BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:	GPA Docket 22-05
PUC Review of the Levelized Energy Adjustment Clause (LEAC) Factor Pursuant to Tariff Z	**ALJ REPORT**

INTRODUCTION

GPA Rate Schedule "Z" is the "Levelized Energy Adjustment Clause" (LEAC). A true and correct copy of Schedule "Z" is attached hereto as Exhibit "1". Pursuant thereto, the power to establish fuel recovery charges for GPA customer bills is solely vested with the Guam Public Utilities Commission ["PUC"] ("fuel recovery charge" and "LEAC Factor" will be used interchangeably herein). The PUC has the duty to determine fuel expense to GPA, and, using a specific formula, to set the Fuel Recovery Charge to GPA customers that will be sufficient to recover all fuel costs. The PUC is required to recalculate the Fuel Recovery Charge semi-annually for a (6) six-month period.[1]

If GPA has a cumulative under-recovery balance of more than $2 million, or if the under-recovery balance on fuel cost is projected to exceed $2 million, during a 6-month levelized period, the PUC may adjust the Fuel Recovery Charge to recover such deficit.[2] At present, the current LEAC Factor for residential customers is $0.180837. If that Factor is maintained for the remaining four months of this LEAC period, GPA's under-recovery of fuel costs at the end of this LEAC period will increase from $17.5M to

[1] Guam Power Authority Schedule "Z, Levelized Energy Adjustment Clause (LEAC), Issued March 21, 1994, Revised March 31, 2012, Effective with meters read on and after April 1, 2012.
[2] Id.

$32M, an increase of over $14.5M. See GPA Proposed LEAC Rate (prepared 3/18/2022), attached hereto as Exhibit "2".[3]

The project increase in the GPA under-recovery during this LEAC period exceeds the $2M threshold for LEAC adjustments over seven-fold.

BACKGROUND

In this Docket, on January 27, 2022, the PUC increased the Fuel Recovery Factor from $0.171458/kWh to $0.180837 for meters read on or after February 1, 2022. The rationale for the nearly one-cent increase in the LEAC Factor per kWh was a substantial increase in fuel oil prices. From August 1, 2021 through February 1, 2022, high sulfur fuel oil prices (HSFO) increased by 16.8%. Diesel fuel prices increased by 26%. Without an increase in the LEAC Factor, the projected fuel cost under-recovery during the last LEAC period was expected to grow from $17.6M to $23,210,000 as of July 31, 2022.[4]

At its meeting on March 22, 2022, the Guam Consolidated Commission on Utilities had before it the GPA Proposed LEAC Rate attached hereto as Exhibit "2", which established that GPA's under-recovery would increase by over $14.5M if GPA took no action during this LEAC period to increase the LEAC Factor. Its own figures showed sharp increases in the estimated cost per barrel of RFO from $84.40 to $93.69, and from $101.79 to $120.74 per barrel of diesel.

During the CCU meeting, Chairman Joey Duenas stated that the CCU provides the PUC with "recommendations" for the regular six-month adjustments to the fuel surcharge, but that "the adjustments come from the PUC if it sees an "aberration…Midterm corrections are not really something we initiate, but we provide

[3] GPA Proposed LEAC Rate (prepared 3/18/22), submitted by GPA CFO John Kim in an email to PUC Administrative Law Judge dated March 18, 2022.
[4] PUC Order, GPA Docket 22-05, dated January 27, 2022, at p. 5.

information to the PUC, and then it's up to them."[5] The CCU determined that it would make no recommendation to the PUC as to whether the LEAC Factor should be increased. The alleged "reasons" given for failing to make a recommendation were that GPA could "tolerate" the under-recovery without an increase, that it would "get by" and could still "afford its fuel". It could "wait" to determine whether an increase was needed in May (although a steeper increase will be needed at that time), and that "uncertainty" in current fuel prices justified doing nothing at the present time.[6] Finally, delay of action until May 1 would provide some "leeway" to ratepayers.[7]

ANALYSIS

I. THE PUC HAS THE DUTY AND OBLIGATION UNDER TARRIF Z TO DETERMINE WHETHER THE CURRENT LEAC FACTOR IS ADEQUATE TO RECOVER GPA'S ACTUAL FUEL EXPENSES DURING THIS LEAC PERIOD.

There is no dispute that the $2M under-recovery increase threshold for review by PUC within the LEAC period has been met in this case. In fact, because of drastic increases in fuel prices caused by the Russian War against Ukraine and other factors, the "projection" is that the under-recovery will be $14.5M greater than originally anticipated in the PUC Order dated January 27, 2022. GPA's own "GPA Proposed LEAC Rate (Exhibit "2" hereto) demonstrates that the current LEAC Factor must be substantially increased to prevent a $32M under-recovery. This would represent an eighty-two percent (82%) increase in the GPA under-recovery in this LEAC period alone.

Without an increase in the LEAC Factor, the projected GPA fuel cost under-recovery of $32M would be at the highest level of any previous under-recovery. The

[5] The Pacific Daily News, March 24, 2022, at p. 5; see also https://www.youtube.com/channel/UC8vmfIBiNtxeeRy1zuG4sFQ(CCU Meeting of March 22, 2022).
[6] Id.
[7] Guam Daily Post, March 22, 2022, at p. 4.

under-recovery could be the highest in GPA's history. During its existence, the PUC has never agreed that this level of under-recovery is acceptable. It has always taken steps to reduce the under-recovery in as soon a time frame as possible.

If the PUC performs its proper function under Tariff "Z" in determining the fuel price, and what LEAC Factor is necessary to prevent further increase of the under-recovery during this LEAC period, it has no other reasonable option other than to raise the LEAC Factor now.

II. WHETHER GPA OR THE CCU REQUEST PUC ACTION TO INCREASE THE LEAC FACTOR IS IRRELEVANT TO THE PUCs DUTY TO DO SO.

Neither Guam Law nor Tariff Z require that GPA/CCU first request PUC to change the LEAC Factor before it does so. PUC is not prohibited or prevented from increasing the LEAC Factor on the basis that GPA has not requested such an increase. Tariff "Z" makes it clear that the only party needed to recommend or approve an increase in the LEAC Factor is the PUC.

PUC is the only party that has the authority to establish and approve a LEAC Factor/Fuel Recovery Charge. Neither GPA nor CCU have any authority under Tariff "Z" to make LEAC determinations or set LEAC Factors. Nothing in Tariff "Z" requires that GPA first make a request for an increase in LEAC before the PUC can increase the Fuel Recovery Charge. There is no condition or requirement anywhere that the PUC can only act upon LEAC after a GPA or CCU request.

Schedule "Z" solely imposes the obligation upon PUC to determine fuel cost and to set the Fuel Charge/LEAC Factor with the application of the formula in Tariff "Z". No similar obligation or duty is placed upon GPA or the CCU. CCU Chairman Duenas confirmed that it is up to PUC to determine whether to increase the LEAC Factor during the LEAC period, and that GPA/CCU generally only provide information to the PUC for mid-term corrections. PUC would be abdicating its duty and responsibility to adjust the LEAC Factor if it failed to do so based upon the lack of a GPA/CCU request.

III. THE PUC SHOULD INCREASE THE LEAC FACTOR TO $0.209552.

GPA and CCU took no action on the LEAC Factor even though their own **"GPA PROPOSED LEAC RATE" (EXHIBIT "2" HERETO)** demonstrates that a failure to increase the LEAC Factor will result in a $14.5M increase in the under-recovery. The PUC should note that in Exhibit "2", GPA has already increased the allowed under-recovery from the $17.5 level that was previously authorized by the PUC. At its January 27, 2022 meeting, the PUC set a LEAC Factor that would not allow the under-recovery to be above $17.5M. However, in the updated LEAC Rate set forth in Exhibit "2", the under-recovery has been increased to $20M. Since GPA, in Exhibit "2", allows a greater under-recovery in this LEAC period, there is a reduction in the amount that the LEAC Factor must recover from ratepayers. This gives some savings to the ratepayers.

The proposed LEAC Factors indicated in Exhibit "2" are the result of the update that GPA did in the Morgan Stanley Fuel Oil Pricing for the period of March 11, 2022, to March 17, 2022. Exhibit "2" indicates that, to maintain the GPA under-recovery at $20M for this six-month LEAC period, the LEAC Factor must be increased from $0.180837 per kWh to $0.209552 per kWh. Such increase would represent a 10.31% increase in the total bill and a monthly increase of $28.69 for the average residential customer.[8]

Alternatively, GPA calculates that if an increase in the LEAC Factor is delayed until May 1, 2022, the Factor would have to increase to $0.218462, an increase of nearly one additional cent per kWh, to maintain the under-recovery balance at $20M for this LEAC period.[9]

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[8] GPA Proposed LEAC Rate (prepared 3/18/22), submitted by GPA CFO John Kim in an email to PUC Administrative Law Judge dated March 18, 2022, attached hereto as Exhibit "2".
[9] Id.

Attached hereto as Exhibit "3" is a chart demonstrating the "GPA Fuel Landed Cost (per barrel) through March 11, 2022".[10] The chart indicates the increase in GPA's fuel costs resulting from the Russia/Ukraine Conflict and the OPEC Production cut. The tremendous increase in fuel prices is the justification for raising the LEAC Factor to $0.209522 per kWh effective April 1, 2022.

Since the LEAC Factor of $0.180837 was implemented effective February 1, 2022, HSFO and Diesel oil prices have increased 30% and 40% respectively. These increases have occurred in less than two months, as indicated by the attached chart.

	2/4/22	03/22/21	Percentage Increase
SING HSFO 180 CST (per metric ton)	$519.92	$671.60	30%
SING Gasoil 10 PPM (per barrel)	$107.40	$149.89	40%

For those arguing that the PUC should delay action because of the "uncertainty" of fuel prices, the most up-to-date fuel information is not encouraging. The Morgan Stanley Asia Morning Call Report dated March 25, 2022, states that HSFO price per metric ton is now $694.77 and the equivalent Diesel price per barrel at $154.62, which indicate price increases respectively of 34% and 44% since February 4, 2022.[11]

[10] CCU Member Packet, GPA Work Session, March 17, 2022, at p. 90.
[11] Morgan Stanley Asia Morning Call dated March 25, 2022, at p. 2.

IV. NEITHER GPA NOR THE CCU HAVE OFFERED A REASONABLE JUSTIFICATION FOR DELAYING ACTION FOR AN INCREASE OF THE LEAC FACTOR.

In the CCU Meeting on March 22, 2022, GPA/CCU cited certain alleged "reasons" why they were not recommending a LEAC increase effective April 1, 2022. Although a concern was raised about "kicking the can down the road", that is exactly what GPA and CCU ended up doing. It was suggested that "we should wait to act on LEAC" because "there is uncertainty in fuel prices, and the price situation can be viewed again in April to determine what action to take." When is there not "uncertainty" in fuel prices? The future trend of fuel oil prices is always "uncertain." LEAC Factors, whether for six-month periods, or mid-term adjustments, are always "projections" in an uncertain fuel market. The argument that no action should be taken because of "uncertainty" would prevent PUC from ever determining LEAC Factors, whether for six-month periods or mid-term corrections.

The argument that "uncertainty" in fuel prices is an excuse for not acting is inconsistent with Tariff Z. Under Tariff "Z", calculations of the LEAC factor are always based on "projections" of fuel price, projections of fuel expense, and projected retail kWh sales over the next six-month period. There is always "uncertainty" in fuel prices, but the LEAC process has always accepted that the PUC establishes the LEAC factor based upon the best current available fuel pricing. That is exactly what has been done here. In arriving at its LEAC calculations, GPA has used the most updated Morgan Stanley pricing from March 11 through March 17, 2022.

The decision as to whether to increase the LEAC Factor must be made on the best information available at the present time as to fuel price. The PUC cannot fail to set a proper fuel price based upon an assumption that fuel prices "might" go down at some unspecified time in the future. If price volatility were used as an excuse to forego any decision on fuel price, no decisions on LEAC would ever be made. A recent Weekly

Report of the Oil & Energy Insider stated that "Oil Price Volatility is here to stay." As oil prices recently surged back above $100 per barrel, the International Energy Agency has said that the current energy crisis may worsen in the upcoming weeks, suggesting consumers will have to bear the brunt of a 3 million b/d supply crunch if Russia does not end the invasion of Ukraine.[12]

Waiting before taking action is an inappropriate response. If no action is taken, the under-recovery could potentially even double in this LEAC period. If PUC accepts the "do-nothing" strategy and waits until sometime in April to increase the LEAC Factor effective May 1, 2022, ratepayers will have to pay an even higher rate of $0.218462 and experience an even greater rate burden. How does delaying a LEAC increase give "leeway" to ratepayers when they will likely end up paying a higher price on May 1?

Even if fuel prices were unexpectedly to go down over the next month, raising the LEAC Factor now will at least maintain the $20M under-recovery and potentially even reduce such under-recovery balance further. Increasing the LEAC factor now begins the process of reducing the huge under-recovery balance that already exists; even if fuel prices go down, GPA can start recovering a portion of the $20M under-recovery.

The argument was also made that GPA can "tolerate" the under-recovery or "get by" without an increase, that it will still be able to purchase fuel even if the LEAC is not now increased, and that GPA can just "wait" (thereby delaying recovery of the debt that ratepayers owe GPA). These claims are not recognized by Tariff "Z" and are irrelevant. Tariff "Z" requires that the PUC determine fuel cost and set a LEAC Factor that will recover all fuel costs during the 6-month period. PUC must establish a Fuel Recovery Charge that fully recovers the cost of fuel for the 6-month period.

[12] Oil Energy Insider Report dated March 18, 2021, at p. 5 ("Oil Price Volatility is Here to Stay").

RECOMMENDATION

The Administrative Law Judge recommends that the PUC increase the LEAC factor to $0.209522/kWh for meters read on and after April 1, 2022. This factor will prevent further growth in the under-recovery balance and the need for the PUC to increase the factor if action were delayed even further until May 1. The PUC should not be misled by irrelevant considerations, such as whether action should be delayed because of "volatility" or an argument that GPA can still purchase fuel even without an increase. The determination which the PUC is obligated to make under Tariff "Z" is what Fuel Recovery Charge, or LEAC Factor, will prevent GPA from under-recovering its fuel costs incurred during the LEAC period.

A Proposed Order is submitted herewith for the consideration of the Commissioners.

Dated this 28th day of March, 2022.

Fredrick J Horecky

Frederick J. Horecky
Chief Administrative Law Judge

Issued March 21, 1994
Revised March 31, 2012
Effective with meters read
on and after April 01, 2012

Rate Schedule "Z"

GUAM POWER AUTHORITY

SCHEDULE "Z"

Levelized Energy Adjustment Clause (LEAC)

The calculation of each bill, pursuant to the rates and charges contained in the applicable rate schedule, shall be subject to an adjustment for variations in fuel cost. The adjustment will be made by multiplying a Fuel Recovery Charge times the total kilowatt hours for which the bill is rendered.

The Fuel Recovery Charge will be calculated semi-annually by the following formula:

$$\text{Fuel Recovery Charge} = \frac{A \pm B \pm C}{D}$$

Where:

A - Equals the projected fuel expense for the next LEAC period, including amounts GPA is required to pay under the fuel risk management program and adjustments to the carrying value of GPA's fuel inventory so long as the number of barrels is consistent with parameters adopted by the PUC[1], but excluding net fuel reimbursement from Navy through the Customer Agreement settlements.

B - Equals the difference between the fuel revenue and actual fuel expenses as approved by the Public Utilities Commission, including the true up of the second prior (6) six month period excluding net revenue from Navy through the Customer Agreement settlements.

C - Refunds or credits from supplier, excluding legal settlements.

D - Equals the projected retail kWh sales for the next (6) six months.

The Fuel Recovery Charge will be recalculated semi-annually for a (6) six month period and be subject to the approval of the Guam Public Utilities Commission. In the event that GPA has a cumulative under [or over] recovery balance of more than $2 million or if the under [over] recovery balance is projected to exceed $2 million during the six-month levelized period,

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[1] For the LEAC period ending July 31, 2008 the adjustment to the carrying value has been established to be $5.296 million. For periods beginning after July 31, 2008 the change in carrying value will be based on projected changes for the succeeding six month period and (for periods beginning after January 31, 2009) a true up of projected versus actual costs for the preceding six month period.

Issued March 21, 1994
Revised March 31, 2012
Effective with meters read
On and after April 01, 2012

Rate Schedule "Z"

Schedule "Z" (Continued)

excluding net revenues from the Navy under The Customer Agreement, the Fuel Recovery Charge may be adjusted to recover such deficit, subject to PUC approval.

Special Terms and Conditions:

13.8 kV Primary Supply Voltage Delivery:

Where, at the option of the Authority, the customer takes delivery and/or is metered at the Authority's supply line voltage, the LEAC charges will be decreased by the following percentages:

13.8 kV Distribution voltage supplied without further transformation 3%

34.5 kV Supply Voltage Delivery:

Where, at the option of the Authority, the customer takes delivery 34.5kV, the LEAC charges will be decreased by the following percentage:

34.5 kV Transmission voltage supplied without further transformation 4%

115 kV Supply Voltage Directory:

Where, at the option of the Authority, the customer takes delivery 115kV, the LEAC charges will be decreased by the following percentage:

115 kV Transmission voltage supplied without further transformation 5%

EXHIBIT A

GPA

Proposed LEAC Rate ($000)

(Prepared 03/18/2022)

	Actuals as of Nov 2021	Actuals as of Jan 2022		
	PUC Approved $17.5 Under-Recovery		Scenario $20M Under Recovery	Scenario $20M Under Recovery
	MS Pricing 01.10.2022 to 01.14.2022	MS Pricing 03.11.2022 to 03.17.2022	MS Pricing 03.11.2022 to 03.17.2022	MS Pricing 03.11.2022 to 03.17.2022
	Feb 22 - Jul 22	Feb 22 - Jul 22	Feb 22 - Jul 22	Feb 22 - Jul 22
			Rate Effective April 2022	Rate Effective May 2022
Average Price per Bbl-RFO	$ 84.40	$ 93.69	$ 93.69	$ 93.69
Average Price per Bbl-Diesel	$ 101.79	$ 120.74	$ 120.74	$ 120.74
Number 6 (HSFO/LSFO)	$ 66,477	$ 73,794	$ 73,794	$ 73,794
Number 2 (Diesel)	$ 47,029	$ 55,783	$ 55,783	$ 55,783
Renewable (Solar)	$ 9,718	$ 9,718	$ 9,718	$ 9,718
TOTAL COST	$ 123,224	$ 139,294	$ 139,294	$ 139,294
Handling Costs	$ 8,753	$ 8,753	$ 8,753	$ 8,753
Total Current Fuel Expense	$ 131,977	$ 148,047	$ 148,047	$ 148,047
Civilian Allocation	79.794%	79.794%	79.794%	79.794%
LEAC Current Fuel Expense	$ 105,310	$ 118,133	$ 118,133	$ 118,133
Estimated DSM for this period	$ 1,500	$ 1,500	$ 1,500	$ 1,500
Deferred Fuel Expense at the beginning of the period	$ 20,786	$ 22,491	$ 22,491	$ 22,491
Total LEAC Expense	$ 127,596	$ 142,124	$ 142,124	$ 142,124
Less: Trans. Level Costs	$ (6,318)	$ (6,318)	$ (6,994)	$ (6,986)
Distribution Level Costs	$ 121,278	$ 135,806	$ 135,130	$ 135,138
Over recovery/(Under) at the end of the period	$ (17,500)	$ (32,028)	$ (20,000)	$ (20,000)
Adjusted Distribution Level Costs	$ 103,778	$ 103,778	$ 115,130	$ 115,138
Distribution Level Sales (mWh)	573,876	573,876	573,876	573,876
LEAC Factor Distribution	$0.180837	$0.180837	$0.209522	$0.218462
Current LEAC Factor Distribution	$ 0.171458	$ 0.180837	$ 0.180837	$ 0.180837
Increase/(Decrease)	0.009379	-	0.028685	0.037625
Monthly Increase/(Decrease) - 1000 kWh	$ 9.38	$ -	$ 28.69	$ 37.63
% Increase/(Decrease) in LEAC	5.47%	0.00%	15.86%	20.81%
% Increase/(Decrease) in Total Bill	3.49%	0.00%	10.31%	13.52%
Discount (3%) - Primary 13.8 KV	$ 0.175404	$ 0.175404	$ 0.203227	$ 0.211898
Discount (4%) - 34.5 KV	$ 0.174898	$ 0.174898	$ 0.202641	$ 0.211287
Discount (5%) - 115 KV	$ 0.172745	$ 0.172745	$ 0.200147	$ 0.208686

EXHIBIT "2"

GPA Fuel Landed Cost (Per Barrel) Thru March 11, 2022

4. HSRFO $113.46; LSRFO $121.79; ULSD $155.60

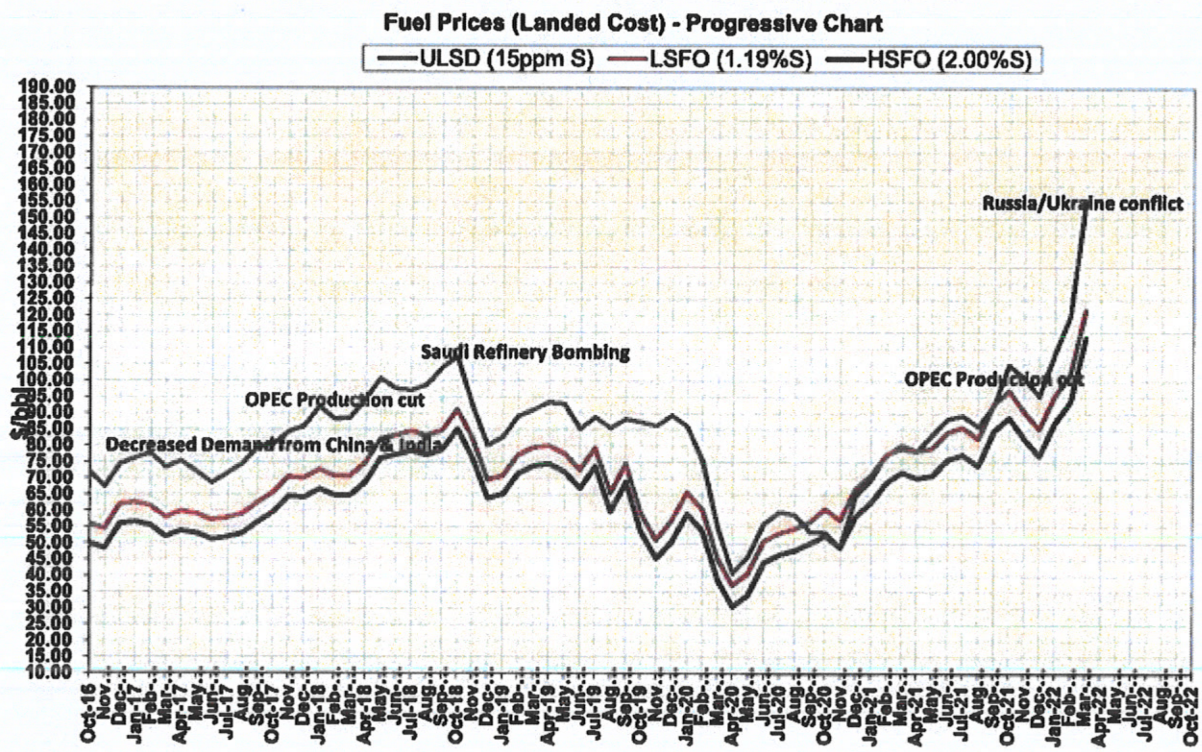

EXHIBIT "3"