, GUAM ACADEMY CHARTER SCHOOLS, THE GUAM COMMUNITY COLLEGE AND THE UNIVERSITY OF GUAM.	10/15/19 3:46 p.m.						

***I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN***  
**2019 (FIRST) REGULAR SESSION**

Bill No. 219 -35 (COR )

Introduced by:

Joe S. San Agustin  
Tina Rose Muña-Barnes  
William M. Castro  
Clynton Ridgell

AN ACT TO AMEND § 7120 OF CHAPTER 7 OF DIVISION 2, TITLE 17, GUAM CODE ANNOTATED; TO AMEND § 8502 OF ARTICLE 5, CHAPTER 8 OF TITLE 12, GUAM CODE ANNOTATED; AND TO AMEND § 5008.2 OF PART A, ARTICLE 1, CHAPTER 5 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO STRENGTHENING THE PURCHASE OR LEASE-BACK OF RENEWABLE ENERGY PURCHASE OF SERVICE FOR THE DEPARTMENT OF EDUCATION, GUAM ACADEMY CHARTER SCHOOLS, THE GUAM COMMUNITY COLLEGE AND THE UNIVERSITY OF GUAM.

2019 OCT 15 PM 3:46

**BE IT ENACTED BY THE PEOPLE OF GUAM:**

**Section 1. Legislative Findings and Intent.**

*I Liheslaturan Guåhan* finds that the use of solar energy on Guam is both economical and beneficial to our island and Pacific community.

*I Liheslaturan Guåhan* further finds that the Guam Consolidated Commission on Utilities is working on building solar energy capacity but finds the need for over 3,000 acres of land and capital of over One Billion Dollars to achieve this.

It is the intent of *I Liheslaturan Guåhan* to move Guam toward cleaner energy production by utilizing rooftops of Guam's educational facilities at the Guam Department of Education, Guam Academy Charter Schools, Guam Community College and the University of Guam and their ancillary buildings as properties

1 eligible for the installation of solar panels to aid in attaining a lower cost for cleaner  
2 electricity production and usage and to provide strengthened legislation to purchase  
3 or lease-back renewal energy.

4       **Section 2.** § 7120 of Chapter 7 of Division 2, Title 17, Guam Code Annotated  
5 is hereby *amended* to read:

6               **“§ 7120. Power Purchase or Sale Lease-back Agreement to**  
7 **Purchase Solar Energy.**

8               (a) The Guam Department of Education (GDOE), Guam  
9 Academy Charter Schools, Guam Community College and University  
10 of Guam, hereinafter ‘Institution(s)’, may enter into one or more power  
11 purchase or Sale Lease-back agreements to purchase solar energy from  
12 qualified provider(s) which will be in the best financial interests of the  
13 government of Guam for a period up to ~~and not exceeding twenty-five~~  
14 (25) years and not to exceed forty (40) years. Such qualified PPA or  
15 Sale Lease-back provider(s) *shall* be selected by a Multi-Step Bid  
16 conducted by ~~GSA~~ respective Institutions, in accordance with the  
17 procurement law and regulations of Guam. The qualified PPA  
18 provider(s) or Sale Lease-back will be responsible for providing PPA  
19 or Sale Lease-back Agreement to cover *no more than* eighty percent  
20 (80%) of the ~~school’s~~ Department’s power needs as calculated for the  
21 immediately preceding twelve-month period from the date of the  
22 execution of the PPA or Sale Lease-back Agreement, for all GDOE  
23 owned Institutions, GDOE administrative, and GDOE ancillary  
24 buildings. For schools Institutions occupied under a lease agreement  
25 as of the enactment of this Section, ~~GDOE~~ the Institutions may amend  
26 its lease agreements or otherwise directly enter into a PPA or Sale  
27 Lease-back Agreement with a lessor for the purchase of solar power



1 produced with renewable energy directly from the lessor and without  
2 application of the procurement law including Section 5004, Section  
3 5006 and Section 5150 of Title 5 GCA. Such lease amendments or PPA  
4 shall not have a term in excess of twenty-five (25) years and shall be  
5 for no more than eighty percent (80%) of annual power needs of the  
6 leased Institutions based on the 12-month period immediately  
7 preceding the execution of the lease amendment or PPA.

8 (b) The qualified PPA or Sale Lease-back Agreement  
9 provider(s) shall be considered responsive if accepted proposals have  
10 been deemed technically acceptable and provide the best value to the  
11 Institutions and the government of Guam.

12 (c) The qualified PPA or Sale Lease-back Agreement  
13 providers may submit a single proposal without limitations or  
14 discrimination on all proposals made in good faith. A qualified PPA or  
15 Sale Lease-back Agreement provider(s) will be allowed to submit a  
16 single proposal for one ~~GDOE~~ Institution facility or multiple ~~GDOE~~  
17 Institution facilities in good faith.

18 (d) ~~GDOE and GSA shall~~ The Schools Institutions *may* seek  
19 technical consultation from the Guam Power Authority in  
20 implementing this Section, and the Guam Power Authority *shall*  
21 provide the technical consultation upon request at *no* cost to ~~GDOE and~~  
22 ~~GSA. GDOE and GSA~~ The Institutions *may* further seek technical  
23 consultation from the Guam Energy Office, the Department of Public  
24 Works, and/or a third party renewable energy consultant in  
25 implementing this Section and the consultation *shall* be at *no* cost to the  
26 Institutions ~~GDOE and GSA~~; any costs associated with a third party  
27 consultant will be passed through in total to the qualified PPA or Sale

1        Lease-back Agreement provider(s) equally and in full who is awarded  
2        the Multi-Step Bid.

3            (e)    In concert with ~~GDOE~~ the Institutions, the selected PPA  
4        or Sale Lease-back Agreement provider(s) *shall* review historical  
5        power needs, such as the past twelve (12) months of power  
6        consumption, of the selected schools and provide the maximum sized  
7        photovoltaic safely allowed by roof size, building orientation and  
8        location, and other physical conditions which may affect the safe and  
9        effective size of the photovoltaic system. In case shall the system be  
10       sized to produce power in excess of the needs of the specific building  
11       or campus as recorded during the previous twelve (12) months,  
12       exclusive of extraordinary circumstances, such as natural disasters, that  
13       may result in power generation greater than consumption for the period.

14           (f)    The qualified PPA or Sale Lease-back Agreement  
15       provider(s) *shall* pay for the design, financing permitting, insurance,  
16       installation, monitoring and maintenance of the system, and *shall* own  
17       and operate the system located on ~~GDOE's~~ the Institution's facility for  
18       the life of the contract at *no* cost to ~~GDOE~~ the Institutions or the  
19       government of Guam.

20           (g)    The qualified PPA or Sale Lease-back Agreement  
21       provider(s) must possess a valid Guam Business license, for at least five  
22       (5) years, prior to the award of the contract.

23           (h)    The qualified PPA or Sale Lease-back Agreement  
24       provider(s) *shall* be experienced in designing, implementing and  
25       installing solar energy systems, and have a record of established  
26       projects, demonstrate technical, operational, financial and managerial  
27       capabilities to design and operate a solar energy system.

1 (i) The qualified PPA or Sale Lease-back Agreement  
2 provider(s) *shall* warrant that the solar energy paid by ~~GDOE~~ the  
3 Institutions will *not exceed* eighty percent (80%) of Guam Power  
4 Authority's current billing charges to ~~GDOE~~ the respective Institutions  
5 schools, ~~GDOE~~ administrative, and ~~GDOE~~ ancillary buildings, as  
6 determined by the most recent utility invoices for that selected building,  
7 school or campus. Escalation of rates for years two (2) through twenty-  
8 five (25) *shall* be determined and set in advance and if it is a sale lease-  
9 back agreement there will be no escalation rates applicable to this type  
10 of sale lease-back agreement. At no time shall the qualified PPA or  
11 Sale Lease-back Agreement provider(s) produce power in excess of the  
12 needs of the designated school/campus, based upon annual  
13 consumption of the designated school/campus, exclusive of  
14 extraordinary circumstances, such as natural disasters, that may result  
15 in power generation greater than consumption for the period.

16 (j) The qualified PPA or Sale Lease-back Agreement  
17 provider(s) *shall* work with ~~GDOE~~ the Schools Institutions concerning  
18 any existing school roofing warranties to ensure said warranties are not  
19 voided with the installation and operation of the solar energy systems.

20 (k) The qualified PPA or Sale Lease-back Agreement  
21 provider(s) *shall* perform repairs to any portion of the roof damaged  
22 during the installation and operation of the solar energy systems, and  
23 *shall* maintain those repairs for the duration of the warranty or the  
24 contract, whichever is the shortest.

25 (l) Every year, on the anniversary date of the commissioning  
26 of the solar energy system, the qualified PPA or Sale Lease-back  
27 Agreement provider(s) *shall* report to the ~~GDOE~~ Institutions on the



1 production for the previous year comparing rates charged by the  
2 qualified provider against rates being charged by the utility detailing  
3 the savings for the previous year. ~~GDOE The Schools~~ Institutions shall  
4 transmit a copy of this report to the Speaker of *I Liheslaturan Guåhan*.

5 (m) The qualified PPA or Sale Lease-back Agreement  
6 provider(s) shall not extinguish its obligations under the agreement by  
7 assigning it to another company that has met the requirements set forth  
8 in this Section without the approval of the respective school's  
9 governing body: Guam Board of Education, the Guam Academy  
10 Charter School Council, the Guam Community College Board of  
11 Trustees and the University of Guam Board of Regents which will not  
12 be unreasonably withheld.

13 (n) As described in ~~Upon the expiration of the PPA or Sale~~  
14 Lease-back Agreement, GDOE the Institutions may have the option to  
15 purchase the solar energy system at an agreed upon Fair Market Value  
16 (FMV). FMV will be determined collaboratively by the PPA  
17 provider(s), GDOE, and a third party Subject Matter Expert (SME).  
18 GDOE also reserves the right to purchase the system at any time after  
19 the 7<sup>th</sup> year of the PPA at a determined FMV, and recognizes that a  
20 qualified PPA provider(s) would face negative impact tax implications  
21 if bought out prior to the stated timeframe.

22 (o) The agreement shall include a provision which will  
23 impose a monetary fine per day for each day beyond the agreed date  
24 that the qualified provider(s) promises to implement the solar energy  
25 system. The provisions in this Section shall not apply in the case of  
26 force majeure to the extent of delays caused by such force majeure. The  
27 provisions of the Subsection cannot be waived. Said monetary fines

1 shall be deposited into ~~Y Kuantan Salappe' Prinsep~~ the following  
2 funds respective to the School: the GDOE Energy Efficient Fund, the  
3 Guam Academy Charter Schools Council Energy Efficient Fund, the  
4 Guam Community College Energy Efficient Fund; and the University  
5 of Guam Energy Efficient Fund, and shall be used for the schools where  
6 the implementation of the solar energy system or any other renewable  
7 energy sources is delayed.

8 (p) Qualified PPA or Sale Lease-back Agreement provider(s)  
9 may be allowed to locate and or co-located the solar energy system on  
10 private or government property at another site for the purposes of  
11 achieving renewable energy power generation to satisfy the power  
12 consumption under this Section. GPA, who has also recognized the  
13 benefit of "off-site" power generation, will recognize an offsite net  
14 metering for a qualified PPA providers, as long as the qualified PPA  
15 provider of solar energy system is in compliance with the current cap  
16 set forth for residential and commercial net metering, 25KW and  
17 100KW per meter respectively. The following conditions must be met:

18 (1) If the qualified PPA or Sale Lease-back Agreement  
19 provider(s), doing its due diligence, identifies that the  
20 rooftop of any ~~GDOE~~ Institution owned schools, ~~GDOE~~  
21 administrative, and ~~GDOE~~ ancillary buildings and for  
22 schools occupied under a lease agreement may *not* be  
23 financially feasible due to the age or quality of the  
24 building's rooftop.

25 (2) In the event that the utility grid is unable to receive  
26 the renewable energy source for the ~~GDOE~~ school, ~~GDOE~~  
27 administrative, and ~~GDOE~~ ancillary buildings, and for



1 schools occupied under a lease agreement, being  
2 interconnected with GPA's utility grid.

3 (3) In the event that there is *no* room to install the  
4 photovoltaic solar energy system due to limited access of  
5 rooftops and real property of all ~~GDOE~~ Institution owned  
6 schools, ~~GDOE~~ administrative, and ~~GDOE~~ ancillary  
7 buildings, and for ~~schools~~ Institutions occupied under a  
8 lease agreement.

9 (4) The qualified PPA or Sale Lease-back Agreement  
10 provider(s) *shall* apply for a meter, at their own expense,  
11 to record the flow of power into the existing grid.

12 (5) If co-located, that each individual system be  
13 metered for each specific qualified PPA or Sale Lease-  
14 back Agreement provider(s).

15 (6) The location of the off-site power generation has  
16 met all other building code and requirements.

17 (7) The qualified PPA or Sale Lease-back Agreement  
18 provider(s) has submitted proof of land ownership and/or  
19 legal lease of land used for the purposes of solar power  
20 generation.

21 (8) The qualified PPA or Sale Lease-back Agreement  
22 provider(s) will provide an interconnection study that  
23 validates the ability of a photovoltaic system prior to  
24 construction; if that photovoltaic system(s) is expected to  
25 exceed 100KW due to co-location.

26 (9) An interconnection study that dictates an  
27 improvement or an upgrade is required in order for a

1 customer generator's power to be accepted by GPA at grid  
2 connection will the responsibility of the qualified PPA or  
3 Sale Lease-back Agreement provider(s).

4 (q) Throughout the qualified PPA or Sale Lease-back  
5 Agreement provider's management duration of any solar energy  
6 system procured and installed under this Act, the qualified PPA or Sale  
7 Lease-back Agreement provider *shall*, at *no* cost in excess of the  
8 management agreement, remove and reinstall any such solar energy  
9 system at the request of the Superintendent of Education Institution's  
10 Director, Superintendent or President, if the facility that such system is  
11 installed upon undergoes renovation or demolition that may affect the  
12 usefulness of the solar energy system.

13 ~~(r) Each participating school will have access to fifty percent~~  
14 ~~(50%) of the energy savings yielded from the PPA and GDOE the~~  
15 ~~Schools for the respective schools. The savings shall be transferred~~  
16 ~~from the utility pool and deposited in the Y Kuantan Salappe' Prinsepai~~  
17 ~~Fund for each respective school from the energy savings produced from~~  
18 ~~the lower cost of energy provided by PPA. The funds will be available~~  
19 ~~within thirty (30) days from the close of each quarter.~~

20 (sr) Each participating school Institution will have access to  
21 the remaining ~~fifty percent (50%)~~ One Hundred percent (100%) of the  
22 energy savings yielded form the PPA or Sale Lease-back Agreement  
23 for the respective schools. The savings *shall* be transferred to the  
24 Maintenance Division for the maintenance, and repair, and/or any  
25 Capital Improvement Projects of respective Institutions of all GDOE  
26 schools from the utility pool and deposited into the Energy Efficient  
27 Fund for each respective school from the energy savings produced from

1 the lower cost of energy provided by PPA or Sale Lease-back  
2 Agreement. The funds can be leveraged as a source of payment for  
3 GDOE to utilize any financing mechanism such as bonds or any federal  
4 loan program to raise funds for the facilities maintenance or  
5 construction of services. ~~will be available within thirty (30) days from~~  
6 ~~the close of each quarter.~~

7 (s) ~~GDOE~~ The Institutions will have access to the annual  
8 utility appropriation set forth in its ~~GDOE~~ budget for Power Purchase  
9 Payment commitments or Sale Lease-back Agreement to its Qualified  
10 Power Purchase Agreement or Sale Lease-back Agreement provider(s).  
11 In addition, ~~GDOE~~ the Institutions will still be obligated from its utility  
12 appropriation to pay for the utility from Guam Power Authority which  
13 is *not* part of the Power Purchase Agreement.

14 **Section 3.** § 5008.2 of Part A of Article 1, Chapter 5 of Title 5, Guam Code  
15 Annotated, is hereby *amended* to read as follows:

16 **“§ 5008.2. Policy in Favor of Renewable Energy Purchase of**  
17 **Service.**

18 (a) In procuring services as cited in §7120 of Title 17, Guam  
19 Code Annotated, ~~GSA GDOE~~ the Institutions *shall*, subject to the  
20 provisions of Title 5, and is exempted from Sections 5004, 5006 and  
21 5150 of Chapter 5, Title 5, Guam Code Annotated, grant a preference  
22 to a local business.

23 (b) In addition, five percent (5%) preference for contracts  
24 under Five Hundred Thousand dollars (\$500,000) shall be given to a  
25 local business that meets the following criteria:

26 (1) the qualified PPA or Sale Lease-back  
27 Agreement provider(s) must be doing business on Guam with a

1 valid business license and with a local track record of at least five  
2 (5) years in doing business as a solar energy provider on Guam,  
3 and is in good standing with the Department of Revenue and  
4 Taxation prior to the award of the contract; and

5 (2) the qualified PPA or Sale Lease-back Agreement  
6 provider(s) *shall* be experienced in designing, implementing and  
7 installing solar energy systems, have a record of established  
8 projects, demonstrate technical, operational, financial and  
9 managerial capabilities to design and operate the solar energy  
10 system.”

11 **Section 4. Effective Date.** This Act *shall* be effective upon enactment.