

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:) GPA Docket 23-08
)
The Application of the Guam Power)
Authority Requesting Approval of the) **ALJ REPORT**
Revision of the GPA Line Extension Policy)
_____)



INTRODUCTION

This matter comes before the Guam Public Utilities Commission [“PUC”] pursuant to the Petition of the Guam Power Authority [“GPA”] for PUC Approval of the Revision of the GPA Line Extension Policy.¹

BACKGROUND

The current GPA line extension policy is set forth at 28 GAR §§ 3136-3139. A true and correct copy of the policy is attached hereto as Exhibit “1”. In general, line extensions to supply electric service applicants are normally constructed, owned, operated and maintained by the Authority at its expense up to a certain length; however, for line extensions of greater length than the free extension allowance, new applicants are required to make an advance payment to the Authority of the estimated installed cost of such line extension in excess of the free length.² Private or government owed electric lines beyond the point where the service is delivered must be constructed and maintained without expense to Authority.³

¹ GPA Petition, GPA Docket 23-08, dated February 13, 2023, at p. 1.

² Id., at §3136 (a) and (b)(1).

³ Id.

Refunds may be made to the new customer if additional customers connect to the line.⁴ A new customer for a line extension may be partially refunded if additional customers connect within five (5) years from the date the extension is ready for service.⁵ GPA seeks to revise 28 GAR §3139(b)(4) by changing the time period during which existing and future customers who pay for a line extension could be partially refunded, if additional customers connect to the line, from five to fifteen years⁶

The Guam Consolidated Commission on Utilities considered GPA's proposal to modify the line extension policy, the purpose of which was "to allow additional time for existing and future customers who pay for line extension to be partially refunded if additional customers connect to the line extension within that period."⁷ The CCU approved the policy revision proposed by GPA and authorized the General Manager of GPA **"to obtain legislative approval or PUC approval** to change the current GPA line extension policy set forth in the 28 GAR."⁸ (emphasis added).

DISCUSSION

1. GPA has broad authority to amend its Rules; the Rule Making Procedures of the Administrative Adjudication Law are not applicable to GPA.

In this matter GPA proposes to amend its rules governing the line extension policy. In general, GPA has broad authority to "Adopt such rules and regulations as may be necessary for the exercise of the powers and performance of the duties conferred or

⁴ 28 GAR §3139(b)(3).

⁵ 28 GAR §3139(b)(4).

⁶ GPA Petition, GPA Docket 23-08, at p. 1.

⁷ Guam Consolidated Commission on Utilities, GPA Resolution No. FY2023-08, Relative to Revision of the GPA Line Extension Policy, adopted and approved on January 24, 2023.

⁸ Id., at p. 1.

imposed upon the Authority for the Board by this Article...⁹ Ordinarily, agencies of the government must comply with certain “Rule-Making Procedures” under the Administrative Adjudication Law, 5 GCA §9300 et seq. Under such law, there are many procedural requirements, including a hearing, approval or “default approval” by the Guam Legislature, and approvals by the Governor and the Attorney General of Guam. These procedural requirements are not applicable to GPA.

GPA is specifically exempted from the requirements of the Administrative Adjudication Law. In 5 GCA §9102, the definition of “Agency” states: “...Agency does not include any entity in the legislative and judicial branches and **for the purposes of establishing charges of utility services, it does not include the Guam Power Authority** or the Guam Waterworks Authority.”¹⁰ (emphasis added).

2. GPA has justified its proposed revisions to the Line Extension Policy.

The proposed revisions to the line extension policy are reasonable and prudent. New customers will benefit in that they can be partially refunded the cost of the line extension if additional customers connect to the line extension within a fifteen-year period, rather than the currently existing five-year period. These revisions increase the possibility that the new customer will not bear the entire responsibility for the cost of the line extension. This proposed revision will potentially enable existing and future customers who pay for a line extension to be partially refunded if additional customers connect to the line extension within a fifteen-year period.

⁹ 12 GCA §8104(j).

¹⁰ 5 GCA §9102.

3. Revision of the Five-Year Period to a Fifteen-Year period will delay the ability of GPA to retain the unrefunded amount of the cost of the Line Extension.

Under the current policy, "...any unrefunded amount remaining at the end of the five-year period will become the property of the Authority."¹¹ However, delaying GPA's ability to retain the unrefunded amount to a period of fifteen-years should not adversely affect GPA's finances. The attachment to GPA Resolution No. FY2023-08, LINE EXTENSIONS--CY2016-2022, indicates that between 2016 and 2022, there were only 14 Line Extension Requests which would impact the policy. The total cost for such extensions is approximately \$325,000.00.¹²

4. GPA should ascertain the proper procedure for filing its proposed revisions to 28 GAR §3139(4) so that such revisions will be properly stated in the Guam Administrative Rules and Regulations.

There are a few remaining issues that GPA will need to address: (1) a revised version of 28 GAR §3139(4) must be prepared, changing the 5 year provisions to 15-years; and (2) GPA will need to determine the appropriate path for amending §3139(b)(4). In its Petition, the CCU authorized the General Manager of GPA "to obtain legislative approval or PUC approval." GPA has elected to seek PUC approval. However, GPA must determine which bodies to file its amended rule with, be that the Legislature or the Compiler of Laws. GPA should determine the appropriate procedure for amending its rule. The revised version of 28 GAR §3139(4) must be properly indicated in the Guam Administrative Rules and Regulations so that the public has notice of the revisions.

¹¹ 28 GAR §3139(b)(3).


¹² Attachment to GPA Resolution No. FY2023-08.

RECOMMENDATION AND CONCLUSION

The ALJ concludes that GPA has justified the proposed revisions to its line extension policy. Having reviewed the Petition of GPA and other supporting documents, the ALJ recommends that the PUC approve the revisions to the line extension policy outlined in GPA's Petition. Within 60 days of the date of the Order in this matter, GPA should file its revised rule with the PUC and a brief report indicating what entities it will file the rule with and the procedure for making the rule final.

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

Respectfully submitted this 18th day of April, 2023.


Frederick J. Horecky
Chief Administrative Law Judge

requested by the applicant, the Authority or its authorized employees will call applicant's attention, at the time application is made, to the several schedules, and the applicant should designate which rate schedule he desires. When the customer notifies the Authority of any material change in the size, character or extent of his utilizing equipment or operations, in accordance with §3114, the Authority will, within a reasonable time, but not less than ten (10) days, advise the customer of the resulting rate options. In the absence of the notification provided for in §3114, the Authority assumes no responsibility for advising the customer of lower optional rates under other existing schedules, if any, which are available as a result of the customer's changes in equipment or operations.

§3134. Same: New or Revised Rates. If new or revised rates are established after customer applies for service, the Authority will, within a reasonable time, but not less than ten (10) days, use such means as practicable to bring them to the attention of each customer who may be affected thereby.

§3135. Same: Change of Rate Schedule. (a) A change to another applicable rate schedule will also be made where the customer elects to make such change.

(b) If a customer so elects, the change will be made provided:

(1) A change has not been made during the past 12-month period; or

(2) The change is made to, or from, a new or revised rate schedule; or

(3) There has been a change in the customer's operating conditions for that service which, in the opinion of the Authority, justifies the change; and

(4) The change is not made more often than once in twelve (12) months where service is being supplied under a schedule containing an annual fixed charge or an annual minimum charge; and

(5) The customer has made the request by written notice to the Authority.

(c) The change will become effective for the billing period during which the customer has requested the change.

§3136. Line Extensions: Extensions Normally at Authority Expense. Extensions of electric distribution lines

at standard voltages specified in §§3103 through §3109 to supply electric service applicants of a permanent character will normally be constructed, owned, operated and maintained by the Authority at its expense. Line extensions will be subject to the provisions of the Authority's regulations and the provisions of the applicable rates. Private or government owned electric lines beyond the point where the service is delivered must be constructed and maintained without expense to the Authority and must conform to standards for electric line construction acceptable to the Authority.

§3137. Same: Right-of-Way. The Authority will construct, own, operate and maintain lines only along public streets, road and highways which the Authority has the legal right to occupy, and on public lands and private property across which rights-of-way satisfactory to the Authority may be obtained without cost.

§3138. Same: Individual Applications and Advance Notice Required. Electric line extensions will be constructed, owned and maintained by the Authority to supply individual applicants with electric service at their request and in accordance with this and other applicable regulations. Such applicants will be required to provide the Authority sufficient advance notice so that construction may be scheduled to render service by the time such service is desired.

§3139. Same: Length of Overhead Line Extension. (a) Free Extension Allowance. Overhead line extensions to serve new customers will be made by the Authority at its own expense provided the installed cost of such line extensions, exclusive of transformers, meters and services, does not exceed thirty (30) times the monthly revenue, exclusive of fuel adjustment, and also exclusive of all fuel expenses included in the Authority's base rate, from such extension, as estimated by the Authority or as guarantee by such customers, whichever amount of revenue is higher.

(b) Extension Beyond Free Length:

(1) Overhead line extensions of greater length than the free extension allowance will be made, provided the applicant(s) for service makes an advance payment to the Authority of the estimated installed cost of such line extension in excess of the free length. Such line extensions will be owned, operated and maintained by the Authority.

(2) Such advance payment will be subject to refund by the Authority in an amount based on the footage that (i) the allowable free length, under §3139(a) (as increased to reflect the estimated or guaranteed revenue from load or customers subsequently connected) exceeds; (ii) the length of line required to serve, multiplied by; (iii) the unit cost per foot applicable at the time the extension was originally constructed.

(3) Refunds of advance payments made hereunder will be predicated on the connection of additional separately metered permanent load or customers to the extension; will be made without interest; and will be made within ninety (90) days after date of first service to such additional load or customers, except that refunds may be accumulated to a Twenty-Five Dollars (\$25.00) minimum, or to the total refundable balance if less than Twenty-Five Dollars (\$25.00), before each refunding.

(4) No refund will be made by the Authority in excess of the amount advanced by the applicant or applicants, nor after a period of five (5) years from the date the Authority is first ready to render service from the extension, and any unrefunded amount remaining at the end of the five-year period will become the property of the Authority.

§3140. Same: Underground Installations.

Underground line extensions will be made only pursuant to terms, standards and conditions stipulated by the Authority, except in those areas where the Authority maintains or desires to maintain underground distribution facilities for its operating convenience or in compliance with applicable laws, ordinances or similar requirements of public authorities.

§3141. Service Connections and Facilities on Customer's Premise: Meters. All meters shall be installed by the Authority upon the customer's premises in a location approved by the Authority and such location shall at all times be kept accessible for meter inspection, reading and testing. If such location becomes inaccessible, the Authority may require the customer to provide a new meter location at the customer's expense. All meters shall be sealed by the Authority and no such seal shall be broken or tampered with by the customer.

Where meter transformers are furnished by the Authority as part of the meter installation, the Authority will also furnish the means of safe testing required by law. Where such transformers are not used, the customer shall