BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

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Public Utilities Commission
GUAM

IN RE: PETITION FOR APPROVAL TO REFUND THE GUAM POWER AUTHORITY'S 2010 SERIES A REVENUE BONDS.	)	GPA DOCKET 17-20 ALJ REPORT

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the "PUC") pursuant to the Second Amended Petition for Approval to Refund the Guam Power Authority's 2010 Bond Series A (the "Petition"), filed by the Guam Power Authority ("GWA") on December 1, 2017.[1]

DISCUSSION

A. Bond Review Authority

Pursuant to 12 G.C.A. §12105, GPA cannot enter into any contractual agreements or obligations which could increase rates and charges without the PUC's express approval. Additionally, pursuant to GPA's Contract Review Protocol, all externally funded loan obligations and other financial obligations, such as lines of credit, bonds, etc., in excess of $1,500,000, and any use of such funds, must be approved by the PUC.[2]

B. December 1, 2017 Seconded Amended Petition to Refund the 2010 Series A Revenue Bonds

GPA's Second Amended Petition seeks PUC approval for the refunding of its 2010 Series A Revenue Bonds. GPA seeks "flexibility to refinance either a portion of the 2010

[1] GPA Second Amended Petition to Approve Bond Issuance to Refinance the Outstanding Revenue Bonds, GPA Docket 17-20, filed December 1, 2017.

[2] *See* Contract Review Protocol for Guam Power Authority, Administrative Docket, p. 1 (February 15, 2008).

Revenue Bonds, or the entire 2010 Series Revenue Bonds."[3] GPA maintains that the bond refinancing will lower debt service costs and provide a net present value savings to ratepayers.[4] With regard to the possible refunding of all of the 2010 Series A Bonds, GPA submits that, according to its underwriters, such refunding of the entirety of the 2010 Bonds in December would result in net present value savings of approximately $6.74M, with annual debt payment savings of approximately $463,000. The present value savings would exceed 4.48%. The par amount of the refunded bonds would be $150,440,000.[5]

As a second possible refinancing approach, GPA proposes that it be authorized, based upon cost factors, to refinance only a portion of the 2010 Series A Revenue Bonds. The most recent Barclays projection dated November 29, 2017, shows that a prospective refunding would only include a par amount of $96,265,000 and would result in a projected average annual cash flow savings of $301,404 per year.[6] The current Petition for Bond Refinancing is the fourth Petition filed by GPA since November 2016. The first two proposals only sought to refund a portion of the bonds from the 2010 bond issuance.[7]

C. <u>CCU Resolution No. 2017-44</u>

Pursuant to Resolution No. 2017-44, the Consolidated Commission on Utilities (the "CCU") authorized the issuance of the subject refunding, designated as the "Revenue Refunding Bonds." The CCU determined that it was necessary and desirable to issue one or more additional series of GPA Revenue Bonds to refinance all or a portion of its remaining

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[3] GPA Second Amended Petition at p. 1.
[4] Id. at p. 2.
[5] Id. at p. 1; *see also* GPA Amended Petition, GPA Docket 17-20, filed November 20, 2010, at p. 1 and Barclays Analysis, GPA Refunding of 2010A Revenue Bonds, dated November 8, 2017, at p. 1.
[6] GPA Second Amended Petition at p. 1; *see also* Barclays GPA Debt Savings Analysis, dated November 29, 2017, attached to the GPA Amended Petition.
[7] *See* GPA's prior Petitions filed for Approval of Refunding of a Portion of the Outstanding Revenue Bonds, filed respectively on November 7, 2016 and July 28, 2017; *see also* Barclays Analyses, GPA Refunding of 2010A Revenue Bonds, dated November 4, 2016, and June 7, 2017.

outstanding 2010 A Revenue Bonds (the "Prior Bonds"):[8] "The issuance and sale of the Refunding Bonds for the purpose of refunding the Prior Bonds, to pay costs of issuance and of such refunding, to pay for credit enhancement, if any, and to fund all or a portion of a deposit to the debt service reserve fund, if any, is hereby approved. The Refunding Bonds shall be issued in an aggregate principal amount sufficient to provide funds for the payment of the Prior Bonds and for the payment of all expenses incident to such issuance and refunding..."[9]

Furthermore, the Chair of the Commission, the Vice Chair of the Commission or the General Manager of the GPA (the 'Designated Officers') were authorized to execute and countersign the Refunding Bonds "in an aggregate principal amount determined as set forth herein and in the Act, in accordance with the Seventh Supplemental Indenture...."[10]

Pursuant to the Resolution, the CCU also approved the Bond Documents, which include the Seventh Supplemental Indenture, the Preliminary Official Statement, and the Bond Purchase Agreement, and authorized GPA to execute such documents, subject to the approval of the Legislature, GEDA, and the PUC.[11]

D. <u>Public Law 34-69</u>

In P.L. 34-69, the Guam Legislature (the "Legislature") expressly approved GPA's issuance of senior revenue bonds in one or more series "for the purpose of refunding all or a portion of its currently outstanding 2010 Series revenue bonds".[12] The Legislature recognized that such approval was subject to approval by the Consolidated Commission on Utilities ("CCU"), I Maga'lahen Guahan, the GPUC, and the Board of Directors of GEDA in accordance

[8] Guam Consolidated Commission on Utilities Resolution No. 2017-44, p. 1.
[9] Id. at p. 3.
[10] Id. at p. 3.
[11] Id. at pgs. 4-5
[12] Public Law 34-69, passed December 5, 2017.

with law.[13] Approval by the GPUC was specifically indicated as one of the "requirements, limitations, terms and conditions" of the issuance.[14]

The Legislature noted that GPA expected refunding of the outstanding revenue bonds to result in debt service savings, and potential savings to the ratepayers.[15] The Legislature further provided, *inter alia*, as "requirements, limitations, terms and conditions" on the bond issuance, that:

(1) the refunding bonds shall have a principal amount sufficient to provide for the payment of all bonds to be refunded, and in addition, for the payment of all expenses incident to the calling, retiring or paying of such prior bonds and the issuance of such refinancing bonds, including:

a) the difference in amount between the par value of the refunding bonds and any amount less than par for which the refinancing bonds are sold;

b) any amount necessary to be made available for the payment of interest upon such refunding bonds from the date of sale thereof to the date of payment of the bonds to be refunded or to the date upon which the bonds to be refunded will be paid pursuant to the call thereof or agreement with the holders thereof; and pursuant to the call thereof or agreement with the holders thereof;

c) the premium, if any, necessary to be paid in order to call or retire the prior bonds and the interest accruing thereon to the date of the call or retirement.[16]

(2) the refunding bonds are required to discharge all obligation of GPA to pay debt service on the prior bonds, including any additional amount needed to provide for a deposit to the debt service

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[13] Id. at Section 1 (e).
[14] Id. at Section 2 (e).
[15] Id. at Section 1 (d).
[16] Id. at Section 2 (a); *see also* 12 GCA §8229.

reserve in connection with the issuance of the refinancing bonds;[17] (3) the final maturity of the refunding bonds shall not exceed the final maturity of the prior bonds;[18] (4) such bonds shall be issued and sold pursuant to GPA's existing bond indenture, including approval by I Maga'lahen Guahan;[19] and (5) that the present value of debt service on the refunding bonds shall be at least two percent (2%) less than the present value of debt service on the prior bonds, using the yield on the refunding bonds as the discount rate.[20]

E. GEDA Authorization

Pursuant to GEDA Resolution No. 17-003, GEDA's Board of Directors found that "it is in the public interest for GPA to sell the 2017 Bonds for the purpose of refinancing all or a portion of the remaining outstanding Guam Power Authority Revenue Bonds, 2010 Series A..."[21] Accordingly, the GEDA Board of Directors approved GPA's "issuance and sale of 2017 Bonds... in an aggregate principal amount not to exceed an aggregate principal amount sufficient to provide funds for the redemption and/or retirement of all or a portion of the 2010 Bonds, plus related costs of issuance and of such redemption or retirement..."[22] The GEDA Board further approved the Bond Purchase Agreement and the other bond documents, which made the issuance of the bonds subject to the approval of the CCU and the Public Utilities Commission of Guam.

F. September 11, 2017 Daymark Report and Analysis of the Current Bond Refunding Proposal

The PUC's power consultants, Daymark Energy Advisors ("Daymark"), performed an independent review of the GPA petition filed on July 28, 2017 and detailed its review in a report

[17] Id. at Section 2 (b).
[18] Id. at Section 2 (c).
[19] Id. at Section 2 (d).
[20] Id. at Section 2 (f).
[21] GEDA Resolution No. 17-003, p. 1 (November 22, 2017).
[22] Id. at p. 2.

to the Commission on September 11 2017 (the "Report").[23] Its Report did not directly address the proposal to refinance the total amount of $150M of 2010 Series A Bonds, as contained in the GPA Amended Petition of November 20, 2017, and the current Second Amended Petition of December 1, 2017. However, its analysis is relevant and applicable to the present proposal and supports its adoption.

Daymark found that the proposed refunding complies with existing regulations that grant GPA the ability to issue refunding bonds. The refinancing reduces cost, and savings result to the benefit of ratepayers. Current market conditions appear favorable for a bond refunding. [24] These findings apply equally to the present refunding proposal.

Ultimately, Daymark recommended that the PUC approve GPA's Petition for the refunding of its 2010 Bond Series.[25] However, Daymark also recommended that the PUC direct GPA to "continue monitoring financial markets so that, upon execution [of the refund documents], ultimate savings achieved continue to comply with statutory requirements."[26] Daymark additionally requested that the PUC direct GPA to notify the Commission, within sixty (60) days of refinancing, of its intent and plan regarding the savings achieved from the refinance.[27]

1. <u>Estimated Costs and Savings</u>

The estimated costs and savings vary depending upon whether GPA refunds all or a portion of the 2010 bonds. If all of the bonds are refinanced, GPA would refinance about $150 million of its 2010 Series Bonds, all of its outstanding 2010 A bonds, for a refunded par amount

[23] Daymark Energy Advisors, Bond Refunding Analysis: Guam Power Authority Request to Refund the 2010A Series Revenue Bonds, dated September 11, 2017.
[24] Id. at pgs. 1-2.
[25] Id. at pg. 15.
[26] Id.
[27] Id.

of about $149 million.[28] The estimated gross savings on debt service will be around $10.5 million, which is also the estimated ratepayer benefit.[29] The annual Gross Savings from 2019 through 2040 are $463,709. The Net Present Value ("NPV" or "PV") savings is about $6.74 million.[30] The PV Savings as a percentage of the Refunded Par are 4.48%.[31] It appears that the estimated costs associated with the issuance will be around $2,985,400 (est. 2%).[32]

If only a portion of the Bonds are refunded, the refunded par would be $96,265,000.[33] Gross savings would be $6.9M and NPV savings $4.3M (4.51%).[34] Annual gross savings would be $301,404.[35] Costs of issuance were previously estimated at $1.9M.[36]

2. **Allocation of Savings**

Although GPA claims that the major benefit of this refunding is cost savings, it has not indicated where the savings from the refunding would be allocated. The Commission should rightly be concerned with how the savings will be utilized to benefit ratepayers.

3. **Review of Bond Documents**

Based on its examination of the proposed revisions in the terms and conditions for issuance of the Revenue Refunding Bonds, Daymark determined that the Bond Documents were within the allowed authority of GPA, and complied with the related legislation.[37] The Administrative Law Judge has also reviewed the Bond Documents and finds them to be consistent with prior bond documents issued by GPA.

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28 Barclays Analysis, GPA Refunding of 2010A Revenue Bonds, dated November 8, 2017, at p. 1.
29 Id.
30 Id.
31 Id.
32 Id., Appendix, SOURCES AND USES OF FUNDS, at p. 1.
33 Barclays GPA Debt Savings Analysis, dated November 29, 2017, attached to the GPA Amended Petition, at p. 1.
34 Id.
35 Id.
36 Barclays Analysis, GPA Refunding of 2010A Revenue Bonds, dated August 3, 2017, at Appendix p. 1.
37 Daymark Energy Advisors, Bond Refunding Analysis: Guam Power Authority Request to Refund the 2010A Series Revenue Bonds, dated September 11, 2017, at pgs. 1-2.

4. True Interest Cost

Barclays, in its November 8, 2017 Analysis, estimates that the all-in true interest cost for the proposed refinancing of all 2010 Revenue Bonds will be 4.14%. This compares favorably with the interest rate on the existing bonds of 5.31%. For a partial refunding, the all-in true interest cost is estimated to be approximately the same (4.13%). The all-inclusive true interest cost will not be known until the bond issues. As Daymark noted, the PV savings itself is subject to change due to interest rate risk.[38] The PUC must take all appropriate steps to assure that the ratepayers obtain the benefits predicted by GPA and Barclays if the refunding bonds are approved by the PUC.

5. Compliance with Regulations

It appears that the proposed refundings would comply with existing regulations that permit GPA to issue refunding bonds. In particular, the intended date of maturity for the Revenue Refunding Bonds is the same date as the current 2010 Series A Bonds. In addition, the principal amount refinanced is sufficient to provide payment of the prior bonds, including the costs of issuance.[39] With respect to the statutory 2% PV requirement, the estimated PV savings on debt service for the refinancing of all bonds is 4.48% and 4.51% for the partial refunding, both of which significantly exceeds the statutory PV savings requirement.[40]

RECOMMENDATION

G. Approval of Bond Issuance

Based on the record before this Commission, the Administrative Law Judge (the "ALJ") recommends that the PUC approve GPA's Second Amended Petition for the refunding of the

[38] Id. at p. 15.
[39] Barclays Analysis, GPA Refunding of 2010A Revenue Bonds, dated November 8, 2017, at pgs. 1-2, and Appendix, pgs. 1-4.
[40] Id. at p. 1.

2010 A Bond Series, and the issuance, terms and conditions of the Revenue Refunding Bonds. GPA should be given the flexibility to refund all or a portion of the 2010 A Bond Series.

A major reason for this recommendation is the considerable improvement in the projected savings offered by the current proposal to refund all of the bonds. The November 4, 2016 Proposal estimated gross annual savings of $137,116 and total gross savings of $3.9M; the June 7, 2017 Proposal estimated gross annual savings of $210,738 and total gross savings of $4.8M. However, the current November 8 Proposal estimates gross annual savings of $463,709 and total gross savings of $10.5M. Even with the partial refunding of the bonds, the gross annual savings are presently more than $300,000. This amount compares favorably with the savings estimated in prior Petitions.

The PUC, by conscientiously exercising its bond issuance review function, has helped to insure that the savings from the issuance will be at a sufficient level to truly benefit ratepayers.

H. Approval of Bond Indenture

The PUC previously approved the Senior Indenture in 1992, and certain Supplemental Indentures thereafter. Only minor, and "cosmetic" revisions, have been made to the current Supplemental Indenture. Accordingly, the ALJ recommends that the Commission approve the issuance, as well as the form of the terms, and conditions contained in the Bond Documents of the Revenue Refunding Bonds.

I. Limitations, Restrictions, and Conditions upon the Refunding Bonds

The PUC should impose various limitations, restrictions, and conditions upon its approval of the Refunding bonds. These should be included in the Orders in this Docket.

1. Annual Savings Threshold

In this Docket, GPA proposed that there should be a threshold of annual savings for any proposed refunding of bonds in the amount of $200,000. The PUC should reject that amount as inadequate. The PUC approved a minimum threshold of $350,000 for the Guam Waterworks Authority to issue bond refunding/refinancing.[41] There seems to be no logical reason why there should be a lower threshold for GPA. GPA is a larger entity than GWA in terms of annual budget and current debt financing. The requirement for gross annual savings should at least be at the same level for GPA as it is for GWA. GPA currently pays in excess of $40M annually for debt service.

For the refunding of all of the 2010 Series A Revenue Bonds, the projected savings are over $460,000 per year. Since the November 8, 2017 Barclays Analysis projects annual savings of $463,709, GPA should have no difficulty in meeting a threshold of $350,000 in annual savings. A requirement in the Orders that GPA achieve $350,000 per year for the refunding of all bonds is not burdensome and will ensure that savings are achieved for the ratepayers. There should be a provision in the Orders requiring that the proposed refunding of all bonds must achieve a minimum annual savings of $350,000.

The PUC could consider a different standard for a partial refinancing of the 2010 Series A Revenue Bonds. Since a lesser portion of the bonds are being refunded, the proposed savings at present are slightly over $300,000. In its August 3, 2017Analysis, Barclays estimated gross annual savings of $317,082 from the partial bond refinancing.[42] The ALJ recommends that the PUC adopt a gross annual savings requirement of $300,000 for a partial refunding of the 2010 Series A Revenue Bonds. This is the amount that GPA and its underwriter have represented can

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[41] PUC Order Approving Long Term Debt, GWA Docket 17-10, Ordering Provision No. 3 ("Further, that any issuance of Revenue Refunding Bonds shall yield an annual savings of at least $350,000.").
[42] Barclays Analysis, GPA Refunding of 2010A Revenue Bonds, dated August 3, 2017, at pgs. 1.

be achieved by the partial refinancing. Any amount less will be a failure by GPA to obtain the savings benefits promised to the ratepayers.

Projected annual savings of $200,000 to $300,000 are marginal as a cost savings justification. As indicated in the Debt Service Profile, GPA's annual debt service payments are in the range of $40,000,000. Even $300,000 out of over $40M debt service is a relatively insignificant or *de minimus* amount.[43] It represents 0.0075% of the total annual debt service. For a company with over $420M in revenues per year, even $300,000 is an amount that will not make a measurable impact. The same conclusion applies if only non-fuel revenues of $165M are considered.

GPA argues that "savings are savings." However, even it takes the position that savings of less than $200,000 would not justify the proposed bond refinancing. Bond refinancing is certainly not the most effective or efficient method of reducing costs. The time and expense for undertaking the bond refunding process are likely far greater than other cost saving measures. GPA's focus and expenditure of time and resources on bond finance and incurring of debt may well detract attention and time resources from other pressing duties and tasks such as providing sufficient load, procuring the new generation capacity, and improving the reliability and efficiency of the system.

There are other simpler, and more efficient, cost saving measures such as eliminating unnecessary contract expenditures, reducing overtime, and foregoing certain contracts. At nearly every meeting, the PUC considers GPA contracts that cost millions of dollars. The PUC has assisted GPA with cost cutting measures. It previously declined to continue funding for a $5M per year consulting contract of GPA. It has carefully assessed expenditures under other GPA contracts, refusing to increase the amount of consulting expenditure from the original authorized

[43] *See* Exhibit "2", GPA Debt Service Profile (provided by GPA to PUC in GPA Docket 12-03).

amount without additional justification. In September 2017 PUC did not approve a portion of a consulting contract that would have included consideration of a waste to energy plant, which is presently illegal under Guam Law.

The point is that GPA could far more easily achieve cost savings in the amount of $4.3M NPV over 22 years through measures other than bond refinancing.

2. Minimum All-In-TIC

In addition, any refunding/refinancing, whether all or a portion of the bonds, should be required to meet a minimum All-In TIC (%). If the PUC does not require a specific TIC, there is no assurance that GPA will achieve the savings estimated by Barclays in its Analyses. In GPA Docket 12-03, with the restructuring/ refunding of GPA Bonds, that is exactly what the PUC ordered (at the request of Commissioner McDonald). It required that "in no event shall the All-In Total Interest Cost (TIC) exceed 4.85%..." There is precedent for the PUC to require that GPA achieve a specific TIC amount before the issuance proceeds.

Barclays' Analyses between November 4, 2016, and November 8, 2017, indicate that the TIC ranged from 4.02% to 4.22%. The most recent TIC estimate is 4.14%. The Commission should set 4.22% as an outside limit for the TIC. With regard to the partial refunding of the 2010 Series A Revenue Bonds, the Barclays November 29, 2017 Analysis indicates that with an increase of 11 basis points, the effect upon NPV savings would be $250,000 and NPV Savings would be 3.5%.

If PUC fails to set a level for TIC, an increase in basis points and the TIC, at the time of refinancing, could well drastically reduce the actual savings.

3. Procedural Requirements

Commission approval for the issuance of the Refunding Bonds hereunder should be conditioned upon GPA compliance with the requirements in paragraphs 1 and 2 above, and the 2% PV savings requirement. Before GPA issues bonds for refinancing of all or a portion of the bonds, it should be required to confirm in writing to the Chairman of the PUC that the gross annual savings and All-in True Interest Cost from the proposed issuance meet the requirements of this Order.

The proposed Order and the Order Approving Long Term Debt are submitted herewith for the Commissioners' consideration.

Respectfully submitted this 5th day of December, 2017.

for FREDERICK J. HORECKY
Administrative Law Judge