



Territory of Guam
Territorio Guam

OFFICE OF THE GOVERNOR
OFISINAN I MAGA'LAHI
AGANA, GUAM 96910 U.S.A.

11/2/88

OCT 31 1988

The Honorable Franklin J.A. Quitugua
Speaker, 19th Guam Legislature
PO Box CB-1
Agana, GU 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 739, which I have this date signed into law as Public Law 19-33.

I do so in order that the people of Guam may benefit from reduced power rates.

However, I must object strongly to the language contained in the preamble to the bill. I realize the Legislature is faced with an election in just eight short days, but that is no reason to resort to such obvious electioneering, particularly in the language of a piece of legislation.

I want to go on record, here and now, that neither this administration, nor the Guam Power Authority, disavows any action to forgive any portion of the ludicrous penalties that had accrued over the course of the previous administration due to its inability to pay its power bills on time.

We have managed, in this administration, to pay our power bills on time, and thus do not have these problems. This is not a supreme accomplishment - it is just doing what we are supposed to do. If the previous administration could have managed to do what it was supposed to do... this wouldn't be an issue at all.

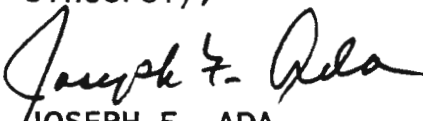
What I believe some majority senators need to learn, is that it is precisely the kind of fiscally responsible action that this administration has tried to instill in this government that has made this benefit to our people possible. It is precisely by making the cost-cutting measures we have championed over the past two years that we can do good things for the people. I sincerely hope that those majority senators who are always ready to claim credit for good things are equally prepared to continue the hard work that makes them possible.

The Honorable Franklin Quitugua
Page Two

Due to the language contained in the preamble to Bill 739, I had, in fact, given serious consideration to vetoing this bill, but I did not wish to lower this office - to stoop to the blatantly political behavior of the authors of this bill. Further, I will not allow the antics of the authors to deny reduced power bills for our people.

I would strongly request the Legislature amend this bill, at its first opportunity, to restate in plain and simple terms its purpose - to reduce power rates for the people of Guam. Any other, ulterior purpose, degrades this piece of legislation... degrades the high office of Senator... and degrades the people of Guam who we are sworn to serve.

Sincerely,


JOSEPH F. ADA
Governor

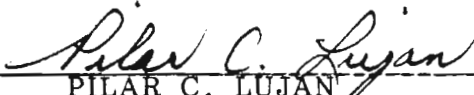
NINETEENTH GUAM LEGISLATURE
1988 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

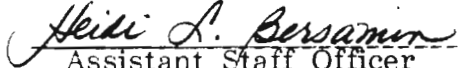
This is to certify that Substitute Bill No. 739 "AN ACT TO APPROPRIATE THE SUM OF FIVE MILLION EIGHT HUNDRED EIGHTY-FIVE THOUSAND THIRTY-SEVEN DOLLARS (\$5,885,037) TO EXTINGUISH THE PENALTIES RESULTING FROM UNPAID POWER BILLS OWED BY THE GOVERNMENT OF GUAM," was on the 7th day of October, 1988, duly and regularly passed.


FRANKLIN J. A. QUITUGUA
Speaker

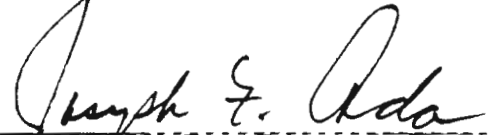
Attested:


PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 19th day of Oct, 1988,
at 2:45 o'clock p.m.


Heidi L. Bersamin
Assistant Staff Officer
Governor's Office

APPROVED:


JOSEPH F. ADA
Governor of Guam

Date: October 31, 1988

Public Law No. 19-33

NINETEENTH GUAM LEGISLATURE
1988 (SECOND) Regular Session

Bill No. 739 (LS)
Substituted by Committee on Energy,
Utilities and Consumer Protection and
Committee on Ways and Means and
further substituted by
Committee on Rules

Introduced by:

D. Parkinson
A. J. Shelton
T. S. Nelson

M. K. Hartsock
M. Z. Bordallo
E. P. Arriola
H. D. Dierking
J. T. San Agustin
F. J. A. Quitugua
F. R. Santos
P. C. Lujan
F. J. Gutierrez

AN ACT TO APPROPRIATE THE SUM OF FIVE
MILLION EIGHT HUNDRED EIGHTY-FIVE
THOUSAND THIRTY-SEVEN DOLLARS
(\$5,885,037) TO EXTINGUISH THE
PENALTIES RESULTING FROM UNPAID POWER
BILLS OWED BY THE GOVERNMENT OF
GUAM.

1 WHEREAS, in 1987, the government of Guam owed the Guam Power
2 Authority ("GPA") approximately Thirteen Million One Hundred
3 Twenty-Four Thousand Three Hundred Forty-Two Dollars (\$13,124,342), of
4 which approximately Seven Million Two Hundred Thirty-Nine Thousand
5 Three Hundred Five Dollars (\$7,239,305) constituted charges for metered
6 electric services and Five Million Eight Hundred Eighty-Five Thousand
7 Thirty-Seven Dollars (\$5,885,037) constituted penalties for failure to pay
8 the charges; and

9 WHEREAS, the Board of Directors of GPA elected to "forgive" the
10 penalty debt of \$5,885,037, promising that by doing so and accepting
11 payment for that amount from the government of Guam, it would not request
12 a rate increase; and

1 WHEREAS, nevertheless, GPA on February 23, 1988, filed a rate
2 increase of approximately Twelve and Nine/Tenths percent (12.9%) with the
3 Public Utilities Commission (the "Commission"); and

4 WHEREAS, GPA has indicated that the rate increase was needed in
5 order for it to perform critical capital improvement projects that would
6 maintain reliable power throughout the system, and now states publicly that
7 it contests and denies any former promise made by it to waive any such
8 penalties; and

9 WHEREAS, by receiving payment for the penalties owed by the
10 government of Guam, GPA will recover capital sufficient to render any
11 increase unnecessary; and

12 WHEREAS, in the most recent Decision and Order of the Commission
13 (Order No. 12, August 1, 1988) in the matter of the Amended Application
14 of Guam Power Authority to increase rates, (Docket No. 88-001), the
15 Commission stated:

16 "12. The Commission shall forthwith, on its own motion,
17 investigate GPA's forgiveness in March, 1987 of \$5,885,037.00 in
18 penalties which were assessed upon the Government pursuant to GPA
19 Tariff Schedule C. In the event the Commission shall find as a result
20 of its investigation that the penalty forgiveness was in violation of law
21 or of its bond covenants, and in the event the government of Guam,
22 pursuant to legislation or otherwise, executes a promissory note by
23 which it promises to repay to GPA the \$5,885,037.00 in forgiven
24 penalties under repayment terms which require monthly payments of at
25 least \$250,000.00, then upon the occurrence of said events, the rate
26 increase ordered herein shall automatically abate. However, any such
27 abatement shall not affect in any manner the other orders made
28 herein", now, therefore,

29 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

30 Section 1. Recognition of debt. The Legislature recognizes the
31 following described debt by the government of Guam as a legitimate public
32 debt, and, accordingly,

33 (a) In addition to sums previously appropriated, the sum of Five
34 Million Eight Hundred Eighty-Five Thousand Thirty-Seven Dollars

1 (\$5,885,037) is hereby appropriated from the General Fund to the
2 Guam Power Authority ("GPA") to pay the outstanding penalties which
3 were assessed upon the government of Guam by GPA pursuant to its
4 Tariff Schedule C and which were allegedly "forgiven" by GPA in or
5 around March 1987 (the "Debt"), referred to by the Commission in
6 Order No. 12 in the Decision and Order of the Commission dated
7 August 1, 1988 in the matter of the Amended Application of Guam
8 Power Authority to increase rates, Docket No. 88-001 (the "Order").

9 (b) The Debt is hereby affirmed and ratified by this Act, and
10 pursuant to this Act, the government of Guam promises to pay GPA in
11 accordance with the terms of this Act.

12 (c) The appropriation set out in paragraph (a) shall be paid to
13 GPA in equal monthly installments in the amount of Two Hundred Fifty
14 Thousand Dollars (\$250,000), beginning ninety (90) days after
15 enactment of this Act and continuing until the Debt has been
16 extinguished.

17 (d) This Act shall constitute the execution of a promissory note
18 pursuant to legislation as contemplated by the Order.

19 (e) In addition to this appropriation, the government of Guam is
20 authorized to expend lapses from the current fiscal year, prior fiscal
21 years, or future fiscal years to pay the obligation described in this
22 Act to GPA, and may transfer funds from other appropriations if
23 necessary to pay the Debt.

SENATOR DON PARKINSON
19th GUAM LEGISLATURE
163 CHALAN SANTO PAPA STREET
AGANA, GUAM 96910

Honorable Franklin Quitugua
Speaker, 19th Guam Legislature
P.O. Box CB-1
Agana, Guam 96910

Dear Speaker:

The Committee on Energy, Utilities and Consumer Protection and the Committee on Ways and Means wish to report out its findings on Bill No. 739: "AN ACT TO APPROPRIATE FORTY ONE THOUSAND NINE HUNDRED DOLLARS (\$41,900) FROM THE GENERAL FUND TO THE RETIREMENT FUND FOR THE PURPOSE OF SUPPLEMENTING THE APPROPRIATION MADE IN CHAPTER X, SECTION 14 OF PUBLIC LAW 19-10 IN ORDER TO ADEQUATELY FUND A FOUR HUNDRED NINETEEN DOLLARS (\$419.00) LUMP SUM COST OF LIVING ALLOWANCE FOR GOVERNMENT OF GUAM RETIREES THEIR SURVIVORS FOR FISCAL YEAR 1989 ONLY AND TO APPROPRIATE OTHER MONIES TO THE RETIREMENT FUND."

The Committee on Energy, Utilities and Consumer Protection voting record is as follows:

The Committee on Ways and Means voting record is as follows:


AYES	<u>11</u>
NAYS	<u>0</u>
ABSTENTIONS	<u>0</u>
REPORT OUT	<u>0</u>
OFF-ISLAND	<u>1</u>

<u>8</u>
<u>0</u>
<u>0</u>
<u>0</u>
<u>3</u>

A copy of the Committee Report and all pertinent documents are attached for your information.

Sincerely,

Sincerely,


Senator Don Parkinson
Chairman, Committee on
Energy, Utilities and
Consumer Protection


Senator Herminia Dierking
Chairman, Committee on
Ways and Means

COMMITTEE ON ENERGY, UTILITIES AND CONSUMER
PROTECTION

Voting Sheet on Bill No. 739.

"AN ACT TO APPROPRIATE FORTY ONE THOUSAND NINE HUNDRED DOLLARS (\$41,900) FROM THE GENERAL FUND TO THE RETIREMENT FUND FOR THE PURPOSE OF SUPPLEMENTING THE APPROPRIATION MADE IN CHAPTER X, SECTION 14 OF PUBLIC LAW 19-10 IN ORDER TO ADEQUATELY FUND A FOUR HUNDRED NINETEEN DOLLARS (\$419.00) LUMP SUM COST OF LIVING ALLOWANCE FOR GOVERNMENT OF GUAM RETIREES THEIR SURVIVORS FOR FISCAL YEAR 1989 ONLY AND TO APPROPRIATE OTHER MONIES TO THE RETIREMENT FUND."

<u>COMMITTEE MEMBERS</u>	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>COMMENT</u>
Sen. Don Parkinson	<i>DP</i>	—	—	—
Sen. A.J. Sonny Shelton	<i>AS</i>	—	—	—
Sen. Franklin Gutierrez	—	—	—	—
Sen. Herminia Dierking	<i>H</i>	—	—	—
Sen. Marilyn Manibusan	<i>MM</i>	—	—	—
Sen. Martha Ruth	<i>MR 9/15</i>	—	—	—
Sen. Marcia Hartsock	<i>MH</i>	—	—	—
Sen. Jerry Rivera	<i>JR</i>	—	—	—
Sen. George Bamba	<i>GB</i>	—	—	—
Sen. Madeleine Bordallo	<i>MB</i>	—	—	—
Sen. Jim Miles	<i>JM 9-15-88</i>	—	—	—
Speaker Quitugua	<i>Q</i>	—	—	—

COMMITTEE ON WAYS AND MEANS

Voting Sheet on Bill No. 739.

As substituted by the Committee on Energy, Utilities and Consumer Protection. "AN ACT TO APPROPRIATE FORTY ONE THOUSAND NINE HUNDRED DOLLARS (\$41,900) FROM THE GENERAL FUND TO THE RETIREMENT FUND FOR THE PURPOSE OF SUPPLEMENTING THE APPROPRIATION MADE IN CHAPTER X, SECTION 14 OF PUBLIC LAW 19-10 IN ORDER TO ADEQUATELY FUND A FOUR HUNDRED NINETEEN DOLLARS (\$419.00) LUMP SUM COST OF LIVING ALLOWANCE FOR GOVERNMENT OF GUAM RETIREES THEIR SURVIVORS FOR FISCAL YEAR 1989 ONLY AND TO APPROPRIATE OTHER MONIES TO THE RETIREMENT FUND."

<u>COMMITTEE MEMBERS</u>	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>COMMENT</u>
Sen. Herminia Dierking	<u>hd</u>	_____	_____	_____
Sen. Ted Nelson	<u>TN</u>	_____	_____	_____
Sen. Elizabeth Arriola	_____	_____	_____	_____
Sen. Pilar Lujan	_____	_____	_____	_____
Sen. Marilyn Manibusan	<u>mdm</u>	_____	_____	_____
Sen. Don Parkinson	<u>✓D</u>	_____	_____	_____
Sen. Martha Ruth	<u>MR 9/15</u>	_____	_____	_____
Sen. Joe T. San Agustin	_____	_____	_____	_____
Sen. Madeleine Bordallo	<u>MB</u>	_____	_____	_____
Sen. Francisco Santos	<u>FS</u>	_____	_____	_____
Sen. George Bamba	<u>GB</u>	_____	_____	_____

REPORT OF THE COMMITTEE ON ENERGY, UTILITIES AND CONSUMER PROTECTION AS SUBSTITUTED ON BILL NO. 739: "AN ACT TO APPROPRIATE FORTY ONE THOUSAND NINE HUNDRED DOLLARS (\$41,900) FROM THE GENERAL FUND TO THE RETIREMENT FUND FOR THE PURPOSE OF SUPPLEMENTING THE APPROPRIATION MADE IN CHAPTER X, SECTION 14 OF PUBLIC LAW 19-10 IN ORDER TO ADEQUATELY FUND A FOUR HUNDRED NINETEEN DOLLARS (\$419.00) LUMP SUM COST OF LIVING ALLOWANCE FOR GOVERNMENT OF GUAM RETIREES THEIR SURVIVORS FOR FISCAL YEAR 1989 ONLY AND TO APPROPRIATE OTHER MONIES TO THE RETIREMENT FUND."

PREFACE

The Committee on Energy, Utilities and Consumer Protection and the Committee on Ways and Means conducted a joint public hearing on Wednesday, April 27, 1988 at 10:00 a.m. in the Legislative Session Hall on Bill No. 739: "An act to appropriate Forty One Thousand Nine Hundred Dollars (\$41,900) from the general fund for the purpose of supplementing the appropriation made in Chapter X, Section 14 of Public Law 19-10 in order to adequately fund a Four Hundred Nineteen Dollars (\$419.00) lump sum cost of living allowance for Government of Guam Retirees their survivors for Fiscal Year 1989 only." Committee on Energy, Utilities and Consumer Protection members present at the public hearing were: Senator Don Parkinson, Chairman; Senator A.J. Sonny Shelton, Co-Chairman; Senator James Miles; Senator George Bamba, Senator Martha Ruth; and Senator Marcia Hartsock and the Committee on Ways and Means members who were present were: Senator Herminia Dierking, Chairwoman; Senator John Quan; and Senator Ted Nelson.

TESTIMONY

Appearing before the Committees to testify is Mr. Antanacio Gutierrez, Director of the Guam Retirement Fund who submitted a written testimony labeled Exhibit "A". In his testimony Mr. Gutierrez stated that the \$419 COLA would benefit 2,665 qualified pensioners, funding a total of \$1.12 million from the General Fund. This amount will also represent slightly more than a 4% adjustment to the average annuity and each pensioner will also receive an automatic COLA from the Fund. Mr. Gutierrez also stated that the proposed \$419 payment with the Fund's automatic COLA provision provides the average annuitant with a 7% increase during 1989. The average annual adjustments for pensioners at other states is 3% thereby providing Guam Pensioners with a 4% increase. Therefore, Bill No. 739 together with the existing provisions of the Fund are more than adequate for the government's retirees and their survivors. Mr. Gutierrez's testimony stated that providing the funding source for the \$419 is not threatening to the posture of the

General Fund therefore, the Government of Guam Retirement Fund has no reservations in supporting this Bill.

Mr. Wilfred Aflague, Director of the Department of Administration also submitted a written testimony labeled Exhibit "B". Mr. Aflague stated that Bill No. 739 has no sections as to specifying where these appropriations will be coming from. The total estimated revenues for the General Fund for Fiscal Year 1988 have already been appropriated, therefore, additional revenues must be identified to fund this Bill. There was no statement of for or against Bill No. 739.

Mr. Michael J. Reidy, Director of Bureau of Budget and Management Research submitted a Fiscal Note labeled Exhibit "C". The Fiscal Note stated that the information received from the Retirement Fund indicated that the appropriation proposed under Bill No. 739 will be insufficient to provide for a \$419 COLA to all retirees eligible. The Retirement Fund indicated that FY 1988 appropriation of \$1,159,373 for COLA pursuant to P.L. 19-10, Section 14 will be adequate to address the funding needs for COLA for FY 1989.

COMMITTEE FINDINGS AND RECOMMENDATIONS

The Committee on Energy, Utilities and Consumer Protection together with Committee on Ways and Means find that the appropriation made in Chapter X, Section 14 of Public Law 19-10 and reappropriated for Fiscal Year 1989 in accordance with Chapter XI, Section 34 of Public Law 19-10 is not adequate to fund a \$419.00 Cost of Living Allowance for all of the retirees and expected retirees during Fiscal Year 1989. It is therefore necessary to appropriate an additional sum of Forty One Thousand Nine Hundred Dollars (\$41,900) from the General Fund to the Retirement Fund in order to adequately fund the \$419 COLA for Government of Guam Retirees or their survivors for Fiscal Year 1989. Therefore the Committee on Energy, Utilities and Consumer Protection and the Committee on Ways and Means recommend that the supplemental appropriation of \$41,900 be passed by the Legislature.

EXHIBITS

Exhibit "A" Written testimony of Mr. Antanacio Gutierrez, Director of Guam Retirement Fund.

Exhibit "B" Written testimony of Mr. Wilfred Aflague, Director of Department of Administration.

Exhibit "C" Fiscal Note by Mr. Michael Reidy, Director of Bureau of Budget and Management Research.

NINETEENTH GUAM LEGISLATURE
1988 (SECOND) Regular Session

Bill No. 739
As substituted by the Committee on Energy,
Utilities and Consumer Protection and the
Committee on Ways and Means

Introduced by:

D. Parkinson
G. Bamba
H. Dierking
T. Nelson
S. Shelton
A. Lamorena
J. Rivera
M. Bordallo
E. Arriola
J. San Agustin
F. Guiterrez
F.R. Santos

AN ACT TO APPROPRIATE [ONE MILLION ONE HUNDRED SIXTEEN THOUSAND, SIX HUNDRED THIRTY-FIVE DOLLARS (\$1,116,635.00)] FORTY ONE THOUSAND NINE HUNDRED DOLLARS (\$41,900) FROM THE GENERAL FUND TO THE RETIREMENT FUND FOR THE PURPOSE OF SUPPLEMENTING THE APPROPRIATION MADE IN CHAPTER X, SECTION 14 OF PUBLIC LAW 19-10 IN ORDER TO ADEQUATELY FUND [FUNDING] A FOUR HUNDRED NINETEEN DOLLARS (\$419.00) LUMP SUM COST OF LIVING ALLOWANCE FOR GOVERNMENT OF GUAM RETIREES OR THEIR SURVIVORS FOR FISCAL YEAR 1989 ONLY AND TO APPROPRIATE OTHER MONIES TO THE RETIREMENT FUND.

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

Section 1. The sum of [One Million One Hundred Sixteen Thousand, Six Hundred Thirty-Five Dollars (\$1,116,635.00)] Forty One Thousand Dollars (\$41,900.00) is appropriated from the General Fund to the Government of Guam Retirement Fund for the purpose of supplementing the appropriation made in Chapter X, Section 14 of Public Law 19-14 [funding] in order

to adequately fund a Four Hundred Nineteen Dollars (\$419.00) lump sum Cost of Living Allowance for Government of Guam Retirees or their Survivors for Fiscal Year 1989 only.

Section 2. Two Million Five Hundred Thousand Dollars (\$2,500,000) is appropriated from the General Fund to the Department of Administration for the purpose of paying to the Retirement Fund the government's additional one percent (1%) contribution to the Fund for the total salaries of Fund members from the Judicial, Legislative and line departments and agencies of the Executive Branches. The Department of Administration shall allocate the appropriation made in this Section among the various branches, departments and agencies. The appropriation made in this Section shall be for fiscal year 1989. Payment shall be made in accordance with 4 GCA Section 8137 (c) enacted by Public Law 19-19, Section 58.

NINETEENTH GUAM LEGISLATURE
1988 (SECOND) Regular Session

Bill No. 739

Introduced by:

D. Parkinson

② *Too Sa Ah*
③ *[Signature]*

① *Don Park*
④ *[Signature]*
⑤ *[Signature]*
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AN ACT TO APPROPRIATE ONE MILLION ONE HUNDRED SIXTEEN THOUSAND, SIX HUNDRED THIRTY-FIVE DOLLARS (\$1,116,635.00) FROM THE GENERAL FUND FOR THE PURPOSE OF FUNDING A FOUR HUNDRED NINETEEN DOLLARS (\$419.00) LUMP SUM COST OF LIVING ALLOWANCE FOR GOVERNMENT OF GUAM RETIREES OR THEIR SURVIVORS FOR FISCAL YEAR 1989 ONLY.

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

Section 1. The sum of One Million One Hundred Sixteen Thousand, Six Hundred Thirty-Five Dollars (\$1,116,635.00) is appropriated from the General Fund to the Government of Guam Retirement Fund for the purpose of funding a Four Hundred Nineteen Dollars (\$419.00) lump sum Cost of Living Allowance for Government of Guam Retirees or their Survivors for Fiscal Year 1989 only.



GOVERNMENT OF GUAM RETIREMENT FUND
P.O. BOX 3-C
AGANA, GUAM 96910
 Telephone No. 477-9290

APR 17 1989

Honorable Don Parkinson
 Chairman, Committee on Energy
 Utilities & Consumer Protection
 Nineteenth Guam Legislature
 P.O. Box CB-1
 Agana, Guam 96910

Dear Mr. Chairman:

Bill No. 739 provides a \$419 lump sum COLA to be payable in FY 1989 to retirees and survivors of retirees. Such \$419 per individual would benefit 2,665 qualified pensioners. Funding totaling \$1.12 million is to be provided by the General Fund.

FY 1989 will mark the 4th consecutive year that a measure providing a \$419 COLA has been considered. In 1982, as most will recall, this series of increases was initiated with an \$838 lump sum payment. This original \$838 continues to be paid annually to pensioners who were on our rolls by October 1, 1984, along with \$1,200 and \$700 supplemental benefits. As an additional annual benefit, \$419 will represent slightly more than a 4% adjustment to the average annuity. The following table shows the impact on the various benefit categories.

	<u>Average Annuity</u>	<u>Proposed COLA</u>	<u>Percent of Adjustment</u>
Regular Survivors	\$ 6,460	\$419	6.5%
Disability Survivors	6,940	419	6.0
Disability Retirees	10,321	419	4.1
Regular Retirees	<u>11,484</u>	<u>419</u>	<u>3.6</u>
Averages	\$10,109	\$419	4.1%

In FY 1989, each and every pensioner who commences benefits before the end of this fiscal year will also receive an automatic COLA from the Fund. Such COLA's range from \$600 to \$200 depending on the earned annuity of the pensioner. The Fund's present COLA arrangement provides adjustments on a reverse sliding scale, whereby higher increments are provided to lower income pensioners. The average increment to the Fund's pensioners in FY 1987 was nearly 3% and ranged from 5.5% for regular survivors to 1.5% for disability pensioners.

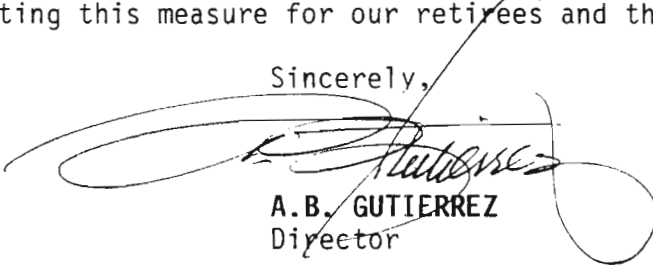
EXHIBIT "A"

Page Two
April 25, 1988

The proposed \$419 payment along with the Fund's automatic COLA provision provides the average annuitant with a 7% increase during 1989. No other state retirement system can claim a comparable annual adjustment for their pensioners. As shown in the attachment to our comments on Bill No. 268(S), COLA's for 74 surveyed state retirement plans are typically 3%. In state plans where automatic COLA increases are related to changes in the CPI, a cap of between 1% and 5%, with a median of 3%, is provided.

In conclusion, Bill No. 739 together with existing provisions of the Fund extend adjustments to the government's retirees and their survivors that are more than adequate. Since adequacy of this adjustment is not at issue, the proper funding is of concern. In this regard, provided the funding source for the \$419 is not threatening to the posture of the General Fund, we have no reservations in supporting this measure for our retirees and their survivors.

Sincerely,

A handwritten signature in cursive script, appearing to read "A.B. Gutierrez", is written over the typed name and title. The signature is fluid and extends across the width of the typed text.

A.B. GUTIERREZ
Director

Attachments

Cost-of-Living Adjustments (COLAs)

The 1985 NEA survey queried participants about automatic cost-of-living adjustment provisions as well as *ad hoc* adjustments granted to retirees during 1983, 1984, and 1985.

Table 7 contains a summary of responses regarding automatic COLA provisions. Thirty-five plans (49 percent of the total) reported having automatic COLA provisions applying to all retirees. Another six plans (8 percent) reported automatic COLA mechanisms that were contingent upon the earnings of the retirement fund. The remaining 31 plans (43 percent of the total) had no automatic COLA provisions.

By far the most common automatic COLA provision—reported by 25 plans—based COLAs on changes in the Consumer Price Index (CPI) with a maximum “cap” on yearly adjustments, typically 3 percent. The survey did not collect information on precisely how these COLAs were based on the CPI, but other sources suggest that in most cases the COLAs reflected only a portion of the CPI increase, up to the maximum specified. No respondents reported automatic COLAs equal to the CPI increase with no maximum.

TABLE 7.
SUMMARY OF AUTOMATIC COLA PROVISIONS

COLA Provision	Number of Plans	Amount Percent
Fixed \$ per year	1	
Percent equal to CPI Increase	0	
Percent based on CPI		
with cap	25	
Median cap		3.0
Mean cap		3.4
Fixed percent	9	
Median percent		3.0
Mean percent		2.4
Contingent on fund earnings.....	6	
Total plans reporting automatic COLAs	41	
Percent of plans reporting automatic COLAs		57%

Nine plans reported granting a fixed percent increase yearly to all retirees, regardless of the increase in the CPI. The most common fixed COLA was 3 percent per year.

Of the plans with automatic COLAs, approximately two-thirds applied the increase to the current benefit, while one-third applied the increase to the initial benefit—a less liberal practice because each COLA increase is not incorporated into the base on which subsequent COLAs are calculated.

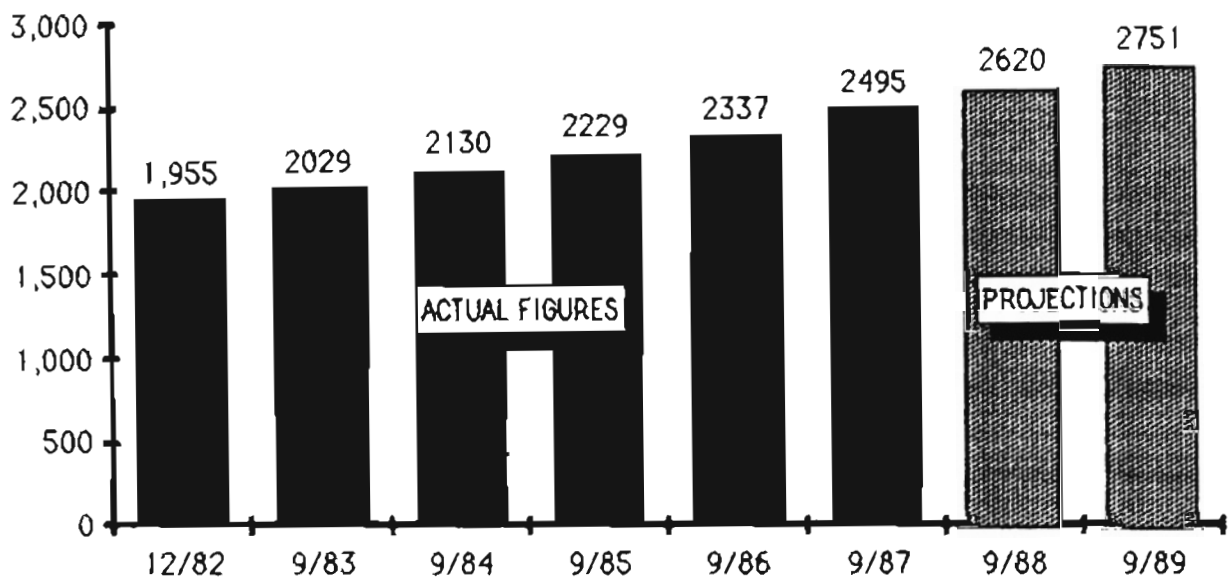
Table 8 contains information on the automatic COLA provisions of the major survey subgroups. For the NEA regional subgroups, the percentage of plans reporting automatic COLA provisions for all retirees generally varied from 50 to 69 percent—consistent with the overall figure of 57 percent. The one exception is the Western region, in which only three plans (27 percent of the total number of plans) reported having automatic COLA provisions. A separate analysis of those plans in which COLAs were contingent on fund performance showed that the Midwestern region contained five out of the six such plans reported in the survey. Of the 11 automatic COLA provisions reported by Midwestern region plans, 5 were contingent on fund performance. Such plans provide less certain inflation protection than plans where the COLA increase is specified or related to changes in the CPI. On the other hand, retirees could share in the benefits of robust fund growth such as has occurred in the past several years.

Automatic COLA provisions also varied significantly according to the other major subgroupings. As Table 8 shows, plans without Social Security coverage were significantly more likely to have automatic COLA provisions (70 percent) than were plans coordinated with Social Security (52 percent). Plans restricted to educational personnel were only half as likely to have automatic COLAs (40 percent) as were general public employee plans (80 percent), and those provided by educational plans were more likely to be contingent on fund performance. From another perspective, small plans were less likely to have automatic COLAs (50 percent) than large plans (77 percent). Inasmuch as education-only plans tend to be smaller than general public employee plans, the results relating to plan coverage and membership size are undoubtedly related.

TABLE 8.
AUTOMATIC COLA PROVISIONS FOR SURVEY SUBGROUPS (Number of Plans)

NEA Region	Automatic	Contingent	Total	Percent of Subgroup
Northeastern	6		6	50
Southeastern	9		9	69
Mid-Atlantic	5	1	6	67
Midwestern	6	5	11	61
Pacific	6		6	67
Western	3		3	27
Social Security coverage				
No SS coverage	14	0	14	70
SS coverage	21	6	27	52
Plans' occupational coverage				
Educational	13	4	17	40
General employees	22	2	24	80
Plan Membership				
Less than 100,000	17	3	20	50
100,000 and over	14	3	17	77

**GOVERNMENT OF GUAM RETIREMENT FUND
PENSIONER PROJECTION* THRU 1989**



Based on average growth of 5% over last 5 years.

GOVERNMENT OF GUAM RETIREMENT FUND

Summary of \$419 COLA's
to Retirees and Survivors

<u>PUBLIC LAW</u>	<u>FISCAL YEAR</u>	<u>APPROPRIATION</u>	<u>RET/SUR COV'D</u>	<u>EXPENDITURE</u>	<u>BALANCE</u>
P.L. 18-26	1986	950,292	2249	942,331	7,961 *
P.L. 18-44/49	1987	1,048,338	2502	1,048,338	- 0 -
P.L. 19-10	1988	1,055,461	2305	965,795	89,666

* Refunded to General Fund



GOVERNMENT OF GUAM
AGANA GUAM 96910
DEPARTMENT OF ADMINISTRATION
(DIPATTAMENTON ATMENESTRASION)
DIRECTOR'S OFFICE
(UFISINAN DIREKTOT)
P.O. Box 884 * Agana, Guam 96910
(671) 472-8481/2

APR 26 1988

Senator Don Parkinson
Chairman, Committee on Energy,
Utilities & Consumer Protection
Nineteenth Guam Legislature
Post Office Box CB-1
Agana, Guam 96910

Dear Mr. Chairman and Committee Members:

We would like to thank you for allowing us the opportunity to express our views and concerns on the following bills:

Bill No. 597: An act to appropriate one hundred seventy-two dollars (\$172,000.00) to the Public Utility Agency of Guam for the construction of a wastewater collector system in Mangilao.

Bill No. 739: An act to appropriate one million one hundred sixteen thousand, six hundred thirty-five dollars (\$1,116,635.00) from the general fund for the purpose of funding a four hundred nineteen dollar (\$419.00) lump sum cost of living allowance for Government of Guam Retirees or their Survivors for Fiscal Year 1988 only.

Bill No. 754: An act making an appropriation to the Public Utility Agency of Guam to install water lines in Machanao, Dededo.

We acknowledge the good intent of these bills. The installation of water and sewer facilities will greatly improve the sanitary conditions in the affected areas and will safeguard the health of its residents.

However, there are no sections in the above bills that specify from what fund these appropriations will be coming from. The total estimated revenues for the General Fund for Fiscal Year 1988 have already been appropriated, additional revenues must be identified for the funding of these bills.

Once again, thank you for allowing us to submit our written testimony on Bills No. 597, 789 and 754.

Sincerely,

WILFRED G. AFLAGUE
Director of Administration

EXHIBIT "B"

SENATOR DON PARKINSON
19th GUAM LEGISLATURE
163 CHALAN SANTO PAPA STREET
AGANA, GUAM 96910

April 20, 1988



Mr. Wilfred G. Aflague
Director, Department of Administration

Dear Mr. Aflague:

The Committee on Energy, Utilities and Consumer Protection will be conducting a public hearing on Wednesday, April 27, 1988 at 10:00 a.m. in the Legislative Session Hall on the following items:

Appointments of Mr. Joseph T. Duenas and Mr. Simon A. Sanchez II to serve as members of the Public Utilities Commission.

Bill No. 597: An act to appropriate one hundred seventy-two thousand dollars (\$172,000.00) to Public Utility Agency of Guam for the construction of a wastewater collector system in Mangilao.

Bill No. 739: An act to appropriate one million one hundred sixteen thousand, six hundred thirty-five dollars (\$1,116,635.00) from the general fund for the purpose of funding a four hundred nineteen dollar (\$419.00) lump sum cost of living allowance for Government of Guam Retirees or their Survivors for Fiscal Year 1988 only.

Bill No. 754: An act making an appropriation to the Public Utility Agency of Guam to install water lines in Machanao, Dededo.

You are requested to attend the public hearing and to provide testimonies on Bill Nos. 597, 739 and 754. Written testimony is preferred.

Sincerely,

A handwritten signature in dark ink, appearing to be "D. Parkinson".

Senator Don Parkinson
Chairman, Committee on
Energy, Utilities and
Consumer Protection



Introduced

SEP 28 '87

NINETEENTH GUAM LEGISLATURE
1987 (FIRST) Regular Session

Bill No. 597(LS)

Introduced by:

A. J. Shelton

AN ACT TO APPROPRIATE ONE HUNDRED SEVENTY-TWO THOUSAND DOLLARS (\$172,000) TO PUBLIC UTILITY AGENCY OF GUAM FOR THE CONSTRUCTION OF A WASTEWATER COLLECTOR SYSTEM IN MANGILAO.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM
2 Section 1. The sum of One Hundred Seventy-two Thousand and
3 Hundred Twenty-nine Dollars (\$172,129) is appropriated from the General
4 Fund to the Public Utility Agency of Guam for the construction of a
5 four-tenths (.4) mile section of line "B" of the BPM Area Wastewater
6 Collector System in Mangilao.

NINETEENTH GUAM LEGISLATURE
1988 (SECOND) Regular Session

Bill No. 739

Introduced by:

D. Parkinson

② Joe T. Sa. Ah
③ [Signature]
① Don Paul
④ B. Bamber
⑤ [Signature]
⑥ [Signature]
⑦ [Signature]
⑧ [Signature]
⑨ [Signature]

AN ACT TO APPROPRIATE ONE MILLION ONE HUNDRED SIXTEEN THOUSAND, SIX HUNDRED THIRTY-FIVE DOLLARS (\$1,116,635.00) FROM THE GENERAL FUND FOR THE PURPOSE OF FUNDING A FOUR HUNDRED NINETEEN DOLLARS (\$419.00) LUMP SUM COST OF LIVING ALLOWANCE FOR GOVERNMENT OF GUAM RETIREES OR THEIR SURVIVORS FOR FISCAL YEAR 1989 ONLY.

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

Section 1. The sum of One Million One Hundred Sixteen Thousand, Six Hundred Thirty-Five Dollars (\$1,116,635.00) is appropriated from the General Fund to the Government of Guam Retirement Fund for the purpose of funding a Four Hundred Nineteen Dollars (\$419.00) lump sum Cost of Living Allowance for Government of Guam Retirees or their Survivors for Fiscal Year 1989 only.

Introduced

NINETEENTH GUAM LEGISLATURE
1988 (SECOND) Regular Session

FEB 11 '88

Bill No. 754(CS)

Introduced by:

M. C. Ruth *Murphy*
J. G. Miles *J. G. Miles*
J. M. ROVERA *J. M. ROVERA*
J. G. BAMBIA *J. G. BAMBIA*
A. C. LAMORENA *A. C. LAMORENA*

AN ACT MAKING AN APPROPRIATION TO THE
PUBLIC UTILITY AGENCY OF GUAM TO
INSTALL WATER LINES IN MACHANAO, DEDEDO.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. The sum of Three Hundred Fifteen Thousand Dollars (\$315,000
3 is appropriated from the General Fund to the Public Utility Agency of Guam
4 for the design and construction of a six-inch (6") water distribution line
5 the agricultural subdivision Tract No. 534 (formerly a portion of Lot 10090-R
6 located in Callon Tramojo in Machanao, Dededo.

Bill No. 739(COR)

Date Received 3/18/88

Mandatory Bill Yes No

Date Reviewed 3/22/88

Department/Agency Affected: Retirement Fund

Department/Agency Head: Atanacio B. Gutierrez

Total Fiscal Year Appropriation: \$7,577,873

Bill Title (concise): AN ACT TO APPROPRIATE ONE MILLION ONE HUNDRED SIXTEEN THOUSAND SIX HUNDRED THIRTY-FIVE DOLLARS (\$1,116,635.00) FROM THE GENERAL FUND FOR THE PURPOSE OF FUNDING A FOUR HUNDRED NINETEEN DOLLARS (\$419.00) LUMP SUM COST OF LIVING ALLOWANCE FOR GOVERNMENT OF GUAM RETIREES OR THEIR SURVIVORS FOR FISCAL YEAR 1989 ONLY

Change in Law: NONE

Bill Attempts to:

Bill is for:

- Increase Program Funding
- Decrease Program Funding
- Reallocate Present Program Funding

- Operations
- Capital Improvement
- Other

FINANCIAL/PROGRAM IMPACT

<u>PROGRAM CATEGORIES</u>	<u>Minimum Estimated Required Funds (For Five Years)</u>		
	<u>GENERAL FUND</u>	<u>FEDERAL</u>	<u>OTHER</u>
Autonomous/Semi-autonomous	\$1,116,635		
GRAND TOTAL	\$1,116,635		

ESTIMATED MULTI-YEAR FUND REQUIREMENTS

<u>SOURCES</u>	<u>1st</u>	<u>2nd</u>	<u>3rd</u>	<u>4th</u>	<u>5th</u>
General Fund	\$1,116,635				
Federal Fund					
Other Fund					
GRAND TOTAL	\$1,116,635				

ESTIMATED MULTI-YEAR REALIZED REVENUES

<u>SOURCES</u>	<u>1st</u>	<u>2nd</u>	<u>3rd</u>	<u>4th</u>	<u>5th</u>
General Fund	No revenue will result from this Act.				
Federal Fund					
Other Fund					
GRAND TOTAL					

William P. Taitingfong
WILLIAM P. TAITINGFONG

PROGRAM ANALYST

Date Review Terminated: 2/23/88

M. Reidy
MICHAEL J. REIDY

3-24-88

DIRECTOR

EXHIBIT "C"

COMMENTS:

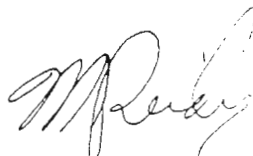
Comments on Bill No. 739(COR)

General Comments:

It should be noted that the Budget Office Estimated General Fund Revenue for Fiscal Year 1988 is at a level of \$236 million. The General Fund appropriations contained in P.L. 19-10 as well as subsequent legislation up to P.L. 19-14 total \$245 million resulting in a General Fund over-appropriation to date of \$9 million. Additional appropriations against the General Fund will increase this shortfall further and exacerbate the cumulative deficit position of the General Fund.

Additional Comments:

Bill 739 appropriates the sum of \$1,116,635 from the General Fund to the Retirement Fund for the purpose of funding a \$419 lump sum Cost of Living Allowance for Government of Guam Retirees or Survivors for FY 1989. Information received from the Retirement Fund indicates that the appropriation proposed under Bill 739 will be insufficient to provide for a \$419 COLA to all retirees eligible. The Retirement Fund have indicated that the FY 1988 appropriation of \$1,159,373 for COLA pursuant to P.L. 19-10, Section 14 will be adequate to address the funding needs for COLA for FY 1989.



MICHAEL J. REIDY

COMMITTEE ON WAYS AND MEANS

Voting Sheet as amended, on Bill No. 985

"AN ACT TO APPROPRIATE FIVE MILLION EIGHT HUNDRED EIGHTY-FIVE THOUSAND THIRTY-SEVEN DOLLARS (\$5,885,037.00) FROM THE GENERAL FUND TO THE GUAM POWER AUTHORITY FOR THE PURPOSES OF PAYING OFF THE PENALTIES RESULTING FROM UNPAID POWER BILLS OWED BY THE GOVERNMENT OF GUAM".

<u>COMMITTEE MEMBERS</u>	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>COMMENT</u>
Sen. Herminia Dierking	<i>AL</i>	_____	_____	_____
Sen. Ted Nelson	<i>AL</i>	_____	_____	_____
Sen. Don Parkinson	<i>D</i> ✓	_____	_____	_____
Sen. Elizabeth Arriola	✓	_____	_____	_____
Sen. Pilar Lujan	✓	_____	_____	_____
Sen. Martha Ruth	_____	_____	_____	<i>Report out - Martha 10/6</i>
Sen. Marilyn Manibusan	_____	_____	_____	_____
Sen. Joe T. San Agustin	✓	_____	_____	_____
Sen. Madeleine Bordallo	✓	_____	_____	_____
Sen. Frank Santos	_____	_____	_____	_____
Sen. George Bamba	_____	_____	_____	_____

REPORT OF THE COMMITTEE ON ENERGY, UTILITIES AND CONSUMER PROTECTION ON BILL NO. 985 AS AMENDED: "AN ACT TO APPROPRIATE FIVE MILLION EIGHT HUNDRED EIGHTY-FIVE THOUSAND THIRTY-SEVEN DOLLARS (\$5,885,037.00) FROM THE GENERAL FUND TO THE GUAM POWER AUTHORITY FOR THE PURPOSES OF PAYING OFF THE PENALTIES RESULTING FROM UNPAID POWER BILLS OWED BY THE GOVERNMENT OF GUAM."

PREFACE

The Committee on Energy, Utilities and Consumer Protection and the Committee on Ways and Means conducted a joint public hearing on Monday, September 19, 1988 at 9:30 a.m. in the Legislative Session Hall on Bill No. 985: "An act to appropriate Five Million Eight Hundred Eighty-five Thousand Thirty-seven Dollars (\$5,885,037.00) from the General Fund to the Guam Power Authority for the purposes of paying off the penalties resulting from unpaid power bills owed by the Government of Guam." Committee on Energy, Utilities and Consumer Protection and Committee on Ways and Means members present at the public hearing were: Senator Don Parkinson, Chairman; Senator George Bamba, Senator Martha Ruth; Senator Marilyn Manibusan and Senator Marcia Hartsock, Senator Herminia Dierking, Chairwoman and Senator Ted Nelson.

TESTIMONY

Mr. Donald C. Williams, Guam Power Authority Counsel submitted a letter with attachments labeled Exhibit "A". In his letter Mr. Williams stated that the correct dollar amount of penalties owed by the Government of Guam is \$5,885,037.00

Exhibit "B" is a copy of the Decision and Order, Docket No. 88-001 by the Public Utilities Commission on the GPA rate increase effective 1988.

Appearing before the Committees to testify was Mr. Wilfred G. Aflague, Director of the Department of Administration who submitted a written testimony labeled Exhibit "C" with attachments. Mr. Aflague stated that Bill No. 985 dollar amount did not agree with the figure amended in Public Law 19-10.

Mr. Tony Palomo of the Department of Interior submitted documents labeled Exhibit "C". Letters submitted were from Mr. Richard T. Montoya, Assistant Secretary of the United States Department of Interior dated April 20, 1987 regarding the promissory notes signed by the Government of Guam for payment of delinquent accounts to Mr. John M. Benavente, then Acting General Manager, Guam Power Authority. Also submitted was a copy of Mr. Benavente's answer to Mr. Montoya in reference to the compliance with SRA Collection Covenant (Para 4(d)).

Senator F.R. Santos submitted a copy of his letter to Elizabeth Barrett Anderson, Attorney General of Guam, dated September 14, 1988 labeled Exhibit "E". In his letter to the Attorney General, Senator Santos pointed out the controversy between the Public Utilities Commission and Guam Power Authority and had questioned the authority of the Governor and Guam Power Authority in reference to the "loan" and promissory note that are crucial in deliberations on Bill 985.

Mr. Leslie A. Lummis also appeared and submitted a written testimony labeled Exhibit "F". Mr. Lummis testified that lower income citizens, specifically the ones on Section 8 and food stamps will be affected. He also testified that if the Government owes unpaid power bills, then "Cut them off!"

COMMITTEE FINDINGS AND RECOMMENDATIONS

The Committee on Energy, Utilities and Consumer Protection and the Committee on Ways and Means find that Item 12 of Part III of the Public Utilities Commission's Decision and Order, Docket No. 88-001, clears the way for an automatic abatement of the rate increase if the Government of Guam, pursuant to legislation, executes a promissory note by which it promises to repay the \$5,885,037.00, of which the terms call for monthly payments of \$250,000. Therefore, the Committee on Energy, Utilities and Consumer Protection and the Committee on Ways and Means recommend that Bill No. 985, as amended, be passed by the Nineteenth Legislature.

EXHIBITS

Exhibit "A" Written testimony and attachments of Mr. Donald C. Williams, Consul, Guam Power Authority

Exhibit "B" Copy of Public Utilities Commission's Decision and Order, Docket No. 88-001.

Exhibit "C" Written testimony and attachment of Mr. Wilfred G. Aflague, Director of the Department of Administration

Exhibit "D" Written testimony of Mr. Tony Palomo, Department of Interior

Exhibit "E" Copy of Senator F. R. Santos' letter to the Attorney General of Guam

Exhibit "F" Written testimony of Mr. Leslie A. Lummis

NINETEENTH GUAM LEGISLATURE
1988 (SECOND) Regular Session

Bill No. 985 (LS)
Substituted by Committee on Energy,
Utilities and Consumer Protection and
Committee on Ways and Means

Introduced by:

D. Parkinson
A. J. Shelton
T. S. Nelson

M. K. Hartsock

AN ACT TO APPROPRIATE THE SUM OF FIVE
MILLION EIGHT HUNDRED EIGHTY-FIVE
THOUSAND THIRTY-SEVEN DOLLARS
(\$5,885,037) FROM THE GENERAL FUND TO
THE GUAM POWER AUTHORITY FOR THE
PURPOSES OF EXTINGUISHING THE
PENALTIES RESULTING FROM UNPAID POWER
BILLS DUE FROM AND OWED BY THE
GOVERNMENT OF GUAM.

1 WHEREAS, the Government of Guam owed the Guam Power Authority
2 approximately Thirteen Million, One Hundred Twenty-Four Thousand, Three
3 Hundred Forty-Two Dollars (\$13,124,342), of which approximately Seven
4 Million Two Hundred Thirty-Nine Thousand Three Hundred Five Dollars
5 (\$7,239,305) constituted charges for metered electric services and Five
6 Million Eight Hundred Eighty-Five Thousand Thirty-Seven Dollars
7 (\$5,885,037) constituted penalties; and

8 WHEREAS, the Board of Directors of the Guam Power Authority elected
9 to "forgive" the penalty debt of \$5,885,037, promising that by doing so and
10 accepting payment for that amount from the government of Guam, they will
11 not request a rate increase; and

12 WHEREAS, the Guam Power Authority on February 23, 1988, filed a
13 rate increase of approximately Twelve and nine-tenths percent (12.9%) with
14 the Public Utilities Commission; and

15 WHEREAS, the Guam Power Authority has indicated that a rate
16 increase is needed in order for it to perform critical capital improvement
17 projects that would maintain reliable power throughout the system; and

1 WHEREAS, the Guam Power Authority has indicated publicly that
2 now contests and denies any former promise made by it to waive any such
3 penalties; and

4 WHEREAS, by accepting payment for the penalties owed by the
5 government of Guam, the Guam Power Authority will recover capital
6 sufficient to render any increase unnecessary; and

7 WHEREAS, in the most recent Decision and Order of the Public Utilities
8 Commission (Order No. 12, August 1, 1988) in the matter of the Amended
9 Application of Guam Power Authority to increase rates, (Docket No.
10 88-001), the Public Utilities Commission stated:

11 "12. The Commission shall forthwith, on its own motion,
12 investigate GPA's forgiveness in March, 1987 of \$5,885,037.00 in
13 penalties which were assessed upon the Government pursuant to GPA
14 Tariff Schedule C. In the event the Commission shall find as a result
15 of its investigation that the penalty forgiveness was in violation of law
16 or of its bond covenants, and in the event the government of Guam,
17 pursuant to legislation or otherwise, executes a promissory note by
18 which it promises to repay to GPA the \$5,885,037.00 in forgiven
19 penalties under repayment terms which require monthly payments of at
20 least \$250,000.00, then upon the occurrence of said events, the rate
21 increase ordered herein shall automatically abate. However, any such
22 abatement shall not affect in any manner the other orders made
23 herein," NOW, THEREFORE,

24 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

25 Section 1. The Guam Legislature recognizes the debt by the
26 government of Guam as a legitimate public debt, and hereby enacts the
27 following to read:

28 (a) In addition to sums previously appropriated, the sum of Five
29 Million Eight Hundred Eighty-Five Thousand Thirty-Seven Dollars
30 (\$5,885,037) is hereby appropriated from the General Fund to the
31 Guam Power Authority to pay the outstanding penalties which were
32 assessed upon the government of Guam by the Guam Power Authority
33 pursuant to Guam Power Authority Tariff Schedule C and which were

1 allegedly "forgiven" by Guam Power Authority in or around Mar
2 1987, referred to by the Guam Public Utilities Commission in Order N
3 12 in the Decision and Order of the Guam Public Utilities Commissi
4 dated August 1, 1988 in the matter of the Amended Application
5 Guam Power Authority to increase rates, Docket No. 88-001.

6 (b) The aforementioned debt is hereby affirmed and ratified b
7 this Act, and pursuant to this Act, the government of Guam promis
8 to pay the Guam Power Authority in accordance with the terms of th
9 section.

10 (c) The aforesaid appropriation shall be made to the Guam Powe
11 Authority in equal monthly installments in the amount of Two Hundre
12 Fifty Thousand Dollars (\$250,000) per month, beginning ninety (90
13 days after enactment of this Act and continuing until the total deb
14 has been extinguished.

15 (d) This section shall constitute the execution of a promissor
16 note pursuant to legislation as contemplated by Order No. 12 in th
17 Decision and Order of the Guam Public Utilities Commission date
18 August 1, 1988 in the matter of the Amended Application of Gua
19 Power Authority to increase rates, Docket No. 88-001.

20 (e) In addition to this appropriation, the government of Guam i
21 authorized to expend lapses from the current fiscal year, prior fisca
22 years, or future fiscal years to pay the obligation described in thi
23 section to the Guam Power Authority, and may transfer funds from
24 other appropriations if necessary to pay the obligation described in
25 this Section.

CARLSMITH, WICKHAM, CASE, MIKAI AND ICHIKI
ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING LAW CORPORATIONS
134 WEST SOLEDAD AVENUE
BANK OF HAWAII BUILDING, SUITE 401
P. O. BOX 8F
AGANA, GUAM 96910

OFFICES
HONOLULU, HAWAII
HILO, HAWAII
WAILUA-KONA, HAWAII
WAILUKU, MAUI, HAWAII
LOS ANGELES, CALIFORNIA
SAIPAN, MP

TELEPHONE
(671) 472-8813
CABLE ADDRESS
CWCM1 GU
TELECOPIER
(671) 477-4375
TELEX
721 6445 CWCM1 GM

September 17, 1988

HAND DELIVER

Senator Don Parkinson
Nineteenth Guam Legislature
Agana, Guam 96910

Re: Hearing on Bill No. 985

Dear Senator Parkinson:

Your invitation to Guam Power Authority to testify in connection with the above matter has been referred to our office in view of the fact there is a pending inquiry before the Public Utilities Commission ("PUC") and potential litigation involving the recovery of the penalties which form the basis of your appropriation. As you can appreciate, this is a complex matter and I enclose a copy of the PUC complaint and our response.

Under the circumstances, I have advised GPA it would not be desirable or appropriate for GPA to discuss these matters except in the context of the pending proceedings before the PUC. Please accept these comments in lieu of the presence of GPA at the hearing.

GPA clearly has need of funds to meet its capital improvement needs. The system demand is rapidly outpacing the ability of GPA to keep up. GPA established these needs at the last rate hearing in which you participated. As you will recall these needs go beyond FY 89. If the Legislature appropriates the sum set forth in your bill, the recent rate increase will abate in accordance with the PUC order and after FY-89 GPA will be left with insufficient revenues to meet the demands of the system and it will again be necessary to go through the costly rate hearing process, unless the Legislature is willing to subsidize GPA's future operations.

Similar "A"

Senator Don Parkinson
September 17, 1988
Page 2

You should keep in mind that the Government of Guam has consistently taken the position that discriminatory penalties accumulating compounded at the rate of 80% per year are unenforceable. The Government continued to adhere to this position even after the enactment of P.L. 18-48 which appropriated money for payment of penalties in P.L. 18-48 and reduced the amount of penalties GPA could collect to 12% per annum. We are aware that the Government has continuing pressing needs for critical infrastructure projects and it is logical to assume the Government's position on the penalties has not changed. Even if sums are appropriated, we cannot be assured they will be received. Under the circumstances, it is extremely difficult for GPA to plan for its future needs.

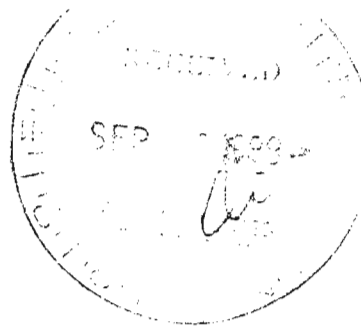
I hope these comments will be of assistance to you and your committee. Also, the actual amount of the penalties is \$5,885,037.

Very truly yours,



Donald C. Williams

/dcw
G8816249



BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE TERRITORY OF GUAM

PUBLIC UTILITIES COMMISSION	)	CASE NO. 88-003
OF THE TERRITORY OF GUAM,)	
)	
Complainant,	)	MOTION TO DISMISS COMPLAINT
	)	AND MEMORANDUM IN SUPPORT OF
vs.	)	MOTION TO DISMISS COMPLAINT
)	
GUAM POWER AUTHORITY,)	
)	
Defendant.)	

COMES NOW, the Guam Power Authority (hereinafter referred to as "GPA") and respectfully moves the Public Utilities Commission (hereinafter referred to as the "Commission") to dismiss the Complaint filed by the Commission in the above-entitled matter on August 5, 1988 for the reasons set forth below. It was unclear from the Complaint the exact issues the Commission intends to address. The modification of Schedule C penalties is so intertwined with the compromise of the penalty charge, we have addressed both issues in this motion & memorandum.

1. The Eighteenth Guam Legislature enacted Public Law 18-48 prohibiting GPA from charging penalties and interest in excess of 12% per annum; whether GPA properly submitted its modification of Schedule C to conform to the legislation to the Commission is moot because the action by the Legislature takes precedence over actions of GPA or the Commission.

2. The Commission held a hearing on August 18, 1987 to consider the elimination of the penalties set forth in Schedule C; the Commission's failure issue an order within 120 days of the hearing constitutes a final order by the Commission.

3. The sole discretion and authority to determine whether the provisions of the 1984 Second Refinancing Agreement (hereinafter referred to as the "SRA") dated December 3, 1984 have been violated rests with the Secretary of the Department of Interior; the Commission does not have jurisdiction to consider whether acts by GPA or the Guam Legislature violated the SRA.

4. The Board of Directors of GPA acted legally and within their statutory authority in entering into the settlement agreement with the Government of Guam without obtaining prior Commission approval.

5. The Commission has failed to issue directives or controls or offer any objections until approximately 17 months after the execution of the promissory notes dated March 31, 1987 between the Government and GPA (hereinafter referred to as the "promissory notes" or the "settlement agreement") and the Commission is now estopped from denying the validity of the promissory notes.

6. The Commission is without power to validate an

illegal tariff schedule requiring GPA to pursue enforcement of penalties which are illegal and unenforceable.

I. STATEMENT OF FACTS

Over the years, GPA has been plagued with the collection of the Government of Guam's (hereinafter referred to as "Government") power bills. The Government's delinquencies have been in amounts of thousands to millions of dollars, and have occurred so often in recent years as to be chronic. The Board of Directors of GPA discussed and implemented various plans to promote collection including the disconnection of power service, the imposition of penalty charges, intervention by the Legislature and negotiations to settle disputes over payment amounts. Copies of selected portions of the Minutes of the Board of Directors of GPA are attached hereto collectively as Exhibit A. Minutes specifically referred to are designated as Exhibit A-1 through Exhibit A-54. GPA began experiencing problems with Government account delinquencies as early as 1981. See Exhibit A attached hereto.

Beginning as early as June of 1981, the Board of Directors of the Guam Power Authority (hereinafter referred to as the "Board" or the "Board of Directors") began discussing the possibility of including a provision for penalty charge in the rate tariff on Government of Guam accounts in arrears. See, Board of Directors Minutes dated June 3, 1981, attached as Exhibit A-5.

Rate Tariff Schedule C ("Schedule C") was initially implemented on April 1, 1983. The implementation was part of the general rate increase. However, the rate increase was rolled back by the Guam Legislature effective June 27, 1983. Schedule C was abandoned with the rate rollback. GPA passed another rate increase, which was implemented March 21, 1984. Schedule C was included in this action. From the date of its implementation, GPA assessed late penalties on all government accounts past due and unpaid from the last business day of the month. Schedule C was adopted by GPA as a way to motivate government agencies to properly budget for their power bills and to pay their power bills in a timely way. It was thought that the prospect of being assessed with such a large penalty would cause the Government to keep its accounts current. The purpose of Schedule C was to discourage late payments rather than to collect the penalty. Schedule C was not a revenue generating measure. See, Affidavit of George Becher attached as Exhibit B. Also, this was discussed at the first oversight hearing of the Commission in March of 1984.

A factor which was instrumental to GPA's decision to enforce a penalty charge was the dispute between GPA and the Government of Guam regarding payment of utility service for the energizing of street lights. After the rate rollback in June of 1983, GPA elected to disconnect street lights because of the Government's failure to pay approximately \$683,000.00 in power

bills, including street light bills. Lawsuits were filed against GPA by members of the Guam Legislature. See, Complaint, attached as Exhibit C. A Temporary Restraining Order was issued, which the Board interpreted to mean GPA was enjoined from the further de-energizing of the lights. See, Minutes of the Meeting of the Board of Directors dated September 9, 1983. The Legislature responded to GPA's collection efforts by enacting Public Laws 17-25 and 17-26, which prohibited GPA from disconnecting street lights. See, the Minutes of the Meeting of the Board of Directors dated September 1, 1983, September 7, 1983, September 9, 1983, September 15, 1983, September 21, 1983 and October 3, 1983, attached as Exhibits A-12, A-13, A-14, A-15, A-16 and A-17 respectively.

Even after the implementation of Schedule C, the Government's past due bills continued to accumulate, as reflected in the Minutes of the Board of Directors dated May 1, 1984 and attached as Exhibit A-19. The Government line agencies owed GPA over one million dollars in metered billings, in addition to Schedule C penalties.

By April 9, 1985, the Government of Guam owed GPA over 4 million dollars. The Board discussed filing suit against the Government but decided to set up a task force to pursue resolution of the problem. See, Minutes of the Board of Directors dated April 9, 1985, attached as Exhibit A-25. It

should be noted that the Government Claims Act required that GPA file its claim with the Government and the Government had 180 days to act on the claim before lawsuit could be filed. Negotiations with the Government were discussed in the Board's September 23, 1985 meeting. See, Minutes of the Board of Directors dated April 23, 1985, attached as Exhibit A-26. The Board discussed a settlement with the Government based upon an offset of interest the Government lost because Section 30 monies were impacted because GPA was unable to pay interest due under the SRA. Also attached is a memo from the General Manager to Joe R. San Agustin attached as Exhibit D which further discusses such a settlement.

At a meeting dated August 8, 1985, the General Manager warned the Board of Directors that GPA was in danger of being declared in technical default of the covenants of the SRA. A copy of the August 8, 1985 minutes are attached as Exhibit A-27. The General Manager also reported to the Board the results of negotiations with the Government to solve the problem of Government power bills.

The Department of Interior became concerned about the delinquency in payment as set forth in the letter from Richard T. Montoya, Assistant Secretary, Territorial and International Affairs to the Chairman and Board of Directors of GPA, dated August 8, 1985 and attached as Exhibit E. Mr. Montoya's letter notes that the Government's arrears caused GPA to fall below

the SRA collection rates for the month of May, June and July of 1985.

The Department of Interior expressed great concern over a Board Resolution to transfer money to the general funds in a letter dated January 30, 1986, attached as Exhibit F. Assistant Secretary Montoya pointed out that GPA's general financial condition had prevented it from performing maintenance projects, and the need for funds for capital expansion, plus the fact that the Government owed GPA several million dollars for past due power bills. Montoya warned that GPA's transfer of funds may place it in technical default of the SRA.

The Board, in its March 18, 1986 meeting (See, Minutes of the Board of Directors attached hereto as Exhibit A-29), directed the Chairman to send a letter to the Governor of Guam regarding the Government delinquent accounts. A copy of the letter sent to the Governor is attached as Exhibit G. The Chairman advised the Governor metered billings and penalties totaled \$7,291,111.81 as of February 28, 1986. The Chairman also warned the Governor that if GPA was declared in default of SRA, the Section 30 monies could again be impacted; the Chairman stressed the importance of reaching some kind of agreement with the Government which would permit the immediate payment of cash to GPA. The Board felt a committee should be established to resolve the delinquent bills.

On March 20, 1986, the Commission, through its Decision & Order pertaining to the reasonableness of GPA's rates, noted that GPA had failed to enforce collection of government accounts and ordered GPA to take action to bring GPA into compliance with the provisions of the SRA. No directives were issued by the Commission to indicate how the Commission expected GPA to enforce collection notwithstanding the problems GPA had already experienced in its collection efforts. GPA continued its efforts to meet with the Government and work toward a payment agreement. Although disconnection was again considered, GPA's real need was to receive payment, and the viability of a disconnection policy for government accounts was highly questionable in view of the prior litigation and legislation.

It was reported in the April 1, 1986 minutes that the Assistant General Manager had met with officials from the Department of Administration to work toward a resolution of the power bill problem. By letter dated March 27, 1986 to the Chairman of the Board of Directors, the Governor of Guam, Ricardo J. Bordallo, advised the Board that there were two major issues which must be resolved before any of the disputed Government billings could be paid. Two issues identified by the former Governor Bordallo are the number of street lights authorized by the Government of Guam, and the amount of penalties imposed by GPA in light of the 4.7 million dollars of

Section 30 funds that the Department of Interior appropriated to cover GPA's June, 1984 and December, 1984 FFB interest installments. A copy of the letter is attached as Exhibit H. In working toward resolution of the dispute, the Director of Administration issued two Memorandum Agreements setting forth initial objectives agreed upon by GPA and the Department of Administration. A copy of the Memorandum Agreements are attached as Exhibits I-1 and I-2. The Memorandum No. 1 calls for an inventory of street lights, the Government's agreement to stay current on undisputed portions of monthly billings being metered consumption, and GPA's agreement to freeze penalties on account of delinquencies for fiscal years 1985 and 1986 as of March 31, 1985, and an agreement regarding payment of the final reconciliation of accounts.

The minutes reflect ongoing discussions and efforts to resolve the matter of the delinquent bills, including draft legislation prepared for the consideration of Senator Parkinson who was assisting in resolving the problems of the unpaid bills. Letters to Senator Parkinson from the Chairman of the Board are attached as Exhibit J. Accompanying the letters is draft legislation prepared for Senator Parkinson. The Board was also working with Nancy Boone, Guam Desk Officer with the Department of Interior. GPA requested Section 30 funds be transmitted to GPA to liquidate the Government power bill. See Exhibit K.

The General Manager reported at the Board's meeting of October 15, 1986 that penalties were exceeding billings. Also discussed at the October 15, 1986 meeting was the rather sensitive matter of the Navy's agreement to match GPA's debt service coverage. GPA's failure to collect metered sales potentially caused GPA's collection ratio to fall below the 95% requirement of the SRA. The Department of Navy representative stated that if GPA doesn't collect monies owed by the Government, there is no reason for the Department of Navy to have made payments pursuant to the debt service coverage agreement. At the same meeting, the General Manager expressed his growing concern that if the matter of the Government of Guam delinquent accounts was not resolved soon, that the Department of Interior would intervene. The October 15th minutes are attached as Exhibit A-33.

As a matter of disposition, the Board again began considering disconnection as a means of motivating the Government to pay its power bills. The Department of Administration was given notice by letter dated November 28, 1986 that GPA intended to issue a disconnection notice on December 2, 1986 if payment was not received. A copy of the letter is attached as Exhibit L.

Finally, with a change in administration and the Board members in January, 1987, the Government and GPA were able to reach an agreement. The Board of Directors met on

March 30, 1987 to discuss the matter of the settlement agreement. The agreement was the result of extensive negotiations between Bruce Pecon, Comptroller of GPA and Michael Reidy, Chief of the Bureau of Budget and Management. The Affidavits of Bruce Pecon and letter of Daniel Fitzgerald set forth the urgency and immediate need on GPA's part to resolve the dispute and begin receiving the arrearages. The Affidavit and letter are attached as Exhibits M and N respectively. The Affidavit of Michael Reidy, attached as Exhibit O, sets forth the Government's position regarding settlement. The Board resolved to approve the agreement and promissory notes to be executed between the GPA and the Government of Guam. The Board also considered whether notice should be given to the Commission. It was determined by the Board, after review with counsel, that notice was not necessary. A copy of the March 30, 1987 Board Minutes are attached as Exhibit A-41. At the time the promissory notes were executed, the Government of Guam owed GPA \$4,100,000.00 for the electricity it had consumed. This reflected payments which had been made by the Government since January, 1987. In addition to the metered billings, the Government owed GPA approximately \$10,100,000.00 in penalties. Pursuant to the settlement agreement, the Government agreed to pay GPA 100% of the electricity it had consumed (metered billings) and approximately \$4,200,000.00 in penalties.

Copies of the executed notes were sent to the Department of Interior for the Department's review and consideration. Interior had been previously notified of the amounts due and GPA's position by letters dated February 23, 1987 and March 31, 1987. See, letters of General Manager John M. Benavente attached as Exhibits P-1 and P-2. Department of Interior responded to Mr. Benavente's letter transmitting the notes by letter dated April 20, 1987, a copy of which is attached as Exhibit Q. The Department of Interior reviewed the settlement agreement set forth in the promissory notes and the context of compliance with the Second Refinancing Agreement and found the promissory notes to be acceptable.

Also, the Legislature of Guam in P.L. 19-10 appropriated money for the satisfaction of the notes which by implication constitutes approval of the GPA-Government compromise. This legislation amended the appropriation in P.L. 18-48 which was for the full amount of penalties and meter sales due at an earlier time. A copy of P.L. 19-10 is attached as Exhibit R.

At its June 3, 1987 meeting, the Board resolved to modify penalties charged in response to Public Law 18-48. Public Law 18-48, enacted January 2, 1987, limits the amount of penalty GPA can charge to 1% per month. The Board further resolved to request the Commission to remove Schedule C by letter dated June 17, 1987, and the Board requested the

Commission to take such steps as may be necessary to remove Schedule C. A copy of the letter is attached as Exhibit S. The Commission, in the exercise of its discretion, held a public hearing on the Schedule C matter on August 18, 1987 at the legislative session hall. Testimony was received. To date, the Commission has not made any determination or order.

II. LEGAL ARGUMENT

A. Public Law 18-48 Controls the Maximum Penalty and Interest GPA Can Charge.

The Eighteenth Guam Legislature enacted Public Law 18-48, effective January 2, 1987. Section 21 provides in part:

(b) The Guam Power Authority is prohibited from charging penalties and interest in excess of 12% per annum.

Public Law 18-48 §21(b) is like a special usury statute. The Legislature has identified a particular utility supplier and established a maximum amount of penalty and interest that utility may charge any class of consumers.

The penalty and interest set by the Legislature is reasonable and is an incident of its power. As a general rule, a regulation or order may be enforced only in the manner prescribed by statute, and neither the administrative agency nor the courts may add to the penalties the Legislature has placed behind a statute. L.P. Stewart & Bros., Inc. v. Bowler, 322 P.2d 1002, 1003, 1004, 1050, 64 S.Ct. 1097 (1947).

Neither the Commission nor GPA is vested with the authority to assess penalty or interest in excess of that prescribed by the Legislature.

The matter of whether GPA properly submitted its intention to modify Schedule C to the Commission is moot because the action of the Legislature, in enacting Public Law 18-48, takes precedence over actions of GPA or the Commission. A moot case is one which seeks to determine an abstract question which does not arise upon existing facts or rights. Adams v. Union R. Co., 21 RI 134, 42 A 515 (1899).

B. The Prior Final Order Issued By the Commission On Disposition of Schedule C Estopped the Commission From Further Action.

The Board of Directors of GPA resolved to modify the Schedule C penalties in response to Public Law 18-48 and request the Commission to abandon Schedule C. The Commission held a public hearing on Schedule C on August 18, 1987, pursuant to GPA's notification. To date, the Commission has not issued any orders regarding the disposition of Schedule C. The Commission apparently considered the penalties to be a rate and pursuant to 12 GCA §12018, the Commission's failure to act must be construed as a final order approving the change. Section 12018 provides in part that:

"Failure of the Commission to act on a rate request within 120 days of final filing by a public utility shall be deemed

a final order approving said rate request change for the purpose of this section. A final filing by a public utility occurs when a utility has filed all documentation necessary to support the request for a rate change".

Appeal from a final order of the Commission can be made to the Superior Court of Guam. Appeal must be taken within 30 calendar days of the date of the final order. Section 12018. Pursuant to the Public Utilities Act, the appropriate avenue to take for further relief after a final order is by appeal to the Superior Court, and not through a rehearing process before the Commission, such as the Commission is presently attempting. The Commission is estopped, by its prior final order from taking further action with respect to Schedule C.

Some statutes specifically permit particular agencies to reconsider or modify their orders or decisions after they have become final. The Public Utilities Act does not contain such a provision. Although there is case law which holds an administrative agency which does not have specifically conferred authority to reconsider or modify its determinations may so reconsider or modify, such power lasts only until jurisdiction is lost by appeal or until a reasonable time has run. Anchor Casualty Co. v. Benwards Co-op Creamery Assn., 253 Nino. 101 91 NW.2d 314 (1958). Some jurisdictions have measured what may be a reasonable time on a case by case basis.

depending upon the particular circumstances, while other cases have held that an agency's authority to reconsider or modify its determinations terminates with the time allowed for review. See, Lyons v. Delaware Liquor Commission, 44 Dela. 304, 58 A.2d 889 (1948), holding that the Liquor Commission could not set aside its own judgment after the time for appeal has expired. Thus, in the instant case, the Commission only had the authority to modify its decision for 30 days after the date of its final order. The time has expired and the Commission has no power to reconsider its final order.

Further, it is not reasonable for the Commission to wait for a period of over one year, taking no action, then attempt to modify or reconsider its prior action. Circumstances have changed. GPA has relied upon the Commission's prior action and changed its practices accordingly. The cases recognizing the authority of an administrative agency to reconsider or modify its determination, even though the agency does not have such authority specifically conferred by statute, do so in the light of due diligence and prompt action on the part of the agency and decline to permit oppressive retroactivity. Other courts have determined that final administrative orders are conclusive unless set aside on appeal authorized by statute, or unless fraud or something of a like nature is shown. See, Agostis v. Employment Compensation and Placement Division, 10 Wash.2d 117 154 P.2d 76 (1943).

The better view and the view which is most consistent with the interests of all parties to an agency action is that an agency may reconsider and modify its order until the expiration of the time allowed for filing an appeal. After the time for appeal has expired, both the agency and the party affected, in this case the Guam Power Authority, must be assured they can rely on the agency order and proceed in a manner which is both legal and consistent with the agency order. The Commission has approved a removal of Schedule C. Its failure to act within 120 days constitutes a final order for the removal of Schedule C. No appeal was filed within the 30 day period following the final order. The Commission is estopped from redetermining its final order because its authority terminates with the time allowed for appeal or, in the alternative, its authority terminates with the passage of time, its failure to take prompt action, and the parties' reliance on the order as entered.

C. The Department of Interior Has Sole Discretion and Authority to Consider Whether Actions May Violate the Second Refinancing Agreement.

On December 3, 1984, the Guam Power Authority entered into a contractual relationship with the Secretary of the Interior, Department of the Interior, United States of America. The contract is referred to as the Second Refinancing Agreement (and is referenced herein as the "SRA") and relates to GPM's

refinancing of a loan it obtained from the Federal Financing Bank in 1980. Federal Law (Public Law 98-454) authorized the refinancing of the 1980 note, subject to certain conditions. The Federal Financing Bank, an instrumentality of the United States Government, was directed to purchase GPA's obligations and GPA gave the Federal Financing Bank its promissory note ("the 1984 note"). The Secretary of the Department of Interior agreed to guarantee GPA's payment of the 1984 note. The SRA is a contract between the Department of Interior and the Guam Power Authority. The agreement was approved by the Government of Guam. According to the SRA, and pursuant to general principles of the law of contracts and of administrative law, the Department of Interior has the exclusive authority and power to declare the Guam Power Authority in default of any of the provisions of the SRA. A copy of the SRA is attached hereto as Exhibit T.

In its Complaint, the Commission states at Paragraph 1 that "The Commission will further investigate whether the forgiveness [Schedule C penalty charge] violated any of GPA's covenants under the Second Refinancing Agreement dated December 3, 1984 between GPA and the Secretary of the Interior". The Department of Interior has already made a determination the promissory notes did not violate the SRA. See Exhibit Q attached hereto.

Further, in Paragraph 2, the complaint states "The Commission will investigate whether this purported amendment to Schedule C violates the terms of the 1984 Second Financing Agreement between GPA and the Secretary of Interior dated December 3, 1984". Paragraph 3 of the Complaint provides "The Commission will, as a result of its investigation and deliberation of the evidence submitted pursuant thereto, makes such orders as it considers fair and just". Yet, The Department of Interior is fully aware of the legislative action and modification of the penalties that can be charged and has taken no position with regard to default; it should be assumed in view of their strong action in connection with P.L. 18-44, The Department of Interior did not consider the reduction of the penalties of the Legislature to constitute a default. As discussed above, the Commission is not a party to the SRA. While the Commission may have oversight authority over the general operations of all public utilities on Guam, the Commission has not been granted oversight authority by the Department of the Interior over contractual relationships between it (Department of Interior) and GPA. Federal law does not contain such a grant of power. Nor does the Public Utilities Act, 12 GCA or the Guam Power Authority act delegate to the Commission authority to stand in GPA's place with regard to the SRA.

The Commission, as an administrative agency, is a tribunal of limited jurisdiction. Jurisdiction depends entirely upon the terms and validity of the statute granting the authority. The Commission cannot confer jurisdiction on itself. See, United States v. Baltimore & Ohio Southern Railroad Co., 226 U.S. 14, 57 L.ed. 104, 33 S.Ct. 5 (1912). O'Mara v. Andrews, 146 Ok. 57, 293 Pac. 257 (1930).

Absent particular circumstances, a contract cannot be enforced by a person who is not a party to it. The Commission is not a party to the SRA, nor does Federal or local law vest the authority to enforce the contract with the Commission. The Commission is without standing or jurisdiction to investigate or determine whether any actions by GPA may violate the terms of the SRA.

D. The Two Promissory Notes Between the Government of Guam and GPA, Both Dated March 31, 1987 Are Valid and Enforceable and the Commission Is Estopped From Challenging Their Validity.

The Commission has been aware of the problems GPA has encountered in enforcing collection of Government power billings since the Commission's inception. In the Commission's decision and order dated March 20, 1986 pertaining to GPA's rates, the Commission noted in some detail that GPA had failed to enforce collection of Government accounts. The Commission ordered GPA to take the following action:

10. Immediately initiate action to bring GPA into compliance with the provisions of Section 4 of the Second Refinancing Agreement and submit a report on compliance within 30 days after the date of this order.

Paragraph 10 of the order and decision was with reference to past due billings of the Government of Guam. No specific directives were issued by the Commission indicating how it expected GPA to enforce collection. As discussed in Section 1 above, collection of Government accounts was of major concern to the Board of GPA for a number of years. GPA had implemented various plans to promote collection including the disconnection of power services, the imposition of penalty charges, intervention by the Legislature, intervention by the Department of Interior, settlement negotiations with various Government agencies, and settlement negotiations with the Department of Administration, the Bureau of Budget and Management and the Governor of Guam. The Commission was cognizant of the various efforts the Board had undertaken to collect the past due billings. Based upon the passive role the Commission took throughout the entire period of years GPA was trying to collect the power bills, and the Commission's "it's up to you" attitude as expressed in the March, 1986 Order, the Board of Directors formed the opinion that the Commission did not oversee collection of disputed past due bills, and the agreement reached with the Government did not require prior

Commission approval. When GPA took the action, it was common public knowledge because of the importance to both the Government and GPA. See, PDN articles attached as Exhibit U-1 through Exhibit U-5. The Commission apparently concurred with GPA's position, since it made no attempts to intervene at any time, even though it is empowered with such oversight authority. In addition to the Commission's general powers and duties set forth at 12 GCA §12004, Public Law 18-33 §29 provides:

Notwithstanding any other provision of law, the Public Utilities Commission may meet for purposes of gathering information on utilities and requesting, demanding and accepting reports and documents from regulated utilities, and for other purposes. The Commission may continue a limited operation, as funds are available or on a volunteer basis, for purposes of monitoring the regulated utilities and making such orders, rules and regulations, as may be appropriate to monitor such agencies and ensure that orders of the Commission are complied with. Financial documents and reports of publicly owned utilities are hereby declared to be public documents.

The Commission's failure to issue any directives or controls or make any investigation or come forward with any objections until August 5, 1988, approximately 17 months after the execution of the promissory notes, indicates the Commission's apparent consent to the actions taken by GPA. Even if the Commission did not consent to the ongoing

settlement negotiations between GPA and the Government which culminated in the execution of the promissory notes, the Commission is barred from the doctrine of laches challenging GPA action now.

Estoppel by laches means a failure to do something which should be done or to claim or enforce a right at a proper time. Hutchinson v. Kenny, 27 F.2d 254 (1928). Laches is delay accompanied or by inducing change of condition or relation. Jones v. McNabb, 84 Ok. 9, 84 P.2d 429 (1938). Laches is not computed by the mere passage of time, but by a determination that the circumstances of the case caused prejudice. The essential elements of laches are knowledge, unreasonable delay, and change of position. Shanik v. White Sewing Machine Corp., 25 Dela. Ch. 371 19 A.2d 831 (1941). Mattison-Greenlee Service Corporation v. Culhane, 20 F.Supp. 882 (1937). There is no question the Commission had actual knowledge of GPA's predicament in collecting the Government's power bills. The Commission had knowledge at the time of its decision and order of March 20, 1986. Further, the matter of GPA's negotiation efforts and the final agreement embodied in the promissory notes was well publicized and a matter of public information. The Commission was well aware of the promissory notes at the time of the hearing on for the modification of Schedule C in August of 1987. It should be noted the settlement of the billing was not addressed by the Commission

at the public hearing on Schedule C, yet the Commission should be charged with knowledge of the settlement agreement between GPA and the Government.

Whether the instant action, approximately 17 months after the promissory notes were signed, constitutes an unreasonable delay must be determined by the circumstances of the case, in particular, the parties change of position. These two elements of estoppel by laches must be discussed together. GPA strongly asserts the delay is unreasonable. The unreasonableness of the delay is evident by considering the change of position of both the Government and GPA. Both the Government, through the Department of Administration and the Bureau of Budget and Management, and GPA expended a great deal of time, energy and money in formulating a mutually acceptable settlement agreement. GPA, through its Comptroller and through its independent auditors, Touche Ross, reviewed numerous factors before accepting the settlement agreement. See, Affidavit of Bruce Pecon and letter of Daniel Fitzgerald attached as Exhibits M and N respectively. Both entities have adjusted their budgeting to take into account the payment of and the receipt of the settlement payments. GPA is relying on the receipt of the funds for certain projects which otherwise would have been funded from some other source. Further, the years to which these penalties applied have been closed on the books of GPA and the Government. The settlement agreement,

although covering past due payments, also indicated that GPA and the Government had reached the position where they were willing to work together and prevent future arrearages in such incredible amounts. The somewhat antagonistic relationship between the Government and GPA of the past has been resolved. Both the Government and GPA, based upon the settlement agreement and the promissory notes have changed their positions in a drastic way. If the Commission had undertaken to attack the validity of the promissory notes shortly after their execution, GPA and the Government's position would be little changed from before the agreement. However, almost a year and a half has elapsed. If the promissory notes had been challenged and some months ago, GPA's recent request to increase rates may have been for a substantially greater amount. In fact, because of the settlement, GPA was able to withdraw its previous notice of intent to file for a rate increase. See, Exhibit A-41. The speculation is unending; Section 30 funds may have impacted, or the Department of Interior may have intervened. However, the agreement was entered into and both the Government and GPA are proceeding in a way that indicates each is relying on the promissory notes. Change of position on the part of those affected by non-action, and the preservation of rights are factors of supreme importance in establishing laches. See, Federal United Corporation v. Henderson, 11 A.2d 331 (1940).

GPA is working toward reestablishing its creditability with the Department of Interior. The Department of Interior consented to the settlement agreement; the Commission's challenge of the agreement at this late date would reflect poorly on the creditability of GPA, the Commission and the Government of Guam in general. All elements of an estoppel by laches, knowledge, change of position, and unreasonable delay are evident in this case.

The Government of Guam has been making payments pursuant to the promissory notes for approximately 17 months. The Commission has indicated its apparent consent to the agreement and the Commission is now estopped from denying the validity of the settlement agreement by the equitable doctrine of laches.

E. The Commission Has Not Alleged Any Facts to Overcome the Legal Presumption That the Board of Directors of GPA Acted Legally In Entering Into the Settlement Agreement Without Prior Commission Approval.

It is a matter of law that the Commission has oversight authority of the public utilities on Guam. However, the Commission has never promulgated rules or regulations or issued any guidelines relating to the exercise of its authority. In absence of such regulations, GPA has had the responsibility of determining which of its activities require authority and Commission review and which do not.

There is a presumption that public officers have properly discharged the duties of their office and have faithfully performed those matter with which they are charged. Rim Group v. Mountain Mesa Uranium Corp., 78 Wyo. 204, 321 P.2d 229 (1958). The burden is on the challenging party to prove that the public officer was acting in violation of law, in excess of his authority, or without regard to the functions for which he was entrusted. The Commission has made no showing that the Board exceed its authority, or acted improperly in negotiating and entering into the settlement agreement and promissory notes with the Government of Guam.

GPA's powers and duties are promulgated by 12 GCA Chp. 8 and include the power to sell electric power on Guam, collect money from customers using its services, and enter into contracts and execute all instruments necessary or convenient in the exercise of its powers. In exercising its powers as described by law, the Board must use its discretionary powers to achieve the purposes expressed in the statute. Bullock v. Culbert, 480 SW.2d 367 (1972). When the Legislature empowered GPA with the authority to sell electricity, enter into contracts and collect money from its customers, it also empowered GPA with the authority to sit down with its customers, discuss disputed bills and enter into negotiated settlement agreements in the best interest of the authority. The Board used its best judgment and informed discretion in

negotiating the settlement agreement with the Government. Its actions were clearly within the powers granted to it by statute and the Complaint of the Commission has failed to allege any facts to overcome the presumption in favor of the propriety of the Board.

The Public Utilities Commission is the island's utility rate setting authority. 12 GCA §12004 gives the Commission regulatory oversight supervision of rates over each public utility. The Commission is also the "watchdog" for utility activities. Utilities must obtain written approval of the Commission before entering into any contractual agreements or obligations which could increase rates and charges. The Commission has never promulgated any guidelines for the utilities on these matters, thus GPA has discretion to determine what falls within the meaning of agreements affecting rates. The Board of Directors of GPA considered whether it must obtain Commission approval prior to entering into the settlement agreement and promissory notes. The Board made the determination that the settlement agreement was not in effect rate setting, and the settlement agreement did not have an affect on the power rates for the years the penalties were compromised. The agreement did not require prior Commission approval.

First, the settlement agreement was not rate setting nor the compromise of the utility rates. The focus of the

settlement agreement was the accumulation of penalty charges imposed by Schedule C. Schedule C imposed a very severe penalty in the sum of five percent per month compounded. Schedule C, from its inception, was never characterized as a rate. Its purpose was to encourage the Government to pay its electric bills. Schedule C bore no relation to the expense incurred in providing electric service, nor were revenues generated by Schedule C considered a return of GPA's investment. The settlement agreement between the Government and GPA required the Government to pay 100% of past due metered billings for electricity used in fiscal year 1986 and fiscal year 1987 through March, 1987. GPA collected 100% payment for electricity actually consumed. In addition to the collection of metered bills, GPA collected a penalty on fiscal year 1986 billings in the approximate amount of 12% per annum plus additional penalty interest for the portion of fiscal year 1987 and arrears. This reflected a recovery of penalties within the range recognized by the Legislature to be reasonable in light of P.L. 18-48.

The negotiations related only to a portion of the penalty charge. 100% of the metered billings, the billings charged pursuant to the tariff rate, were collected. The settlement agreement was not a modification of the power rate.

Second, the settlement agreement between GPA and the Government did not have the kind of affect which could increase

rates and charges. Simply stated, the modification of Schedule C penalty interest affected only fiscal year 1986. Fiscal year 1986 ended in October of 1986. The uncollected metered billings and the uncollected Schedule C penalties appeared on GPA's books as revenues earned, but not received. In spite of this perceived cash shortfall, no rate increase was requested in fiscal year 1986. As discussed above, Schedule C penalties, although shown as revenue earned on GPA's books, were never considered by GPA in its budget forecast nor were the Schedule C penalties ever earmarked for capital improvement projects or other projects. Collection of Schedule C revenues would have been pure windfall. See, Affidavit of George Becher, attached hereto as Exhibit B. 100% of penalty interest and 100% of metered billings were collected for fiscal year 1987. The only year forgiveness for Schedule C penalties could have affected was fiscal year 1986. As stated, fiscal year 1986 passed with no rate increase. (Nor was a rate increase requested for fiscal year 1987). The settlement agreement between the Government and GPA did not affect power rates, thus prior approval of the Commission was not required. The Board of Directors acted legally and within their statutory authority.

F. Schedule C Penalties Were Illegal and Unenforceable.

The penalties imposed pursuant to GPA tariff Schedule

C were illegal and unenforceable and the Commission is without power to validate an illegal tariff schedule.

The penalty assessed to the Government pursuant to Schedule C constituted arbitrary and unreasonable discrimination. Schedule C was assessed only to Government accounts. The penalty was compounded and at five percent per month it amounted to 80% when computed on an annual basis. Penalty was not charged on past due bills to household accounts or business accounts. Even though the Government and other customers of GPA are different classes of consumers, the great disparity of penalty of 80% and 0, assessed to either class, and the fact the penalty interest assessed to the Government was not compensatory - it was not tied to costs of services, makes the penalty charge disproportionate and discriminatory. United Field Gas Co. v. Railroad Commission of Kentucky, 278 US 300, 73 L.ed. 390, 49 S.Ct. 150 (1928). Rossi v. Garton, 88 NJ Super 233, 211 A.2d 806 (1965).

A public utility may follow general business practices such as offering discounts, penalties, or rebates to promote its services, such practices must not involve an arbitrary or unreasonable discrimination. The case of State ex re. Latshaw v. Water and Light Com'rs, 105 Minn. 472, 117 NW.327 (1908) held the practice of adding a penalty for non-payment before a certain time is not generally regarded as an unreasonable discrimination unless the added amount of penalty

is exorbitant or unreasonable. In the Latshaw case, the consumer complained of the difference between a cash rate and a credit rate. The credit rate was approximately twenty percent (20%) higher than the cash rate. The consumer refused to pay for services on the ground that the penalty was excessive and unreasonable. The Latshaw court found that the penalty was a reasonable incident to the right to collect arrearages in payment. In its discussion at Page 829, the court stated that if a statute or regulation contravenes constitutional provisions, its invalidity follows. "It is elementary that a municipal light and water board must justly exercise its conferred powers in the making and enforcing of regulations so as to promote the purpose of its creation in the place at which it is to transact business, and to render the public and its patrons a contemplated service for compensatory, but not excessive rates, impartially determined, and so as not to improperly discriminate between different persons or property, or different classes of persons or property. The regulations must on principal and in operation be reasonable and uniform". The Latshaw court determined that the 20% penalty in question was not excessive, was impartially determined (meaning it was related to the cost of extending credit to the non-paying customer), and it did not improperly discriminate between different classes of customers. The regulation was reasonable and uniform. Following Latshaw v. Board Water & Light Com'rs.

supra, the first consideration is whether a penalty in excess of 50% is excessive. Excessiveness is a matter of degree. A 60% per annum penalty, being more than double the maximum amount of interest permitted under Guam laws in consumer transactions, is patently excessive. Second, it is clear that the Schedule C penalty was not impartially determined. The 60% penalty imposed by Schedule C bore no relationship to the expense caused by the delinquent customer, nor was it intended to be anything other than a severe penalty and an effort to motivate the Government to pay its bills. Further, it should be kept in mind that the penalties accumulated not only on the past due meter sales, but also on the accrued but unpaid penalties. It is apparent that the Schedule C penalty was illegally discriminatory. It was excessive, not compensatory, and was disproportionate between classes of customers. The Board exercised its sound discretion by not enforcing it. As the Latshaw court concluded, if a regulation contravenes constitutional provisions, its invalidity follows. GPA concluded that Schedule C was illegal and unenforceable. The same conclusion was reached by the office of the Attorney General. See, the letter from Chief Deputy Attorney General Donald B. Willett, attached hereto as Exhibit W. Further, the Legislature's reduction of the allowable penalty from five percent per month to one percent is a manifestation of the Legislature's stress on this matter.

Schedule C penalty was illegal because it was discriminatory; it was also illegal because it was excessive and unreasonable. The excessiveness of the penalty charge pursuant to Schedule C is analogous to usury. The Restatement of Contracts, Section 526 defines usury as receiving, securing or taking a greater sum or value for the loan or forbearance of money, goods or things and action and is allowed by law; the exaction of a greater sum for the use of money than the highest rate of interest allowed by law. Usury is a term generally used in conjunction with money lending. Although this is not the case before the Commission, principals of usury are useful to indicate the maximum rate of interest and/or penalty the law would allow for the forbearance of an existing indebtedness. Schedule C was a penalty charged by GPA to the Government for the Government's use of credit extended by GPA. In this sense, the law of usury is instructive.

Under Guam law, the maximum rate of interest which can be charged in a consumer transaction is 24% per annum, 14 GCA, Chp. 3. Interest in excess of 24% per annum is usurious and therefore illegal. As discussed above at Paragraph A, P.L. 18-48 is like a usury statute. Penalty or interest charged by GPA in excess of 12% per annum would constitute a usurious charge and be illegal.

The amount of interest charged to constitute usury varies from jurisdiction to jurisdiction and may also vary

depending upon the nature of the transaction. In view of the maximum rate of interest permitted against consumer transactions under Guam law and the maximum penalty charge permitted by P.L. 18-48, it appears a penalty charge of 80% per annum when compounded is unconscionable and unenforceable. Traditionally, a bargain was said to be unconscionable if it was "such as no man in his senses and not under delusion would make on the one hand, and as is honest and fair man would accept on the other". See, Restatement Contract 2d, §208.

As a general rule, the remedy for a finding of usury is to void any provision for payment of interest. No interest, even a non-usurious amount, can be recovered. Any usurious interest actually paid must be credited to the principal which is then automatically reduced. Some jurisdictions, however, prohibit the party charging the usurious interest from recovering even the principal part of the obligation. By Mississippi statute, when interest in excess of 8% per annum is stipulated for or received, all interest is forfeited; and if interest at a greater rate than 20% per annum is stipulated for or received, both principal and interest are forfeited. See, Bell v. Tindle, 215 Miss. 343 60 S.2d 801 (1952).

The Board of Directors of GPA determine that the Schedule C penalties were unconscionably high, analogous to usury, and therefore illegal. The Government had taken the

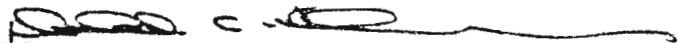
same position and indicated to GPA it would challenge the legality of the penalty interest. See, letter from Don Paillette, Chief Deputy Attorney General, attached as Exhibit W. The Commission does not have the authority to order enforcement of an illegal regulation. The Board exercised sound judgment by compromising penalty sums avoiding legal challenge and the likely forfeiture of all penalty charges.

II. SUMMARY

The Board of Directors have at all times acted in good faith within their statutory authority in absence of Commission guidelines on how GPA should proceed in such matters. The Department of Interior has approved the settlement agreement. The Guam Legislature has approved the funds for payment of the promissory notes and thus by implication approved the settlement agreement. To require GPA to attempt to collect penalties which were compounded and accumulated at the rate of 80% per annum would result in needless litigation which would be costly and time consuming without any positive results. While it may be timely for the Commission to promulgate rules and regulations for the governance of future GPA actions of this nature, nothing is now to be gained by going back and trying to undo the actions of GPA in connection with the promissory notes. Therefore, for

the reasons set forth herein, GPA respectfully requests the Commission to dismiss the Complaint in this matter.

CARLSMITH, WICHMAN, CASE,
MUKAI AND ICHIKI


DONALD C. WILLIAMS
Attorneys for Defendant
Guam Power Authority

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE TERRITORY OF GUAM

PUBLIC UTILITIES COMMISSION
OF THE TERRITORY OF GUAM,

Complainant,

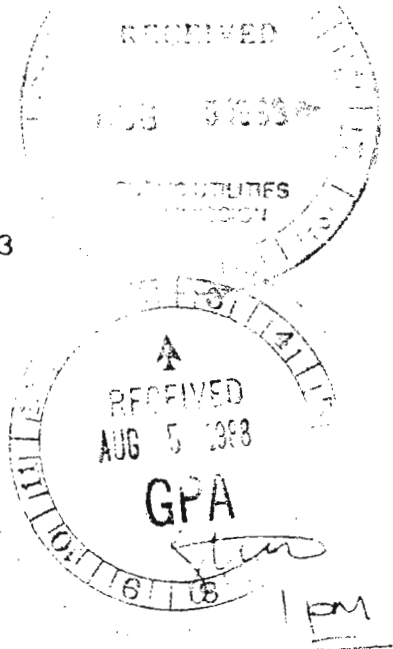
vs.

GUAM POWER AUTHORITY,

Defendant.

CASE NO. 88-003

COMPLAINT



COMES NOW, Complainant Public Utilities Commission of the Territory of Guam (hereinafter called "the Commission") which, pursuant to its Decision and Order, entered August 1, 1988 in Docket No. 88-001, made an initial finding and determination that a substantial question exists as to the legality of the Defendant Guam Power Authority's (hereinafter called "GPA") forgiveness in March, 1987 of \$5,885,037.00 in penalties which it had assessed against the Government of Guam (the "penalty forgiveness") pursuant to GPA Tariff, Schedule C. On its own motion, pursuant to PUC Regulation §20003, the Commission commences by this complaint an investigation concerning the following circumstances surrounding the penalty forgiveness.

1. The Commission will specifically investigate whether the forgiveness, without prior Commission approval, violated 12 GCA §12004 and §12015. The Commission will further investigate whether the forgiveness violated any of GPA's covenants under the second refinancing agreement dated December 3, 1984 between GPA and the Secretary of the Interior. The Commission alleges on information and belief that on or about March 31, 1987, pursuant

to an agreement between the Governor of Guam and GPA, the Government executed two promissory notes attached hereto marked Exhibits A and B, and incorporated as part of this complaint, which had the effect of canceling \$5,885,037.00 in penalties which had accrued as of the date thereof pursuant to GPA Tariff, Schedule C.

2. The Commission further alleges on information and belief, that notwithstanding the fact that GPA's Schedule C has never been amended pursuant to 12 GCA §12015, GPA has, on and after the enactment of Public Law 18-48, considered §21(b) of said law as amending Schedule C and thereafter has applied Schedule C as if so amended. The Commission will investigate whether this purported amendment to Schedule C violates the terms of the 1984 second refinancing agreement between GPA and the Secretary of the Interior dated December 3, 1984.

3. The Commission will, as a result of its investigation and deliberation of the evidence submitted pursuant thereto, make such orders as it considers fair and just.

Dated this 5th day of August, 1988.

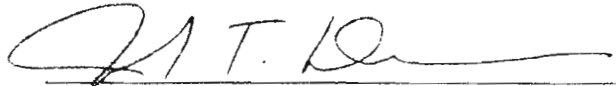
PUBLIC UTILITIES COMMISSION
OF THE TERRITORY OF GUAM

By: 

JOSEPH T. DUENAS, Its Chairman

VERIFICATION

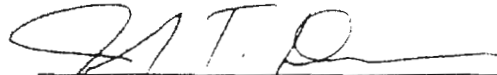
I am an officer of the applicant herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except as to the matters which are therein stated on information and belief, and as to those matters I believe them to be true.



JOSEPH T. DUENAS

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 5th day of August, 1988.



JOSEPH T. DUENAS, CHAIRMAN

PROMISSORY NOTE

\$2,204,315.00

Agana, Guam
March 31, 1987

FOR VALUE RECEIVED, the GOVERNMENT OF GUAM (the "Government") promises to pay to the order of the GUAM POWER AUTHORITY (the "Authority"), at the Authority's office in Agana, Guam, or at such other place as the Authority may designate, the principal sum of TWO MILLION TWO HUNDRED FOUR THOUSAND THREE HUNDRED FIFTEEN AND NO/100 DOLLARS (\$2,204,315.00) in lawful money, without interest, as follows:

1. Equal payments of SIXTEEN THOUSAND SIX HUNDRED SIXTY-SEVEN AND NO/100 DOLLARS (\$16,667.00) per month commencing on October 1, 1987, with a like payment on the first day of each month thereafter until September 1, 1988.

2. Equal payments of SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$75,000.00) per month commencing on October 1, 1988, with a like payment on the first day of each month thereafter through September 1, 1989.

3. Equal payments of NINETY-TWO THOUSAND TWENTY-SIX AND NO/100 DOLLARS (\$92,026.00) per month commencing on October 1, 1989, with a like payment on the first of every month thereafter until September 1, 1990, at which

EXHIBIT A

time all of the unpaid balance shall be due and payable in full.

The obligation of the Government under the terms hereof is subject to action by the Legislature of Guam to appropriate the funds necessary to satisfy the payment schedules set forth herein.

It is understood that this Note constitutes payment of FY-87 penalties incurred by the Government for non-payment of electrical power services provided by the Authority and by acceptance of this Note as payment to the Authority, the Government will cease to incur penalties for non-payment of past due power bills. Therefore, in the event of a default, the unpaid obligations under the terms hereof shall accrue interest at the rate of twelve percent (12%) per annum until paid.

In the event of the happening of any one or more of the following events, any one of which shall constitute an event of default to wit: (a) failure of the Legislature of Guam to appropriate sufficient sums to enable the Government to make the payments required under the terms hereof in a timely manner; (b) the non-payment of any sums payable hereunder when due; then this Note and all sums due hereunder shall become due and payable in full upon thirty (30) days written notice by the Authority to the Government;

provided the Government does not cure the default within said thirty (30) day period.

The Government agrees to pay all cost of collection and attorneys' fees incurred by the Authority in enforcing this Note upon the occurrence of any event of default, whether or not suit is brought and whether or not final judgment is obtained.

The Government hereby waives presentment for payment, demand, (except as specifically set forth herein) notice of dishonor and protest of this Note and all other notices in connection with the delivery, acceptance, performance, default or enforcement of this Note.

None of the terms or provisions of this Note may be waived, altered, modified or amended except as the Authority may consent thereto in writing and failure of the Authority to complain of any act or omission on the part of the Government, no matter how long the same may continue, shall not be deemed a waiver by the Authority of any of its rights hereunder. No waiver at any time, express or implied, of any breach of any provision hereof shall be deemed a waiver of a breach of any other provision hereof or a consent to any subsequent breach of the same or any other provision. No acceptance of any partial payment of the Note shall constitute an accord or satisfaction but shall only be deemed a part payment of the amount then due.

If payment hereunder shall become due and payable on any Saturday, Sunday or public holiday then the payment date thereof shall be extended to the next succeeding business day.

GOVERNMENT OF GUAM

By: Joseph E. Adia
Governor of Guam

DOM 13 (057)

PROMISSORY NOTE

\$6,052,800.00

Agana, Guam
March 31, 1987

FOR VALUE RECEIVED, the GOVERNMENT OF GUAM (the "Government") promises to pay to the order of the GUAM POWER AUTHORITY (the "Authority"), at the Authority's office in Agana, Guam, or at such other place as the Authority may designate, the principal sum of SIX MILLION FIFTY-TWO THOUSAND EIGHT HUNDRED AND NO/100 DOLLARS (\$6,052,800.00) in lawful money, without interest, as follows:

1. The sum of FOUR MILLION SIXTY-TWO THOUSAND SEVEN HUNDRED NINETY-SEVEN AND NO/100 DOLLARS (\$4,062,797.00) will be paid in equal monthly installments of THREE HUNDRED THIRTY-EIGHT THOUSAND FIVE HUNDRED SIXTY-SIX AND NO/100 DOLLARS (\$338,566.00) each commencing on May 1, 1987, with a like payment on the first day of each month thereafter until April 1, 1988, at which time all sums due under this payment schedule shall be due and payable in full.

2. The balance of ONE MILLION NINE HUNDRED NINETY THOUSAND THREE AND NO/100 DOLLARS (\$1,990,003.00) shall be paid as follows:

(a) in equal monthly installments of SIXTEEN THOUSAND SIX HUNDRED SEVENTY-SEVEN AND NO/100 DOLLARS (\$16,667.00) commencing on October 1, 1987, with a like

EXHIBIT B

payment on the first day of each month thereafter through September 1, 1988.

(b) In equal monthly installments of FIFTY-EIGHT THOUSAND THREE HUNDRED THIRTY-THREE AND NO/100 DOLLARS (\$58,333.00) commencing on October 1, 1988, with a like payment on the first day of each month thereafter through September 1, 1989.

(c) In equal monthly installments of NINETY THOUSAND EIGHT HUNDRED THIRTY-FOUR AND NO/100 DOLLARS (\$90,834.00) commencing on October 1, 1989, with a like payment on the first day of each month thereafter through September 1, 1990, at which time all sums due under this payment schedule shall be due and payable in full.

It is acknowledged that the Legislature of Guam has appropriated the funds necessary to satisfy the payment schedules set forth herein.

It is understood that this Note in part constitutes payment of penalties incurred through FY-86 by the Government for non-payment of electrical power services provided by the Authority and by acceptance of this Note as payment to the Authority, the Government will cease to incur penalties for non-payment of past due power bills. Therefore, in the event of a default, the unpaid obligations under the terms hereof shall accrue interest at the rate of twelve percent (12%) per annum until paid.

In the event of the non-payment of any sums payable hereunder when due then this Note and all sums due hereunder shall become due and payable in full upon thirty (30) days written notice by the Authority to the Government; provided the Government does not cure the default within said thirty (30) day period.

The Government agrees to pay all cost of collection and attorneys' fees incurred by the Authority in enforcing this Note upon the occurrence of any event of default, whether or not suit is brought and whether or not final judgment is obtained.

The Government hereby waives presentment for payment, demand, (except as specifically set forth herein) notice of dishonor and protest of this Note and all other notices in connection with the delivery, acceptance, performance, default or enforcement of this Note.

None of the terms or provisions of this Note may be waived, altered, modified or amended except as the Authority may consent thereto in writing and and failure of the Authority to complain of any act or omission on the part of the Government, no matter how long the same may continue, shall not be deemed a waiver by the Authority of any of its rights hereunder. No waiver at any time, express or implied, of any breach of any provision hereof shall be deemed

a waiver of a breach of any other provision hereof or a consent to any subsequent breach of the same or any other provision. No acceptance of any partial payment of the Note shall constitute an accord or satisfaction but shall only be deemed a part payment of the amount then due.

If payment hereunder shall become due and payable on any Saturday, Sunday or public holiday then the payment date thereof shall be extended to the next succeeding business day.

GOVERNMENT OF GUAM

By: Joseph E. Oja
Governor of Guam



BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE TERRITORY OF GUAM

PUBLIC UTILITIES COMMISSION
OF THE TERRITORY OF GUAM,

Complainant,

vs.

GUAM POWER AUTHORITY,

Defendant.

CASE NO. 88-003

ANSWER

COMES NOW, the Defendant Guam Power Authority (hereinafter referred to as "GPA") and in response to the Complaint filed by the Public Utilities Commission in the above entitled matter on August 5, 1988 hereby files its Answer pursuant to PUC Regulation §20003 as follows:

1. In response to paragraph 1 of the Commission's Complaint, GPA admits that on March 31, 1987, pursuant to an agreement between the Governor of Guam and GPA, the Government executed two promissory notes which are attached as Exhibits A and B and incorporated as part of the Commission's complaint which compromised a disputed penalty billing with the Government of Guam which accrued pursuant to GPA Schedule C. GPA denies all of the other allegations and averments contained in paragraph 1 of the Commission's complaint.

2. In response to paragraph 2 of the Commission's Complaint, GPA admits that on or after the enactment of Public

Law 18-48, it considered §21(b) of said law as amending Schedule C and thereafter has applied Schedule C as amended by Public Law 18-48. Defendant denies all of the other allegations set forth in paragraph 2 of the Commission's Complaint.

3. In response to paragraph 3 of the Commission's Complaint, Guam Power Authority admits that the Commission has the authority to conduct an investigation and make such orders as it considers fair and just.

As an affirmative defense to the allegations set forth in the Commission's complaint, GPA alleges as follows:

1. That the Legislature of Guam is the ultimate authority over GPA and the Commission and that by the enactment of Public Law 18-8, which modified Schedule C, both GPA and the Commission are required to comply with the legislative mandate and amendment of Schedule C pursuant to 12 GCA §12015 is rendered moot.

2. That the determination as to whether Public Law 18-48 violates the terms of the 1984 Second Refinancing Agreement dated December 3, 1984 (Refinancing Agreement) between GPA and the Secretary of the Department of Interior is in the sole discretion of the Secretary of the Department of Interior and the Commission does not have the authority or discretion to determine whether said law violates the provisions of the Refinancing Agreement.

3. That GPA, in accepting the two promissory notes which are attached to the Commission's complaint as Exhibits A and B represented the sound exercise of the discretion of GPA pursuant to its statutory authority in the compromise of a disputed bill.

4. The Commission was aware of the action taken by GPA and that the Commission is now barred from considering the matter by the doctrine of estoppel.

5. The Commission was aware of the action taken by GPA and that the Commission is now barred from considering the matter by the doctrine of laches.

6. That on August 18, 1987, the Commission held a hearing on the issues removal of Schedule C and as a result of the Commission's failure to issue a decision within 120 days, the Commission is now barred from re-instituting proceedings on the issues as set forth in the complaint.

DATED this 9th day of September, 1988.

GUAM POWER AUTHORITY

By: Donald C. Williams
DONALD C. WILLIAMS
Legal Counsel

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE TERRITORY OF GUAM

PUBLIC UTILITIES COMMISSION	)	CASE NO. 88-003
OF THE TERRITORY OF GUAM,)	
)	
Complainant,	)	AFFIDAVIT OF
	)	SANDRA SINGLETON
vs.)	
)	
GUAM POWER AUTHORITY,)	
)	
Defendant.)	

I, SANDRA SINGLETON, being first duly sworn upon my oath, depose and say as follows:

1. That I am the Recording Secretary of the Board of Directors of Guam Power Authority.
2. That Exhibits A-1 through A-54 represent exerts of Board minutes, the originals which are in my possession and control as Secretary of the Board of Directors.
3. That Exhibits A-1 through A-54 represent true and correct copies of the minutes in my custody.

Further, affiant sayeth naught.

Sandra Singleton
SANDRA SINGLETON

SUBSCRIBED and SWORN to before me this 9th day of September, 1988

)SEAL(

Donald C. Williams
DONALD C. WILLIAMS
NOTARY PUBLIC
for the Territory of Guam
My Commission Expires: OCT. 15, 1991

He informed the Board that he had talked briefly on one occasion to Mr. Frank Solomon from the Interior about the load problem and the loan extension. Mr. Solomon will be arriving from Saipan September 4, 1980 at which time the debt service coverage and loan extension will be discussed further. Hogan and Hartson will be advised of our intention depending on the outcome of the meeting with Mr. Solomon. Member Lee suggested that GPA carry the load for loan negotiations as much as possible.

Receivables

The General Manager informed the Board that GPA received \$1.2 million from the Navy on the debt settlement. He reported that a small sum remains due from Navy but that agreements have to be reached on this area. He stated that he hopes for a discussion on the settlement to resolve differences on a month-to-month basis.

Mr. Blaz reported that PUAG owes GPA approximately \$850,000 and GMH approximately \$344,000. On the PUAG, he reported that he had several talks with their officials and as a result, expects to receive a payment of \$100,000 within the week. He had also communicated with Budget to see what can be done to get PUAG to make payment. Also, PUC is in receipt of PUAG's request for rate increase but that is still pending.

The General Manager reported that GMH is basically in the same situation as PUAG; however, GMH has had authorization to borrow, and that we are first in line for payment.

Following discussion, the Board agreed that a Resolution was in order, and that Management was therefore instructed to prepare the Resolution making known to the Government of Guam the financial position of GPA. This Resolution will be presented at the next Board meeting for approval.

Load Dispatch Center

The General Manager informed the Board that the TRW Maintenance man has arrived on island. Equipment for the Load Dispatch Center should be in place by October. Though the Center will be on schedule, not all substations will be tied in to the Center due to construction work still going on. There was a brief discussion on the Cost of Service Study. In this regard, Mr. Bob Duncan added that this may not be ready by September 15, as there has been some delay.

Commenting on the report made by the General Manager, Mr. Duncan, Navy Representative, stated that Navy is fully paid based on documents submitted by GPA. The General Manager responded that Navy must assume a debt service of 1.5 by GPA to be satisfied with the payment already made. On another subject, Mr. Duncan commented on the Excess Profit Tax against oil companies; he stated that monies are available nationally to customers who cannot afford to pay their power bills. He pointed out that this has to be pursued from the Power Company side. In this regard, the Board Secretary suggested that GPA approach the National Department of Energy to see if funds are available, and to also communicate with the Congressional Office in Washington to look into this matter.

Le Mon's Publications is charging an additional \$149.46 for time required to make the necessary layout changes.

Following a lengthy discussion, Member Lee recommended that the Authority pay the amount of the original agreement. Board members agreed and instructed Management to make said payment.

The General Manager requested that the agenda be amended to include Congressman Won Pat's letter to the General Manager dated September 30, 1980, and Priscilla F. Cruz's letter to Governor Calvo dated October 3, 1980.

Congressman Won Pat's Letter Dated 9/30/80 (Copy Attached)

The General Manager stated that he received Congressman Won Pat's letter in response to his inquiry regarding availability of funds for low income energy assistance for Guam residents. Following a review of his letter, the Vice Chairman expressed concern because Guam is not scheduled to receive any of these funds. He strongly urged that this matter be pursued further and requested the General Manager to make inquiries and find out why Guam has been excluded.

Priscilla F. Cruz's Letter Dated 10/3/80

The Chairman read Miss Cruz's letter addressed to Governor Calvo regarding the completion of her term of appointment to the Guam Power Authority Board of Directors. (Board information only).

REPORTS

The General Manager reported that the Guam Memorial Hospital (GMH) outstanding power bill through September amounts to \$448,000. He informed the Board that he contacted the Administrator of the hospital in an effort to make some arrangements for payment. He stated that the Administrator informed him that over \$1 million is due GMH from the Department of Public Health & Social Services in payment of Medicaid services. He also informed the Board that the Administrator agreed to assign to GPA that portion of the Medicaid payment needed to cover the full amount of GMH's outstanding power bill.

The General Manager stated that as a follow-up to this agreement, he wrote the Administrator for confirmation; however, the Administrator requested that confirmation be delayed until discussed with the GMH Board of Directors' Finance Committee. Following a discussion on the feasibility of GPA Board members meeting with the GMH Finance Committee, the Chairman stated that he would contact the Chairman of the Finance Committee on this matter before the Board's next meeting.

The General Manager reported that the money appropriated for the across-the-board pay increase will be available within the next 10 days.

The General Manager reported that the Public Utilities Agency of Guam (PUAG) outstanding power bill is close to \$1 million. He stated that in his communications with the Bureau, it indicated a sum in the Budget Act was included for payment of the bill, however, it is only for \$500,000. The balance will be provided by either a supplemental budget or a rate increase.

The Vice Chairman expressed concern over the 24-hour burning streetlights and the fact that many customers are not receiving their refunds. He referred to the R. W. Beck study which set guidelines for GPA to follow. He stated that low voltage is burning up refrigerators and other appliances. He asked, "What way are we going to run this organization? How many employees do we need to do the job? We need to know which way we are going to go so the Authority can become financially stable. We spend all this money on studies and the Authority isn't following the guidelines set forth."

The General Manager enumerated recommendations followed as a result of the R. W. Beck study. He informed the Board that recommendations for the Generation Department have been implemented.

The Vice Chairman also expressed concern over the preventative maintenance of transmission lines.

The General Manager stated that it takes a lot of money for a massive overhaul of the system. He stated that he believes that the Authority is doing its very best under the circumstances. He explained that some of these conditions revert back to Typhoon Pamela when GPA's primary concern was getting service back to the people.

The Director of Operations informed the Board that they have completed a very comprehensive preventative maintenance program for overhead lines, substations, relays and underground. He reviewed the work presently being done by his crews.

Member Lee stated that since he has been on the Board, he must have heard the Vice Chairman bring up this subject matter a dozen times. He has concerns that although the Authority spent substantial sums generating the Beck study, it does not appear that we are following their recommendations. -

Member Lee stated, "I would like the question resolved once and for all. ~~Whether there are differences of opinion as to whether the labor cost that Beck is recommending is in disagreement with Management's thinking,~~ I believe that we should ask Management to address that particular question and come back with a report to the Board with why Management

disagrees with the Beck study. Secondly, I would like to know from a dollar standpoint if we were to adopt the Beck study, in essence see what kind of a dollar improvement it would be on the Authority's budget, what it would entail as far as cutback in service, productivity and continuity of service."

OLD BUSINESS

Resolutions

Resolution on collection of GMH account and resolution on collection of the PUAG account.

The General Manager requested that both resolutions be tabled at this time. Board members agreed.

Lease Agreement

The General Manager informed the Board that he renegotiated the lease agreement for the Operations' facility in Harmon. He stated that he signed a lease for the rate of the previous contract (\$3,500 a month) and for a seven-month term. Termination coincides with the lease on the Authority's main office in Agana.

Member Lee MOVED, SECONDED BY THE VICE CHAIRMAN, THAT THE BOARD RATIFY THE ACTION OF THE GENERAL MANAGER IN SIGNING THE LEASE FOR THE OPERATIONS' FACILITY. There being no objections, the motion was unanimously passed.

\$36 Million Loan Guarantee

The General Manager informed the Board that all materials pertinent to the loan extension agreement have been forwarded to Hogan & Hartson. The Controller stated that the interest rate will be determined under the legislation of the Federal Financing Bank Act. A discussion followed on refinancing versus extension of the loan.

The General Manager informed the Board that travel to Washington may be necessary to finalize documents pertaining to the loan extension. He requested that the Board extend that approval now. Member Lee MOVED, SECONDED BY THE VICE CHAIRMAN, THAT THE BOARD AUTHORIZE TRAVEL TO WASHINGTON FOR THE CHAIRMAN, THE GENERAL-MANAGER AND/OR THE CONTROLLER TO FINALIZE THE EXTENSION AGREEMENT, IF IT SHOULD BECOME NECESSARY. There being no objections, the motion was unanimously passed.

The General Manager introduced Mr. Eddie Mesa. Mr. Mesa complained about his power bill for \$102, stating that during this period of time he was off-island, his house was unoccupied, and he had disconnected all

REPORTS

Receivables

The General Manager reported that \$500,000 has been received on the Public Utility Agency of Guam's (PUAG's) outstanding account and another \$400,000 is expected during the week. He stated that these two amounts are in payment of PUAG's outstanding account through August 31, 1980; however, another \$100,000 has accumulated since that time.

The General Manager also reported that he has been assured of a \$300,000 payment this week on the \$450,000 outstanding Guam Memorial Hospital (GMH) account. He stated that GMH is able to pay this amount because the hospital received funds from the 1981 fiscal year budget which went into effect on October 1, 1980.

The General Manager informed the Board that the Authority is proceeding to reduce its outstanding account with GORCO by approximately \$200,000 to \$300,000 each week.

Typhoon Betty (October 31, 1980)

The General Manager reported that the typhoon caused ~~total~~ outages due to line failures. Costs to GPA amounted to approximately \$75,000 for materials, \$70,000 for labor, plus cost for rental equipment and loss of revenue.

The General Manager pointed out that GPA's biggest problem is the condition of the power lines. He informed the Board that resource must be dedicated for improvement of these lines. The entire distribution system is in need of major work; however, priority is given to maintenance of GPA's substations.

The Manager of Operations briefed the Board on the updating of equipment at substations and the on-going preventative maintenance program.

Following a brief discussion, Member Lee requested that the Board be furnished a report on the cost of Typhoon Betty.

Member Lee suggested that a footnote be included in the financial statements which would explain the increased operating cost that GPA incurred due to the typhoon.

The General Manager requested that the order of the agenda be rearranged and that NEW BUSINESS be placed before OLD BUSINESS.

sources would be prohibitive because of costs and therefore would not be cost effective. He stated that OTEC would be the best alternate source of energy for Guam and OTEC in Washington has mentioned Guam as a possible site.

The Manager of Generation briefed the Board on progress of the OTEC plant in Hawaii.

The Chairperson, Mr. Sgro, stated that it was his understanding that the Board would be kept up-to-date on the progress of the OTEC plant in Hawaii. The Manager of Generation informed the Board that he receives information on its progress through Mr. Walter Pinckert who formerly was a consultant to the GPA Board and who presently is on the steering committee for OTEC in Washington.

The Assistant Secretary stated that the Board needs information as far as the technology is concerned through Hawaii and other research sources. He suggested that Management obtain a copy of the bill which granted Hawaii the OTEC plant as this would give the Authority and the Board information as to what is involved..

The Controller reported that GPA's sales are continuing to decline. Consumption has dropped approximately 15 percent from projected levels in the 12-month period ending November 1980 resulting in lost revenue amounting to approximately \$4 million.

~~The Controller reported on the Authority's finances stating that the cash flow is reasonably good. He also reported that GPA received \$1.2 million from PUAG and GMH combined; however, GMH still owes \$262,000 and PUAG owes \$461,000. He stated that collections remain at 95 percent.~~

The Controller reported that there was a \$2.00 per barrel of crude oil increase effective November 1, 1980.

The Controller informed the Board that there has been a change in the generating policy and technique that will reduce GPA's oil cost by \$2 million a year. This savings will be passed onto the customer.

*** See Page 3 for addition to the minutes.

OLD BUSINESS

\$36 Million Loan Extension

The Controller stated that in August/September the Authority prepared for the extension of the \$35 million loan and the Board adopted Resolution No. 64 on November 5, 1980. Since that time there have been further meetings with the Department of the Treasury and the Department of the Interior. The Department of the Treasury has asserted its responsibilities to handle certain matters in accordance with the Federal Financing Bank Act. The most important

APPROVED MARCH 4, 1981

GUAM POWER AUTHORITY
BOARD OF DIRECTORS' MEETING
FEBRUARY 11, 1981

The Board of Directors of the Guam Power Authority met on Wednesday, February 11, 1981, in the conference room on the second floor of the Authority's main office in Agana and the Chairman called the meeting to order at 3:05 P.M.

Members Present:	John L. Kerr, Chairman F. Q. Taitano, Treasurer/Secretary John K. Lee, Assistant Secretary
Member Excused:	Pete R. Sgro, Vice Chairman
Management:	Frank G. Blaz, General Manager G. G. Becher, Controller
Navy Representative:	Robert L. Duncan, USN, PWC
News Media:	None

APPROVAL OF MINUTES

Minutes of January 7, 1981 Meeting

The Assistant Secretary MOVED, SECONDED BY THE TREASURER/SECRETARY, THAT THE MINUTES OF THE JANUARY 7, 1981 MEETING BE APPROVED AS WRITTEN. There being no objections, the motion was unanimously passed.

REPORTS

GMH & PUAG Collections

The General Manager reported on the delinquent Guam Memorial Hospital (GMH) and Public Utility Agency of Guam (PUAG) accounts and the collection problem encountered by the Authority. He stated that he met with officials at GMH and PUAG in efforts to resolve this delinquency condition.

He informed the Board that PUAG owes \$704,784 and GMH owes \$384,188. He stated that PUAG's last payment was \$150,000 on January 16, 1981 and prior to that the Authority received \$900,000, which was part of a large appropriation for various purposes. PUAG has not paid GPA from its own operating fund since September 1980 when it paid \$88,000. Current billing for PUAG's

EXHIBIT A-5

electric power is approximately \$200,000 a month. He stated that efforts to collect from PUAG have been unsuccessful. The General Manager stated that in letter dated January 26, 1981 PUAG outlined the agency's plan for payment. The plan anticipates partial payment to GPA on monthly billings beginning March 1981. The remaining balance is to be paid from subsidy appropriations. The agency informed GPA that it will be submitting its data to the Bureau of Budget & Management Research for submission to the Legislature by mid-February. The General Manager requested the Board's support to disconnect power to PUAG.

The General Manager also reported that GMH's last payment was made in November 1980 for \$300,000 and its last regular payment was \$45,091.35 in June 1980. He stated that the hospital has not paid any amount since that time. GPA was expecting payment with recent release of funds to the hospital, however, no payment has been received and no payment appears to be forthcoming.

Member Lee stated, "I would like to find out how much income is coming in and what are their priorities. GPA is going to go under because they don't pay their bills."

Following a lengthy discussion, the Board supported the General Manager's request to disconnect power to PUAG if PUAG does not take any positive steps to clear up the delinquency condition of its power bill. The Board also empowered the General Manager to request direct subsidies for these two delinquent accounts.

The General Manager reported that the Authority is having more difficulty collecting from GPA customers than ever before. He stated that delinquencies have increased by 6 percent. Along with this, disconnections are increasing.

The Controller furnished the Board for its review listings of delinquent accounts.

A general discussion followed on the decline in sales, the reduction in cash flow and the increase on interest on the \$36 million loan.

Stone & Webster Cost of Service Study

The Navy Representative reported that the preliminary Cost of Service Study is now ready. The Navy has requested Stone & Webster to give an in depth review which is scheduled on February 25.

Board members expressed concern regarding the 8-month delay in receiving this study and requested that Stone & Webster supply GPA with a reason for this delay.

what Management is projecting so the level of coverage and the level of operating costs remain fair to both the customer as well as GPA.

The Assistant Secretary asked, "What if this increase is not approved by the Public Utilities Commission? Have you approached the Legislature? Raise the question about a possible subsidy in the event the rate increase is not approved."

The Assistant Secretary stated that for the record it should be said that some of GPA's financial problems are attributed to the fact that GPA has been accommodating other agencies of the Government of Guam in areas that are very sensitive and needed for the welfare of the community. "I think a lot of people fail to realize that a 23.8 percent increase is a financial burden because of our attitude and treatment of other agencies, such as the hospital and the PUAG."

The General Manager stated, "We have continually worked with these two agencies toward collection, but also we are exercising some patience. The hospital problem is pretty well resolved because they paid some \$500,000 within the last two weeks. However, the PUAG continues to be a problem."

The Assistant Secretary stated, "This is what concerns me, the Legislature's cautiousness to help the PUAG and this puts GPA in a position that it doesn't know where it stands."

The General Manager stated that it is a matter of record that the Legislature acted upon previous appropriations for the PUAG.

The Chairman asked Management if it had given any consideration to adding a penalty to GovGuam accounts that are in arrears.

The General Manager stated that there is a request for a modest penalty charge in the structure of the rate, however, it is more to discourage late payments than to collect the penalty. It is not a revenue generated measure.

The Chairman stated, "I think when bills are owed GPA by other agencies, GPA should collect at least the same rate of interest that GPA pays GORCO."

Following a lengthy discussion, Board members agreed that Management should:

1. Include in the Rules & Regulations a provision for adjustment of rates in the event consumption is in excess of Management's projection.
2. Include in the rate structure a provision for adding interest on Government of Guam accounts that are past due and at the same interest rate that GPA pays GORCO.
3. Include in the rate structure a provision for \$500,000 a year for needs of low income energy.

The Assistant Secretary MOVED, SECONDED BY THE TREASURER/SECRETARY, THAT THE RATE INCREASE, AS SUGGESTED BY MANAGEMENT, BE APPROVED AS CORRECTED.

electric power is approximately \$200,000 a month. He stated that efforts to collect from PUAG have been unsuccessful. The General Manager stated that in letter dated January 26, 1981 PUAG outlined the agency's plan for payment. The plan anticipates partial payment to GPA on monthly billings beginning March 1981. The remaining balance is to be paid from subsidy appropriations. The agency informed GPA that it will be submitting its data to the Bureau of Budget & Management Research for submission to the Legislature by mid-February. The General Manager requested the Board's support to disconnect power to PUAG.

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Board members expressed concern regarding the 8-month delay in receiving this study and requested that Stone & Webster supply GPA with a reason for this delay.

The General Manager stated that the rate increase is necessary for the Authority's survival. He stated that various factors attributed to GPA's problems such as high interest rates, inflation and declining sales. He stated that Management has implemented cost reduction measures but they will not substitute for a rate increase. He called upon the Controller to brief the Board on the proposed rates and the impact on all customers.

The Vice Chairman suggested that prior to the review that the Controller brief the Board on the basis of what the PUC did for GPA in 1979. He stated that he would like to know if there was any trend set; that is, if the PUC, itself, decided how the Authority should look at the rate increase. He asked the Controller to explain how these increases came about.

The Controller briefed the Board on the details of the proposed rate increase presented to the PUC and the public hearing held in August 1979. He pointed out that at the hearing the Commission was very interested on the impact on classes of customers, especially on residential customers. He informed the Board that the Commission leaned heavily toward a flat rate believing such a rate would shift a burden from residential to large commercial customers.

The Controller informed the Board that the current proposal would raise electricity rates 24.8 percent. Increases for different categories of users would range from 15 percent for large users to 29 percent for residential users. He pointed out that the difference in GPA exists if each class of customer pays for its proportioned cost of electricity used by the class. Costs are greater to serve residential customers because as a class they required greater plant (lines, poles, etc.) in proportion to their demands on the system. The Controller explained that the present rates contained an imbalance from PUAG days and continued in 1979 when an across-the-board increase was approved.

When questioned about government accounts, the Controller stated, "The GovGuam accounts as a group have caused the Authority more of a burden than the large power customer. At one time the government owed GPA \$2.1 million."

Following a lengthy discussion, the Board instructed Management to develop rates based on:

1. Fully distributed cost of service.
2. Across-the-board, flat percentage increase.
3. Equalization caused by cost disparity from serving government accounts.

The Vice Chairman stated, "If the Board decides to adopt one of the three proposals by Management, then the proposal will be transmitted to the Legislative Secretary at which time the clock starts running and the Legislature has 45 days in which to consider the matter. If no action is taken after 45 days, then the rates will be in place."

Following the review of the three options, the Chairman suggested that the Board consider Option C because it was the only rate schedule that contained a provision for increasing local government power bills. He stated, "We have to take into account the collections of our government. It would be a way of recovering some of the costs in doing business that are not in the present rate structure and the cost of delinquencies for GovGuam accounts."

The Vice Chairman stated, "The Board would be in a better position to evaluate the three options if there had been more input from the public." It was noted that only six persons attended the public hearing on the rate increase and of those six, five presented testimony.

Option C rates^(a) would increase rates as follows:

Residential	21.0%	Small Government	42.9%
General Service	22.8%	Large Government	31.6%
Large Power	19.4%	Public Streetlighting	88.0%
Private Streetlighting	49.0%		
Private Average	21.2%	Government Average	44.1%
		GPA over-all	25.8%

Following a lengthy discussion, the Vice Chairman MOVED, SECONDED BY THE TREASURER/SECRETARY, THAT THE BOARD ADOPT RATES CONTAINED IN OPTION C (ATTACHED) TO BE EFFECTIVE WITH METERS READ ON AND AFTER MARCH 15, 1982. The Chairman called for a vote. All members voted "AYE" in favor of the motion. There being no objections, the motion was unanimously passed.

The Chairman directed the General Manager to forward the rate schedules, as contained in Option C, to the Legislative Secretary this week and noted that the effective date of March 15, 1982 would be after expiration of the 45 days required under the Administrative Adjudication Law. He also noted that GPA had otherwise adhered to the Adjudication Law in adopting such rates.

ADJOURNMENT

The Vice Chairman MOVED THAT THE MEETING BE ADJOURNED. There being no objections, the meeting was adjourned at 4:15 P.M.

(a) As on public display 10 days prior to the January 22, 1982 Public Hearing. Complete copies of Options A, B and C are filed in the vital files of the Board of Directors.

The Chairman then called upon the Controller to outline the proposed rate increase. The Controller stated that the matter being consider by the Board is one that had received considerable notice.

The following is a condensed history of GPA's efforts to obtain financial relief and a rate increase:

May 29, 1981	GPA public hearing
June 3, 1981	Rates adopted by Board
June 11, 1981	Legislature passes Resolution No. 129 asking PUC to delay action on GPA rates.
September 10, 1981	GPA withdraws application from PUC to accommodate Legislature action to consider subsidy versus rates
December 2, 1981	PUC abolished (P.L. 16-49)
January 22, 1982	GPA holds public hearing (cafetorium) to consider rate - Options A, B, C
January 27, 1982	Rate Option C adopted by Board
January 28, 1982	Proposed rates (Option C) filed with Legislative Secretary under Adjudication Law
March 9, 1982	Public hearing at Legislature
March 20, 1982	Legislature froze rates (P.L. 16-73)
December 12, 1982	(P.L. 16-119) GPA Board authorized to set rates, with Governor's approval

This meeting is being held under the Authority of P.L. 16-119.

Management submitted a set of proposed rates and service charges and recommend the proposed rates be adopted. A copy of the proposal is attached to these minutes.

The Controller explained that the proposed rates would increase customer classes as follows:

Residential	21.0%	Small Government	44.9%
General Service	22.2%	Large Government	31.6%
Large Power	19.4%	Public Streetlighting	88.0%
Private Streetlighting	49.0%		
Private Average	21.2%	Government Average	44.1%
GPA OVERALL		25.8%	

The Controller informed the Board that total revenues (including oil charges at \$32/barrel) to be generated by the new rates would be \$58 million based on 430,664,000 KWH sales, down from 440,000,000 KWH sales last year. Based on 430,664,000 KWH sales, revenues would increase an estimated \$11,907,000. He pointed out that sales are trending downward. The Controller stated that if the increase goes into effect on April 1, 1983, total revenue for FY 1983 should increase cash flow by \$3 million.

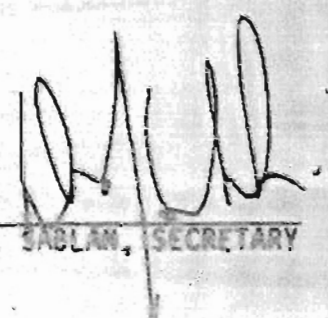
Minute No.	Ref. No.	Minutes	Action
		<p>Members Present: Jesus G. Camacho, Chairman Juan M. Duenas, Vice Chairman David J. Sablan, Secretary C. Paulino, Treasurer Gil Santos, Member</p> <p>Management Present: J. P. Perez, General Manager J. R. San Agustin, Dep. Gen. Mgr. G. G. Becher, Controller</p> <p>Counsel: John F. Tarantino, Esq.</p> <p>Navy Representative: R. Dempsey, USN, PWC</p> <p>Reports and a number of guests and observers were also present.</p>	
S51/83		<p>In this session, the last one held on the proposed rate increase, the General Manager and Controller gave a general review of material and statistical information previously discussed in subsequent sessions of the Special Meeting.</p>	
S52/83		<p>Following a discussion, the Secretary MOVED, SECONDED BY THE VICE CHAIRMAN, THAT THE BOARD ADOPT RESOLUTION NO. 72.</p> <p>RESOLVED, that the proposed electric rates, service rules and conditions attached hereto and identified as "Exhibit A-August 30, 1983" be adopted and placed into effect with meters read on and after October 15, 1983 providing the Ad Hoc Committee as stipulated in P.L. 17-10 concurs, or such earlier date as may be possible under the circumstances and provided further that this Board retain final jurisdiction of the first effective date should it be prior to October 15, 1983, and such rates remain in effect until June 30, 1984 and that additional increased rates be effective with meters read on and after July 1, 1984.</p> <p>Passed and adopted by the Board of the Guam Power Authority this 30th day of August 1, 1983, by the following vote:</p> <p>Ayes: Jesus G. Camacho, Chairman John Duenas, Vice Chairman David Sablan, Secretary Cleotilde Paulino, Treasurer Gil Santos, Member</p> <p>Nayes: None</p>	
S53/83		<p><u>ADJOURNMENT</u></p> <p>There being no further business before the Board, the meeting was adjourned at 4:40 P.M.</p>	

EXHIBIT A 11

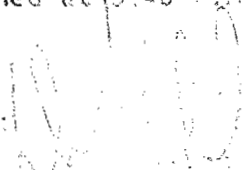
Minute No.	Ref. No.	Minutes	Action
554 /83		<p><u>Delinquency of Government of Guam Accounts</u></p> <p>The General Manager informed the Board that because of the delinquency of several Government of Guam accounts, including streetlights, and the pending threat of a typhoon, he felt it urgent that the Board address the Government of Guam's existing financial crisis and its inability to meet payment of various accounts in arrears.</p> <p>The General Manager informed the Board that on August 29, 1983 Management issued disconnection notices to those government facilities whose accounts are delinquent. He stated that because payment had not been received on several of the accounts, instructions were issued to disconnect those government accounts still delinquent at 4:00 P.M. that day.</p> <p>He informed the Board that he met in an emergency session with Fiscal Policy Committee regarding the delinquent accounts and that he also met with the Governor and Lt. Governor. The Lt. Governor requested a 48-hour extension so efforts could be made to obtain approval for supplemental funds from the Legislature.</p> <p>The General Manager stated that he granted the 48-hour extension with the condition that if payments were not received by Friday, September 2 at 4:00 P.M. that action would be taken to commence disconnection. He pointed out that if a typhoon still presented a threat to Guam, that an additional extension would be granted. The General Manager suggested that if the typhoon does not present any danger to Guam, the disconnect notice be enforced at 4:00 P.M. on September 2, 1983. If the typhoon does present a danger, that he be granted to commence disconnection on Wednesday, September 7, at 4:00 P.M.</p>	
555/83		<p>Following a discussion, the Vice Chairman MOVED, SECONDED BY THE TREASURER, THAT THE BOARD RATIFY AND APPROVE THE ACTION OF THE GENERAL MANAGER IN GRANTING THE DELINQUENT GOVERNMENT OF GUAM ACCOUNTS AN ADDITIONAL EXTENSION OF TIME TO CURE SOME DELINQUENCIES. FURTHER, THAT THE BOARD AUTHORIZE THE GENERAL MANAGER TO USE FULL DISCRETIONARY POWER IN EXERCISING OPTIONS IF THE TYPHOON PROVES TO BE NO THREAT TO GUAM. IF THE DELINQUENT GOVERNMENT ACCOUNTS ARE NOT FULLY PAID BY 4:00 P.M. ON FRIDAY, SEPTEMBER 2, 1983, DISCONNECTIONS BE ORDERED. IF THE PENDING TYPHOON DOES PROVE TO BE A THREAT AND THE DELINQUENT ACCOUNTS ARE NOT PAID BY 4:00 P.M., FRIDAY, SEPTEMBER 2, 1983, DISCONNECTION OF SAID ACCOUNTS MAY BE EXTENDED TO 4:00 P.M. WEDNESDAY, SEPTEMBER 7.</p>	

Minutes of Meeting
held on
page

Special
September 1, 1983
3

Minute No.	Ref. No.	Minutes	Action
S56/83		<p>The Chairman called for a vote. All members voted "Aye" in favor of the motion. There being no objections, the motion was unanimously passed. The Chairman requested that a resolution covering this matter be prepared for the Board's signature.</p>	JFT
S57/83		<p><u>ADJOURNMENT</u></p> <p>There being no further business before the Board, the meeting was adjourned at 10:40 A.M.</p> <p>ATTEST: </p> <p>DAVID J. SABLAN, SECRETARY</p>	

Minute No.	Ref. No.	Minutes	Action
27/83		<p><u>APPROVAL OF MINUTES OF AUGUST 20, 1983</u></p> <p>Approval deferred until next regular Board meeting.</p> <p><u>REPORTS</u></p>	
28/83		<p><u>General Manager</u></p> <p>The General Manager reported that GPA commenced disconnection of delinquent Government accounts. He informed the Board that the streetlights from Cabras Island to Route 16 intersection were disconnected. He added that the Commissioner's office accounts were paid in full on Sept. 8 and are now reconnected. The General Manager stated that he met with the Fiscal Policy Committee and the Legislature has appropriated \$482,000 for the delinquent streetlight account but the Administration refuses to issue a check without an identified source of funding.</p>	
29/83		<p><u>Legislature Briefing of August 29, 1983</u></p> <p>The General Manager called upon Counsel to brief the Board on the meeting. Counsel stated that board members were present throughout the briefing. As a management program, GPA division heads spoke of their responsibilities. He stated that the briefing was essentially justification for the new rate structure.</p>	
30/83		<p><u>EPA Court Action</u></p> <p>The General Manager stated that the U.S. Attorney filed a motion in the U.S. District Court and declared GPA in contempt of the Delayed Compliance Order relative to GPA complying with the Clean Air Act. The Board discussed the option of burning low sulfur fuel versus building a Seawater Scrubber and the financial impact it would have on the Authority. He pointed out that the U.S. is now asking the court order on GPA to immediately start burning low sulfur fuel or commence the installation of the Seawater Scrubber.</p>	
31/83		<p><u>Ad Hoc Committee Proposed Rates</u></p> <p>The General Manager reported that the Governor appointed the Ad Hoc Committee members yesterday and the meetings will commence next week. In accordance with P.L. 17-10 the committee will have 30 days in which to make its recommendations to the Governor.</p>	

Minute No.	Ref. No.	Minutes	Action
S58/83		<p>Counsel briefed the Board on the hearing held on September 8, 1983 on the temporary restraining order against GPA. The order was issued to stop GPA from continuing the disconnection of streetlights in the various villages and ordered GPA to reconnect those streetlights already disconnected.</p> <p>He reported that Messrs. Albert Lamorena and Francisco Santos, both senators of the Seventeenth Guam Legislature, were suing as residents of Guam.</p> <p>Counsel stated that on behalf of GPA he offered a compromise; i.e., if the Judge would not issue an order against GPA, that GPA would voluntarily discontinue the disconnections if the Judge issued an order to the Governor of Guam to pay the delinquent bills.</p>	
S59/83		<p>Counsel requested that the Board ratify and approve the action he took at that hearing. Following a brief discussion, it was MOVED AND SECONDED THAT THE BOARD RATIFY THE ACTION TAKEN BY COUNSEL AT THE HEARING HELD ON SEPTEMBER 8, 1983. There being no objections, the motion was unanimously passed.</p>	
S60/83		<p>Counsel reported that the hearing continues today and that he has been in consultation with the Attorney General's Office. He stated that they intend to impose the temporary restraining order, ordering the Governor to pay the bill.</p> <p>Counsel was excused.</p>	
S61/83		<p>The Deputy General Manager explained that the emergency meeting was called to apprise the Board on this matter. Notwithstanding Resolution No. 73 (copy attached) the Authority has voluntarily agreed not to disconnect under the restraining order is resolved.</p>	
		<p><u>ADJOURNMENT</u></p>	
S62/83		<p>There being no further business before the Board, the Special Meeting adjourned at 3:40 P.M.</p> <p>ATTEST: </p> <p>DAVID J. SABLAN, SECRETARY</p>	

The Guam Power Authority maintains its disconnection policy for the following reasons:

1. Motivate delinquent customer to pay bill.
2. Preclude incurring any further losses through continued non-payment.

It should be noted that such a policy is not without its costs, especially where it is determined that a customer will eventually pay. This cost is in loss of revenue to GPA for the duration of the disconnection period.

Such a circumstance is now before the GPA Board of Directors. The Government of Guam has announced that it is in a financial crisis and unable to pay its power bill, among others. The Board of Directors ordered disconnection of those Government of Guam facilities that were in arrears in order to prompt payment of delinquent power bills. As a result of the resulting disconnections the Government of Guam made several payments which resulted in reconnections of those facilities that were made current. However, the streetlight power bill was not payed up and is still in arrears and as a result the disconnection policy was continued until Lamorena and Santos brought suit against the Governor of Guam and GPA to stop the disconnection of streetlights and to reconnect those that had been already disconnected at the time of the bringing of the suit. At the hearing before Judge Abbatte on the issue of whether a temporary restraining order should issue to resolve this matter it was determined that upon representations of the senators that money had been appropriated and that an order

to the Governor to use this money to pay the delinquent account would resolve the issue the Guam Power Authority, anticipating payment from these appropriations agreed voluntarily to not disconnect any more streetlights pending receipt of the money from the Governor or the conduct of a preliminary hearing in which all parties had an opportunity to discuss the issues and arrive at a solution. Subsequent to the issuance of the order by Judge Abbate, GPA learned that although there had been appropriations made for payment of the streetlight bill, the Governor could not pay GPA because there was no funding identified for the appropriation. There appear to be issues that will have to be resolved between the executive and the legislature before payment can be made. GPA does not purport to know what those issues are and does not intend to address them other than to indicate that it expects payment of the delinquent streetlight bill as soon as these issues are resolved.

Because GPA's disconnection policy will not further the end to be achieved by its use; that is prompt payment of the delinquent account, and because GPA is incurring the losses of revenues from those streetlights that have already been disconnected it is time for the Board of Directors to reconsider its existing order to its General Manager, Mr. Perez and order him to reconnect those streetlights that were disconnected due to delinquency on the part of the Government of Guam.

Additionally, a letter of notice to the Director of Public Works who is the contracting authority for this account, is to be sent the following statements:

1. That GPA intends to reconnect those streetlights that were disconnected due to delinquency.
2. That such reconnection will begin 0700 Monday, 19 Sept. 1983, unless GPA receives a routine disconnection of power request from the Director of Public Works prior to 0700 Monday the 19th of Sept. 1983.
3. That GPA will only reconnect those streetlights which were legally contracted for by the Director of Public Works. Those which have been determined to have been illegally installed; specifically those installed without authority, will not be reconnected.
4. That legal action for the recovery of sums owed to GPA is contemplated by the Board of Directors as an alternate method of recovery.

BOARD OF DIRECTORS

RESOLUTION NO. 73

WHEREAS, on August 29, 1983, the Management of the Guam Power Authority, pursuant to the Authority's Service Rules and Regulations and the requirements of the Bond Indentures, issued disconnection notices to various facilities of the Government of Guam for delinquent accounts attached hereto as Attachment I; and,

WHEREAS, on August 31, 1983, the General Manager, because he had not received payment on several of those accounts, issued instructions to the Disconnection Crew to disconnect electric service to those said delinquent Government accounts, commencing at 4:00 P.M. that day; and,

WHEREAS, the General Manager met in an emergency session with fiscal officers of the Government of Guam to assess said officials with the decision of the General Manager, and to ascertain if there were any last minute remedies that can cure the delinquencies of those noted Government of Guam accounts; and,

WHEREAS, as a result of said emergency session during which time the fiscal officers noted that while monies may be available to pay for the delinquent power bills, Government of Guam had already reached its authorized budget limitation and that to disburse additional funds could result in legal action against said fiscal officers, the General Manager was requested to grant an additional 48-hours during which time the Legislature will be approached for authorization to spend beyond authorized level; and,

WHEREAS, the General Manager, using his discretionary powers, did accede to said request for a 48-hour extension, but subject to ratification of his decision by the Board of Directors; and,

WHEREAS, this matter now comes before the Board for Evaluation and action; and,

WHEREAS, it has been additionally brought to the attention of the Board that a tropical storm is brewing in the area which could possibly develop into a major typhoon and a real threat to the island:

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE GUAM POWER AUTHORITY:

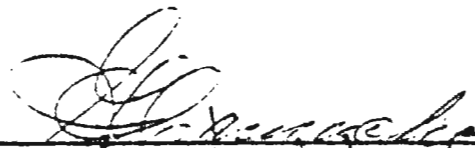
1. That the Board hereby ratifies and approves the action of the General Manager in granting the delinquent Government of Guam accounts an additional extension of time to cure said delinquencies;

2. That the Board hereby authorizes the General Manager to use full discretionary power in exercising the options herein described, namely:

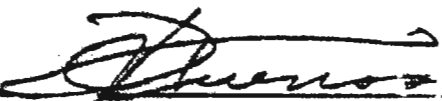
(A) That if the pending typhoon does prove to be of no threat to the island, and if the delinquent Government accounts are not fully paid by 4:00 P.M. on Friday, September 2, 1983, disconnections of said accounts will be ordered; or

(B) That if the pending typhoon does prove to be of real threat to the island, and if the delinquent accounts are not paid by 4:00 P.M. on Friday, September 2, 1983, disconnection of said accounts may be extended to 4:00 P.M. Wednesday, September 7, 1983.

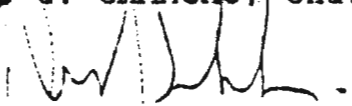
THIS RESOLUTION was unanimously adopted by the Board members whose signatures appear below during an emergency special session of this Board, held this 1st day of September, 1983.



JESUS G. CAMACHO, Chairman



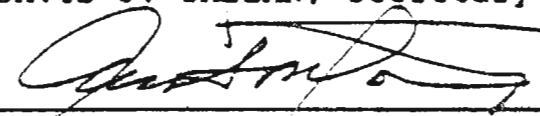
JOHN M. DUENAS, Vice-Chairman



DAVID J. SABLAN, Secretary



CLOTILDE C. PAULINO, Treasurer

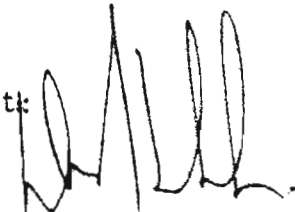


GIL M. SANTOS, Member

UNPAID GOVERNMENT ACCOUNTS
AS OF 7/31/83 BILLING

NAME	ACCOUNT NUMBER	TOTAL CHARGES	LESS PAYMENTS	BALANCE DUE
Civil Defense	600-000230-1	\$ 1,377.15	-0-	\$ 1,377.15
Comm. Council	600-000015-7	3,032.96	-0-	3,032.96
Dept. of Adm.	600-000005-8	3,610.87	-0-	3,610.87
Gov't. House	600-000050-3	8,394.41	\$ 8,394.41	-0-
DW Vill. St. Lts.	600-000130-3	257,939.85	-0-	257,939.85
DW Primary St. Lts.	600-000131-1	44,517.20	-0-	44,517.20
DW Sec./Call St. Lts.	600-000132-9	52,873.34	-0-	52,873.34
DW Signal Lites	600-000135-3	7,817.24	-0-	7,817.24
DW FAC Adm.	600-000140-2	29,711.45	-0-	29,711.45
Parks & Rec.	600-000150-1	19,547.59	11,058.23	8,489.36
Dept. of Corr.	600-000030-5	3,418.70	3,418.70	-0-
Dept. of Ed.	600-000045-4	125,449.27	125,449.27	-0-
Dept. of Labor	600-000100-6	3,261.37	-0-	3,261.37
PH: Senior Citizen	600-000215-3	516.92	516.92	-0-
Public Market	600-000240-0	636.83	-0-	636.83
TOTAL		\$562,105.15	\$148,837.53	\$413,267.62

Minute No.	Ref. No.	Minutes	Action
S63/83		<p><u>STREETLIGHT ISSUE</u></p> <p>The General Manager informed the Board that in District Court this morning Judge Cristobal Duenas disallowed the Writ of Prohibition which was requested by the Attorney General and mandated the case that was before Judge Raker back to the Superior Court to determine if an injunction should be issued against the Governor of Guam.</p>	
S64/83		<p>He stated that after consultation with Counsel, Management felt it necessary to call an emergency meeting to discuss the moratorium that GPA placed on the disconnection of public streetlights. According to the moratorium GPA would stop disconnection until Friday, September 16, and continue with the disconnection on Monday, September 19. Because of the existing situation, Management felt it was necessary the situation be addressed immediately. He informed the Board that Counsel and Management discussed the disconnection policy and a position paper was written. The General Manager read the position paper (copy attached).</p>	
S65/83		<p>Following Counsel's briefing on the implications of the position paper and the recommendations contained therein, the Secretary MOVED, SECONDED BY THE VICE CHAIRMAN, THAT THE BOARD REVOKE ITS ORDER TO CONTINUE DISCONNECTION AND RECONNECT THOSE STREETLIGHTS THAT HAVE BEEN DISCONNECTED BEGINNING 0700 MONDAY, SEPTEMBER 19, 1983. The Chairman called for a vote. All members voted "Aye" in favor of the motion. The motion was unanimously passed.</p>	
S66/83		<p>The Secretary MOVED, SECONDED BY THE VICE CHAIRMAN, THAT A LETTER BE TRANSMITTED FROM THE AUTHORITY TO THE DIRECTOR OF PUBLIC WORKS WHICH WILL INCLUDE THE FOLLOWING STATEMENTS:</p> <ol style="list-style-type: none"><li data-bbox="397 1449 1242 1522">1. That GPA intends to reconnect those streetlights that were disconnected due to delinquency.<li data-bbox="397 1543 1291 1711">2. That such reconnection will begin 0700 Monday, September 19, 1983, unless GPA receives a routine disconnection of power request from the Director of Public Works prior to 0700 Monday, the 19th of September 1983.<li data-bbox="397 1732 1323 1900">3. That GPA will only reconnect those streetlights which were legally contracted for by the Director of Public Works. Those which have been determined to have been illegally installed; specifically those installed without authority, will not be reconnected.<li data-bbox="397 1921 1291 2037">4. That legal action for the recovery of sums owed to GPA is contemplated by the Board of Directors as an alternate method of recovery.	

Minute No.	Ref. No.	Minutes	Action
		<p>The Chairman called for a vote. All members voted "Aye" in favor of the motion. There being no objections, the motion was unanimously passed.</p>	
S67/83		<p>The Secretary MOVED, SECONDED BY THE VICE CHAIRMAN, THAT COUNSEL TAKE NECESSARY ACTION IN THE COLLECTION OF SUMS OWED FOR DELINQUENT GOVERNMENT OF GUAM ACCOUNTS. The Chairman called for a vote. All members voted "Aye" in favor of the motion. There being no objections, the motion was unanimously passed.</p>	
S68/83		<p><u>ADJOURNMENT</u></p> <p>There being no further business before the Board, the meeting was adjourned at 3:45 P.M.</p> <p>Attest: </p> <p>_____ David J. Sablan, Secretary</p>	

Minute No.	Ref. No.	Minutes	Action
37/83		<p><u>APPROVAL OF MINUTES</u></p> <p>The minutes were corrected as follows:</p> <p>July 8, 1983--Page 3, S52/83, line 6, the word "retail" should be "retain".</p> <p>Page 13, S52/83, the Resolution No. 72 should reflect the Chairman 's vote which was "Aye".</p> <p>Aug. 20, 1983--Admiral's name should be spelled "Zobel".</p> <p>Sept. 7, 1983--The minutes' sequence number should begin with 27/83.</p> <p>The Secretary MOVED, SECONDED BY THE VICE CHAIRMAN, THAT THE MINUTES OF THE JULY 8, AUGUST 20 AND SEPTEMBER 7 MINUTES BE APPROVED AS CORRECTED. There being no objections, the minutes were unanimously approved as corrected.</p> <p><u>REPORTS</u></p>	
38/83		<p>The General Manager briefed the Board on the problems GPA is encountering in the reconnection of streetlights. He informed the Board that GPA crews disconnected a total of 1,778 streetlights after GovGuam failed to pay the July streetlight power bill. He told the Board that the Director of Public Works plans to cut the total number of streetlights to 1,200 which will hurt GPA finances. The total number of streetlights on Guam could exceed 7,000 or roughly 2,000 more than the number authorized.</p>	
39/83		<p><u>Status on GovGuam Accounts</u></p> <p>The General Manager reported that the GovGuam accounts are in arrears approximately \$683,000, including the streetlight arrears. He enumerated on the agencies tagged for disconnection.</p>	
40/83		<p><u>EPA - No Report.</u></p>	
41/83		<p><u>Ad Hoc Committee Meeting</u></p> <p>The General Manager reported that the Ad Hoc Committee held its second meeting last night. Material covered at that meeting will be distributed to the Board.</p>	

Minutes of Meeting

Held on October 3, 1983

Page 2

Minute No.	Ref. No.	Minutes	Action
1/84		<p><u>APPROVAL OF MINUTES</u></p> <p><u>Minutes of Sept. 1, 1983 Meeting</u></p> <p>The Secretary requested that the minutes be corrected to reflect that he was not present at the meeting. Because of this, approval was deferred pending Counsel's opinion on the legality of the meeting and the vote on the resolution.</p>	JFT
2/84		<p><u>Minutes of Sept. 9 & Sept. 15 Meeting</u></p> <p>The Secretary MOVED, SECONDED BY THE VICE CHAIRMAN, THAT THE MINUTES OF THE SEPTEMBER 9 AND SEPTEMBER 15 MEETINGS BE APPROVED AS WRITTEN. There being no objections, the minutes were unanimously approved.</p>	
3/84		<p><u>REPORTS</u></p> <p><u>Touche Ross Rate Audit</u></p> <p>The Acting General Manager informed the Board that the 17th Guam Legislature has contracted Touche Ross and Co. to perform a rate audit of GPA. The \$60,000 rate audit, which will commence October 4, 1983, will require 4 to 6 weeks to complete. He briefed the Board on conferences held and matters discussed. Following a discussion, the Secretary commented, "I feel that it is a waste of money, money of the people of Guam."</p>	
4/84		<p><u>Update on the Ad Hoc Committee</u></p> <p>The Acting General Manager reported that GPA concluded its presentation to the Ad Hoc Committee on September 29. He stated that the Committee will hold a meeting on October 4 at which time the Committee Chairman requested GPA's Counsel be present along with a GPA official. He also reported that the Committee plans to hold a public hearing on Thursday, October 6, to solicit public testimony.</p>	
5/84		<p><u>Status on Government Accounts</u></p> <p>The Acting General Manager reported that 14 delinquent Government of Guam accounts have been tagged for disconnection. If payments are not received within 48 hours, disconnections will take place on Wednesday, October 4. The outstanding amount due is \$442,000.</p>	

Minute No.	Ref. No.	Minutes	Acti
<u>APPROVAL OF MINUTES</u>			
12/84	102/84	The General Manager requested that on the second paragraph after the word "GPA", "enabling legislation" be inserted.	
	103/84	<p>The Vice Chairman requested that on the fourth paragraph, the sixth line, the word "Agoun" be corrected to "Aguon."</p> <p>The General Manager inquired Navy Representative as to the status of DPW contacting PWC about the relocating of transmission lines. Navy Representative responded that they have still not been contacted as of today. The General Manager then responded that he will set up a meeting to have PWC and DOI meet. He also informed the Board that Representatives of the Budget Office of the Interior Department are here for the Tumon project.</p>	
		The Navy Representative requested that on page 4, second paragraph, the fifth line, the word "low-flow" should be corrected to read "load-flow."	
	105/84	The General Manager requested that on the second line, the words "on-the-board" should be corrected to read "across-the-board", and the Chairman requested that on the fifth line, the word "the" should be changed to "them."	
	108/84	The General Manager requested that the words "line extension" be changed to "Pole Hardening", and the Secretary requested that the words "Agana Substation to Tamuning Substation" be inserted after the word "Hardening."	
13/84		The Secretary made a motion to approve the minutes of April 3, 1984 subject to correction and the Vice Chairman seconded the motion.	
<u>REPORTS</u>			
<u>Disconnection of GovGuam Agencies</u>			
14/84		The General Manager reported that GovGuam Agencies will be disconnected tomorrow April 18, 1984. They are: Department of Administration, Department of Agriculture, Public Health, Department of Public Safety, Governor's Office, Department of Parks & Recreation, Administration PUAG, Vocational Rehabilitation, Department of Youth Affairs, Senior Citizens, Civil Service, Public Market.	

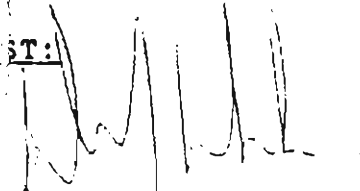
Minute No.	Ref. No.	Minutes	Act
		<p>Health Planning, Contractors License Board, National Guard, and 18 Commissioners Office. The total amount owed by the line departments, current and arrears is \$905,873.00. He informed the Board that he will be meeting with the Fiscal Policy Committee tomorrow. The agencies were tagged last week, and he informed them at a Cabinet meeting held last night, and as of this evening, the agencies are scheduled for disconnection tomorrow at 1:30 p.m.</p> <p>Another concern by Management is that current bills have not been paid, and new billings are 30% over the last billing. The total debt of the entire Government of Guam to GPA is \$1.4 million inclusive of the Commissioners Council and the autonomous agencies.</p> <p>The Chairman inquired as to the status of the collection for the new billings. The Controller responded that collections have been less than \$50,000 a day and collection should be \$300,000 a day.</p> <p>The Secretary instructed Management to inform the Fiscal Policy Committee that disconnection will go through unless some form of payment is received.</p> <p><u>Section 30 Funds</u></p> <p>The General Manager informed the Board that next week Secretary Montoya will be on island. Congressman Won Pat's office announced that there will be an Omnibus Bill this year. Legislation is being prepared for refinancing of the Federal Financing Bank. The Secretary will be working with GPA to prepare the language for insertion in the Omnibus Bill, and he also asked that GPA testify on the Bill if it includes the refinancing of the FFB loan.</p> <p><u>Use of GPA equipment</u></p> <p>The General Manager reported that he has been asked by the White House for usage of bucket trucks and high rangers for the President's visit. ABC, NBC, CBS will be using the trucks to be taking TV shots when the President arrives.</p> <p>The Secretary instructed Management to see whether the usage of the trucks are really necessary and if they are willing to rent out the trucks for \$135 an hour.</p>	
15/84			
16/84			

Minute No.	Ref. No.	Minutes	Action
121/84	119/84 118/84	<p><u>APPROVAL OF MINUTES</u></p> <p>The Deputy General Manager requested that the words "sent to them" be deleted, and the words "received from Joint Venture" be inserted, the third line the word "on" be deleted.</p> <p>The Deputy General Manager informed the Board that under the instructions by the Board, the letter to the Financial Consultant was sent out by Courier on April 24, 1984.</p>	
122/84		<p>There being no further comment on the minutes, the minutes of April 17, 1984 was approved subject to correction and was so approved.</p>	
123/84		<p><u>REPORTS</u></p> <p><u>Field Accidents</u></p> <p>The Deputy General Manager reported to the Board that on Saturday (4/28/84) in Merizo, there were two teenagers who accidentally touched live wires with bamboo poles and were treated and released at FHP. Another accident occurred on Monday (4/30/84) next to Guam Cable TV a connector broke loose and fell on a truck and was totally burned. This morning (5/1/84) a car ran over a guy wire up in Agana Heights and knocked down the pole.</p>	
124/84		<p><u>GovGuam Delinquent Accounts</u></p> <p>The Deputy General Manager reminded the Board that they instructed the General Manager to address the problem of the GovGuam Delinquent Accounts. He had met on April 18, 1984 with the General Manager, the Fiscal Policy Committee (Dir. BBMR, Dir. Revenue & Tax, Dir. Administration) regarding the delinquent accounts. An agreement was made between the group that the GovGuam Accounts would pay the arrears portion on that day, and the balance of the account to be paid in full by the end of the following week (April 27, 1984).</p> <p>The total arrears upon the agreement was \$237,179.73. The total arrears as of April 18, 1984 was \$484,000. That same day a payment was made of \$299,809.37, and on April 30, a payment was made of \$4,505.91. The balance for the arrears now totals \$179,685.00. Current charges of \$641,153 had not been paid upon the agreement. As of to date, GovGuam Line Departments owes GPA \$1,020,010.00. Pursuant to the rate schedule "C" there is also a 5% penalty assessment on GovGuam delinquent accounts.</p>	

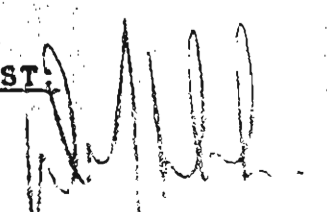
Minute No.	Ref. No.	Minutes	Action
125/84		<p>The Deputy General Manager reminded Mr. Steve Torres of the agreement between GPA and GovGuam and also reminded him of the Board instruction to negotiate and if they do not comply then GPA disconnects them. Mr. Torres then informed him that GPA owes GovGuam in terms of Section 30 funds withheld.</p> <p>The Deputy General Manager suggested that a letter be written informing them that if nothing is agreeable or acceptable to GPA disconnection be made. Several months ago, he reminded Mr. Torres that repayment of the Section 30 funds begin in the Fiscal Year of '85 when the money starts coming in. Mr. Torres mentioned that he might have to seek legal help from the Attorney General if disconnection will occur.</p> <p>Following a lengthy discussion, the Board instructed Management to hold off disconnection until Mr. Torres returns the Deputy General Manager's call. The Secretary suggested that the disconnection notices be sent out and a list be made of the agencies who will be disconnected first.</p> <p><u>Peat, Marwick & Mitchell Report/GPA Annual Report 1983</u></p> <p>The Deputy General Manager informed the Board that the audit report and the annual report was completed. He explained to the Board that the report should be ready for printing this week. A final draft was given to the Board for final review.</p> <p>The Navy Representative explained that on page 15 the fifth paragraph and ending page 16 on the second paragraph indicates that Navy is not working with GPA, and suggested that the section be deleted and not be made public. The Deputy General Manager responded that this report is just an opinion of Management. Navy Representative requested that the material be deleted.</p> <p>Navy's Representative explained that it is just an opinion not supported by any facts and is very negative toward Navy. The Deputy General Manager responded that Management must report to the Board its opinion of how it has handled the situation.</p> <p>The Secretary recommended that the Power Pool report be objective but not to delete it totally. The Secretary then stated that a couple of Board meetings ago, he questioned Navy's Representative as to the progress of the JOC meetings, and Navy's Representative responded that they are taking care of things.</p>	

Minute No.	Ref. No.	Minutes	Action
		<p>He went on to read the draft of his Washington Trip Report.(attached) He also mentioned that the subject matter of the Power Pool Agreement was not brought up by anyone from Guam, and that the subject was brought up by Senator McClure during questions posed to Assistant Secretary Montoya and his staff.</p> <p>Other matters discussed in Washington, a draft of the application of the permanent exemption to the Clean Air Act was handed to the Board, and the General Manager then read the letter. Hearings would have to be held and as soon procedures have been finalized and approved by the Administrator of EPA, GPA should submit an application with a letter of submission and concurrence from the Governor and the Guam EPA Administrator. The draft will be reviewed by the Board and then will be forwarded to the Governor.</p> <p>The General Manager reported that he spoke with the Bank of America and was given a positive reaction on the Trustee's part and they have agreed to initiate talks on the withdrawal on the claim filed with the Attorney General and the final withdrawal of technical default, once the Omnibus Bill is signed. The Trustee also received copies of the final Audit Report.</p> <p><u>GovGuam Delinquent Accounts</u></p> <p>The General Manager informed the Board that the Assistant Secretary will attack Section 30 funds again in June. He was asked if GPA would be able to make the \$2.6 million payment in June 30, and the General Manager responded with the answer no. Some payment could be made but not the \$2.6 million. The total GPA indebtedness to GovGuam is \$4.7 million. A repayment schedule has been devised and payment of \$250,000 a month had been agreed upon, and if agreed upon by the Governor and the Board, the \$250,000 will be paid to RevTax toward retiring the GovGuam debt to the Retirement Fund.</p> <p>Another problem the General Manager informed the Board is on the streetlights. Payments have not been received and notice will have to be given to the Legislature on the matter. He also mentioned the courts will have something to say if the power was to be disconnected at the schools and the Department of Public Safety. He will meet with the Fiscal Policy Committee tomorrow and further discussions will hold.</p>	

131/84

Minute No.	Ref. No.	Minutes	Action
142/84		<p><u>GPA obligation of \$4.7M to General Fund</u></p> <p>The Deputy General Manager reported that Management has been working with the Fiscal Policy to work out a compromise to pay back the General Fund. He reported that GPA would pay back the Government through a plan whereby GPA would assume \$4.7 million of the GovGuam liability to the Retirement Fund. Discussion has been made with the Controller, Chairman of the Fiscal Policy Committee.</p> <p>He also reported that once the note has been acknowledged the \$4.7 million is cleared of GPA and that makes the Government of Guam bound to pay their power bills. Before things are finalized the note would have to be approved by GPA Board and the Retirement Board.</p>	
143/84		<p><u>ADJOURNMENT</u></p> <p>There being no further business before the Board, the meeting was adjourned at 6:45 PM into Executive Session.</p> <p><u>ATTEST:</u></p>  <p>_____ David J. Sablan, Secretary</p>	

Minute No.	Ref. No.	Minutes	Actio
150/84		<p>Attorney Arriola briefly commented that he would prefer to meet with Management in connection with the letter, and will write back explaining that any assignment of the contract of March 1983 is not binding.</p> <p><u>Appeal to the Opper vs GPA case</u></p> <p>The Deputy General Manager called upon Attorney Thomas Sterling to report on this matter.</p> <p>Attorney Sterling reported that PL 17-10 litigation is effectively abandoned and there is no meaningful ground to appeal the decision. He suggested that since Senator Parkinson's referendum is going to be on the ballot, and the rate making autonomy will be presented in the future. He recommended that the Board abandon PL 17-10 litigation and the efforts be directed towards mounting new strategies to be effective towards Senator Parkinson's initiative.</p> <p>The Deputy General Manager requested that Attorney Sterling be instructed to start researching what might be done if the initiative becomes law.</p>	
151/84		<p><u>Fiscal Policy Committee</u></p> <p>The Deputy General Manager advised that negotiations between the Executive Branch and GPA are still on going with regards to the arrears of the Government of Guam. Mr. Santos advised the Deputy General Manager to meet with the Governor. A meeting was held with the Chairman, Deputy General Manager, Legal Counsel, Controller, Governor, Lt. Governor, Chief of Staff, Robin Grove, Mr. Santos, and Mr. Torres.</p> <p>During a meeting previously held by GPA and the Fiscal Policy Committee, four options were suggested. 1) a payment of \$250,000 a month beginning January 1985, this option was non acceptable to the Governor; 2) start making the \$250,000 payment beginning July 1984; 3) GPA borrow \$1.7 million and pay the General Fund; 4) GPA owe \$0.7M and the Government owes \$1.8 million, the Government will approve their GPA bills up to \$6.7M.</p>	

Minute No.	Ref. No.	Minutes	Action
		<p>The Deputy General Manager then called upon Attorney Larry Barusch to report on the matter. He reported that the letter from the Bank of America dated June 12, 1984 to the Board of Directors cited from Section 5.03 "the Treasurer shall not permit the withdrawal to be made by the Authority of any monies held in the surplus fund if and when the Authority is in default." The letter goes on to say that the Authority is still in default, and any payment out of the surplus fund would be a violation by the Treasurer.</p> <p>Attorney Barusch also mentioned that Mr. Dave Santos requested to meet with representatives of the Trustee (Carlsmith, Carlsmith, Wichman & Case). He spoke with Mr. Bill Williams and was informed that he was in contact with the Trustee, and was instructed by the Trustee to prepare to meet with the Fiscal Policy Committee.</p> <p>Following a lengthy discussion by the Board and Management, the Deputy General Manager upon the request by the General Manager, suggested that the \$500,000 payment be made to the Federal Financing Bank. The Secretary then instructed Management to contact the Bank of America on the possibility of making the payment.</p> <p><u>NAVY REPRESENTATIVE</u></p> <p>Cmdr. Dempsey expressed the condolences from the Navy to Mr. Frank Concepcions family. He also introduced Cmdr. Art Corsano who is going to relieve Cmdr. Dempsey as Production Officer at PWC. Cmdr. Dempsey will be reporting to Washington next week.</p> <p><u>ADJOURNMENT</u></p>	
52/84			
53/84		<p>There being no further business before the Board, the meeting was adjourned at 6:45 PM into Executive Session.</p> <p><u>ATTEST:</u></p>  <p>_____ David J. Sablan, Secretary</p>	

Minute No.	Ref. No.	Minutes	Action
46/85		<p>Mr. Perez mentioned to the Board that, as of this date, he had a meeting with a group of financial people from London (Lizard, Lizard & Feres), a rather substantial firm. This firm is interested in a second proposal that is going to be made to GPA by a Tsai group, for a similar plant. He pointed out to the Board that with the island being small, it could only handle one municipal solid waste plant. With this firm and the group from Inter-Energy, no one really knows what the outcome will be on the negotiations. Lizard, Lizard & Feres are interested on the financial aspect part of the municipal solid waste plant and they are talking somewhere in the figure amount of \$28 Million bond flow, which is a rather substantial investment on their part. They, however, also have not submitted any proposed contract. GPA has only received their preliminary submittal of their proposal.</p>	
47/85		<p>On the subject of wind turbines, Mr. Perez stated that he is still "playing" around with the computer to try come out with a counter-proposal to Natural Energy Corporation. He stated also that he has not received any comments from the various people to which he corresponded to, inclusive of the Department of Interior, the Navy, and Bank of America. Once these comments are received, he will then present a counter-proposal to Mr. Seigal and see if they can come out with something to sit down and negotiate with. Legal counsel, at the same time, still has to submit his opinions or comments on the matter. He further stated that once all these documents have been packaged together, he will advise the Board and perhaps get together with Mr. Seigal and then start discussions on this subject matter.</p>	
48/85		<p>One final item that he pointed out to the Board in regards to the MWS, was these two plants are moving rapidly and that the Tsai group is ready to submit a full proposal and that Dravo is in the process of drafting their proposal.</p>	
48/85		<p><u>STATUS OF GOVERNMENT OF GUAM DELINQUENT ACCOUNTS</u></p> <p>Mr. Feres made his report to the Board, stating that this particular subject was placed on the agenda of the meeting because of the problem that developed two weeks ago, in reference to questions that were prompted by Senator Parkinson. One of the comments that was made,</p>	

Minute No.	Ref. No.	Minutes	Action
		<p>is GPA runs on a cash flow system, which at the present time, GPA's cash flow is rather critical. If GPA cannot collect from its customers, it will run into problems, as far as being able to return as much money as the Authority would like to return to the people.</p> <p>On this subject, Mr. Perez reported that Department of Administration made a statement that it had a check waiting to be picked up by GPA, however, he feels otherwise. He further stated that he has had at least three people there to pick up said check but to no avail. There have been occasions when checks issued by the Department of Administration literally bounce back and, because of this, GPA is not willing to accept any post dated checks and further wants to make sure that DOA has money in the bank to make those checks good.</p> <p>One other item is that the Director of Administration will pay for any account that GPA intends to disconnect, i.e., the Commissioners' Offices, Parks & Recreation, Department of Public Works, etc. However, DOA will not pay for those accounts in which GPA cannot disconnect, such as the PUAG water pumps, the hospital, the schools and streetlights.</p>	
49/85		<p>Mr. Perez thereupon, presented an analysis report of the accounts receivables and a listing of the arrears for the government agencies. He also mentioned that the analysis, as presented, has also caused great concern with the Department of Interior, due to the impact it has on GPA's collection ratio. He reminded the Board of the FFB covenant, which calls for GPA to maintain a 95% collection ratio. However, due to the status of the government accounts, GPA has only maintained a 92% ratio.</p> <p>Mr. Perez also pointed out that GPA is in the process of negotiating with Mr. Dave Santos of Revenue & Taxation, for a one time payment, with the understanding that his department maintains a current account.</p> <p>With the critical situation of the General Fund of the Government of Guam, Mr. Perez cannot see how the Legislature can appropriate the amount of money that the government owes to Guam Power Authority.</p>	
50/85		<p>At this point, Mr. Camacho, Chairman, asked Mr. Perez which amount he was referring to, the \$3 Million or \$2 Million.</p>	

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51/85		<p>Thereupon, Mr. Becher, Controller, explained in detail the analysis report to the Board, as it lists those accounts which are way overdue as of January 08, 1985.</p> <p>Mr. Becher pointed out to the Board that the government accounts billed for the month and the arrears going forward are 23% of the current bill and most of the arrears are 90 days, 60 days, and very little of it is on the 30-day period. He also pointed out that out of the 25,948 residential customers and small business, 82% of them are paid with no arrears. He, therefore, pointed out the big difference with the residential and small business accounts as to that of the government accounts.</p> <p>After a lengthy discussion on the floor, Mr. Becher suggested that GPA and the Board should take immediate action on what to do with these outstanding government accounts.</p> <p>In summation, Mr. Perez stated that the report was submitted to the Board basically as a report to advise the members that when government agencies are lagging behind in their payments, it puts GPA in a very serious cash flow situation and by creating this problem, GPA is concerned on the monies that it will give back to the people. Had GPA been able to collect these monies from the government, it would not have any problems with having any money in the bank to work with.</p>	
52/85		<p>The Chairman then asked Mr. Perez what access GPA has on the Section 30 Fund. Mr. Perez replied that he can contact Department of Interior and have them impact Section 30 funds and give it to GPA directly. However, by doing this, it would only create havoc with the General Fund and, also the subject alone is a very touchy political situation. He can also forward the billing to DOI and advise them that GPA needs and wants the Section 30 money.</p> <p>Mr. Sablan then suggested that there should be some institution of disconnection to government agencies.</p> <p>Mr. Perez then stated that he will institute disconnection with government agencies who are behind with their paying obligations to GPA.</p> <p>Upon further discussion, the Board then instructed Mr. Perez to institute notices of disconnection to such</p>	

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53/85		<p>agencies, to be delivered immediately. Mr. Perez then responded that he will act on such notices immediately and that they will be personally handcarried to the agencies and their respective directors.</p> <p>UPON MOTION DULY MADE AND SECONDED, THE BOARD THEREUPON INSTRUCTED MANAGEMENT TO SEND OUT LETTERS OF DISCONNECTION TO THE GOVERNMENT AGENCIES WHICH ARE CONSIDERED DELINQUENT ON THEIR ACCOUNTS.</p>	
54/85		<p><u>CONTROLLER'S REPORT: (TRUST AGREEMENT)</u></p> <p>The Chairman then asked Mr. Becher, Controller, for his report on the Trust Agreement.</p> <p>Mr. Becher presented to the Board a copy of the Trust Agreement, by and between GPA and First Hawaiian Bank, for their perusal and consideration and, suggested to the Board that said Trust Agreement be executed. He stated that he had previously provided the Board with a copy of said Agreement for their review, as prepared by legal counsel and, that the Agreement has been accepted by the Secretary of Interior.</p> <p>Mr. Becher explained that the Trust Agreement is a requirement set forth in the Second Refinancing Agreement, which states that GPA shall have a Trustee who shall receive from GPA, the amounts of money that are payable on each semi-annual payment period, which is March 15th and September 15th each year for a period of twenty years. He further explained in detail and as outlined in the Trust Agreement, the particulars involved therein.</p> <p>Upon conclusion of Mr. Becher's report, he thereupon suggested and recommended to the Board the adoption of a resolution, authorizing the Chairman of the Board to sign on behalf of GPA, together with the Secretary's attestation, such Trust Agreement, substantially in the form as he has presented to the Board and, upon the final acceptance and notice by the Trust Department from First Hawaiian Bank's Hawaii Office that the Agreement and all of its parts thereto are approved.</p>	
55/85		<p>UPON MOTION DULY MADE AND SECONDED, THE BOARD THEREUPON ADOPTED A RESOLUTION, AUTHORIZING THE CHAIRMAN OF THE BOARD TO SIGN FOR AND ON BEHALF OF GPA, TOGETHER WITH</p>	



EIGHTEENTH GUAM LEGISLATURE

P.O. BOX CB-1
AGANA, TERRITORY OF GUAM
U.S.A. 96910

Committee on Energy
Utilities & Consumer
Protection

CHAIRMAN

SEN. DON PARKINSON

February 13, 1985



Mr. Joaquin Perez
General Manager
Guam Power Authority
Agana, Guam


Re: Request for information on GovGuam/GPA arrearages.

Dear Sir:

I would greatly appreciate a list of GovGuam/GPA arrearages showing the date and amount delinquent on each agency. If I can receive this list today, I will discuss it with the Governor and Steve Torres tomorrow. Perhaps an appropriation measure could be introduced during the next session of the Legislature.

In any case, I will certainly urge prompt payment of any bills owing, particularly if it will mean possible reconsideration of the proposed rate rollback to a higher figure.

Sincerely,


DON PARKINSON
Chairman, 18th Guam Legislature
Committee on Energy, Utilities
& Consumer Protection

cc: Governor Ricardo J. Bordallo

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		<p>Mr. Sablan asked what the status of the Government of Guam accounts were with GPA and Mr. Perez replied that \$800,000 has been paid to date and a meeting has been scheduled with Dave Santos of Revenue & Taxation to discuss the matter of the negotiated amounts of penalties that the government has to pay to GPA. According to Mr. Santos, Revenue & Taxation will come up with additional payment to GPA to cover the Government of Guam accounts.</p> <p>Minute number 59/85, page 8, on the matter of the Sick Leave Policy with GPA, Mr. Sablan asked if there has been any progress on this matter. Mr. Perez replied that he has had meetings with the Attorney General of Guam and he has stated that as far as they are concerned, the Government of Guam is resolved of this matter. However, the matter is now in the hands of GPA as to what to do with the subject at hand. He (Mr. Perez) will be discussing the matter with legal counsel and then get back to the Attorney General as to what or how the matter can be further pursued or resolved with GPA.</p> <p>After discussion and review, the Board unanimously approved the minutes of February 20, 1985 meeting.</p> <p>Next, the minutes of February 23, 1985 was presented for review and approval.</p> <p>The Secretary noted a minor correction to be made on said minutes and that being to show Mr. Frank Carbullido as an interim member of the Board of Directors, until such time as he is confirmed by the Legislature.</p> <p>The Recording Secretary was then instructed to make the necessary correction on said minutes.</p> <p>Minute number S-16/85, fourth paragraph to be corrected as follows:</p> <p>" . . . HE IS, THEREFORE, HOPEFUL THAT THE LEGISLATURE CAN CONFIRM THE PUC MEMBERS AND THAT GPA CAN HIRE THE INDEPENDENT AUDITOR BY APRIL 4TH. IF THIS IS NOT THE CASE, HE IS UNCERTAIN WHETHER GPA CAN ACTUALLY HIRE THE INDEPENDENT THIRD PARTY IN APRIL TO BEGIN NEGOTIATIONS ON THE POWER POOL. . . ."</p> <p>Page 5, second paragraph of the same minutes to change to read as follows:</p>	

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		<p>The claim states that Mr. Livingood was travelling along this route on his motorcycle and due to improper streetlighting, he lost control of his motorcycle and caused the accident. The claim is filed in the amount of One Million Dollars. GPA was mentioned in the claim through suggestion from the Attorney General to this Attorney in St. Paul because it involved improper streetlighting. Mr. San Agustin stated that upon his receipt of this letter and upon advise by legal counsel, he immediately forwarded said letter to GPA's insurance carrier, Nambo Insurance and they have verbally advised him that they will not handle the case because they felt that there is no legal standing on this particular claim. The responsibility of streetlighting does not lie with GPA and therefore does have not any liability on this matter. Mr. Arriola, legal counsel, then commented that no claim has been filed on GPA and that the claim was filed against Government of Guam and he also stated that he felt that this claim has no legal standing insofar as GPA is concerned.</p>	
110-85		<p><u>REQUEST TO RETAIN ATTORNEY & ENGINEERING CONSULTANT:</u></p> <p>Mr. Perez stated that this request is placed before the Board because of the matter on the RFP for fuel oil contract and due to the fact that Attorney Arriola is also counsel for Exxon, who might be one of the oil bidders, the Board might look into the possibility of retaining a special counsel for this particular project.</p> <p>Upon discussion on the floor, the Board gave Management authorization to look into the matter of retaining or hiring a legal counsel to handle the matter on the RFP for the fuel oil contract.</p>	
111-85		<p><u>GOVERNMENT OF GUAM ACCOUNTS:</u></p> <p>Mr. Sablen asked the General Manager if he had anything to report on the receivables on the part of the Government of Guam. Mr. Perez then commented that he received a phone call from Dave Santos of Revenue & Taxation, stating that there is a \$884,000 check at the Department of Administration, however, it cannot be released because they do not have money to cover the check. Mr. Perez stated that the Government</p>	

Minute No.	Ref. No.	Minutes	Action
112-85		<p>receivables is up to about \$4 Million, part of which is the penalty fee. The matter on the Government accounts receivables was discussed at great length and Mr. Sablan then suggested that GPA file a suit or attach Government of Guam in order to collect the monies due GPA. Upon discussion on the floor, Mr. Sablan then made a motion to task management to come up with a comprehensive plan of repayment for the Government of Guam, with respect to their receivables to GPA and present said plan to this Board for acceptance.</p> <p>UPON MOTION DULY MADE AND SECONDED, THE BOARD THEN INSTRUCTED MANAGEMENT TO PRESENT A COMPREHENSIVE PLAN OF REPAYMENT FOR THE GOVERNMENT OF GUAM, WITH RESPECT TO THEIR RECEIVABLES TO GPA AND TO PRESENT SAID PLAN TO THE BOARD AT THE NEXT REGULAR BOARD MEETING FOR ACCEPTANCE.</p>	
113-85		<p><u>CONTROLLER:</u></p> <p>The Chairman then asked the Controller if he had anything to report at this time. Mr. Becher then commented that recently, the Board members were given copies of the audit and financial statements for the period ending September 30, 1984. The report was delayed because the Authority wanted to resolve the issues between the Authority, the Trustees and the Bonds and the stipulations on the default. He also commented that since Mr. Allen Pickens, partner of Peat, Marwick, Mitchell & Co., who performed the audit and who is present at this meeting, he can then point out to the Board the certain areas of the audited financial statements and can answer any questions that the Board may have at this time. Mr. Pickens then took the floor and explained the financial statement in great summary. A discussion was had in respect thereto and Mr. Carbullido then made a suggestion that with all the comments that have been presented and with the current financial statement on the Authority, that it would be appropriate for the Board to give some kind of a commendation from the executive down to the meter readers, as to the all good things that have happened to GPA and to those employees who help make GPA as it is today.</p>	

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127-85		<p><u>GOVERNMENT OF GUAM DELINQUENT ACCOUNTS</u></p> <p>Mr. San Agustin that on the subject of the Government of Guam delinquent accounts, Mr. Perez has also prepared another memo to be reported to the Board at this meeting.</p> <p>In Mr. Perez's memo, he reported that in discussion with Dave Santos of Revenue and Taxation, an agreement has been reached that Government of Guam and GPA would settle the dispute over the penalties in the following manner, described hereinbelow.</p> <ol style="list-style-type: none"> 1. Since GPA had "possession" of the Section 30 Funds, (\$2.7 million in January and \$2.1 million in June), GPA would pay for the interest income lost for those months, computed from those months at the same rate rate was earning in TCD's during the same period of months. 2. GPA will not assess the penalty clause for any bills prior to October 1984. The reason for this stems from the same principal as the lost opportunity on the impacted Section 30 funds. Mr. Perez has agreed to this contention that if the Section 30 funds had not been impacted, Government may have been able to satisfy their power billings. 3. Penalty billings will start with the end of October bills. However, penalty charges will not be assessed on previous penalty charges, i.e., if GPA assesses a penalty charge in October and the bill is still outstanding in November, the Authority will assess the penalty on the actual bill, less the penalty. The Authority will not apply a penalty on a penalty. This would equate to 60% effective penalty on the year which is not only tantamount to usury but may well be illegal, despite GPA's compliance with the Administrative Adjudication Act. If the Authority is taken to court on this matter and the question of just and reasonable is brought up, it may find itself holding a very hot potato. The fact that Government of Guam permitted the GORCO deal with no interest charges would only seem to indicate that GPA should reciprocate in this matter. 	

Minute No.	Ref. No.	Minutes	Action
		<p>4. An agreement could also be made where there is an exchanging of checks for the GORCO Note and for the Government billings. However, the exchange would have to be for the entire amount of the GORCE debt and an equal amount for the Government billings. The benefit of this type of an agreement would have to accrue to both parties and not only GPA, as far as Mr. Santos is concerned. Any type of an agreement that would indicate that only GPA is reaping benefits would not be acceptable to Mr. Santos.</p> <p>Mr. Perez also stated in his memo that he will be discussing this further with Mr. Santos and they should have a resolution within one week upon receipt of this memo. They will be finalizing the computation on the trade off and will be discussing this matter further with the Governor in Washington and will also secure the Governor's okay on this plan. He also stated that until the finalization is completed, GPA will continue to collect what it can from the Government.</p> <p>Copies of this memorandum were passed out to the Board members and a discussion ensued thereon. Mr. San Agustin reported to the Board that in reference to the GORCO Note, owed by GPA to Revenue and Taxation is (\$6,191,000.00), as of December 31, 1981 and to date, GPA has paid a total of \$4,201,000.00 of that original note, which leaves a balance of \$1,989,000.00. The total arrears on Government of Guam for line departments to date is \$3,52,000.00, which means that Government of Guam owes GPA a little more than what GPA owes to the Government.</p> <p>Should any further developments or news come in from Mr. Perez, the Board will be so advised.</p> <p>On the General Manager's report, Mr. San Agustin stated that the Authority will be celebrating its 16th year anniversary and in conjunction therewith, the GPA Employees Association is holding fund raising events and will hold a banquet on May 18th to top off the celebration. In connection therewith, the Association</p>	

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172-85		<p><u>APPROVAL OF MINUTES:</u></p> <p>The first item on the agenda was the review and consideration of the approval of minutes, as follows:</p> <ol style="list-style-type: none"> 1) Minutes of July 11, 1985, regular meeting. 2) Minutes of 30, 1985, regular meeting. 	
173-85		<p>AFTER REVIEW AND DISCUSSION, ON MOTION DULY MADE AND SECONDED, THE MINUTES OF JULY 11, AND JULY 30, 1985, RESPECTIVELY, WERE UNANIMOUSLY APPROVED, AS CORRECTED.</p>	
174-85		<p><u>REPORTS: (GENERAL MANAGER)</u></p> <p>The next item on the agenda were the reports by the General Manager.</p> <ol style="list-style-type: none"> 1) Status: GovGuam Accounts/DOI concerns. <p>Mr. Perez then presented his report to the Board. He stated that the Authority may possibly in danger of being declared in technical default on one of the covenants of the Second Resolution of the Refinancing Agreement, said covenants being the maintenance of the 95% collection ratio and, secondly, that the Authority is not authorized to give free service to any one, including government agencies.</p> <p>He further reported that over the last two months and because of the financial condition of the Government of Guam, they have not been able to make full payments on their power bills. Because of this, government agencies has accrued through June 30, 1985, a total of \$5.6 Million in power bills, including arrears and penalties. This has caused the Authority's collection ratio to fall below what is required on the FFB covenant. This has caused great concern with Mr. Montoya, Under Secretary, DOI, and has called the matter to his attention. Mr. Montoya also pointed out that because of Bill 162, the Government of Guam may</p>	

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		<p>have further problem of being able to pay its power bills and, further because of Bill 362, PUAG will not be able to pay its bill and the Legislature has not identified any subsidy or appropriations specifically to pay the Authority for PUAG's power bills, which is approximately \$4 Million in a year's time.</p> <p>Mr. Perez then further reported that Management of GPA met with officials of the Government of Guam relative to resolving the problems with the government power bill arrears. In summary, the following was reported on:</p> <ol style="list-style-type: none"> 1) GPA will pay the balance of the GORCO Note of \$1.547 Million and the Department of Revenue and Taxation will declare such Note as paid in full. The government will then transmit to the Authority a check in the amount of \$1.547 Million as partial payment of billings in arrears up to June 30, 1985. 2) The Government will then pay the July billings in full within two weeks and will guarantee the promise to remain current for all government billings. 3) On the unpaid balance of bills in arrears which are not satisfied with the \$1.547 Million payment, the Government will make 12 equal monthly installments on the fifteenth day of every month. <p>An agreement will be prepared by the legal counsels of both the Authority and the Governor's Office. It is expected that the exchanging of checks and the execution of the agreement will take place within the next few days. Secretary Montoya has been advised of this agreement and is acceptable by him, however, the matter will still have to be referred to the Solicitor for final comments. Mr. Montoya's office will advise GPA on the outcome of the Solicitor's comments.</p>	

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		<p>Finally, Mr. Perez stated that Mr. Dave Santos of Revenue and Taxation was advised by Assistant Secretary Montoya that if this problem is not resolved, DOI will attach the Section 30 monies to pay for the government bills. Because of the statement made by Mr. Montoya, Mr. Santos came up with the above steps in settling the government power bills, in order to avoid the attachment of the Section 30 funds.</p> <p>In reference to the agreement presented to the Authority, Mr. Montoya has instructed Mr. Perez to make monthly collection reports to DOI and, if at any time that the the government fails to meet its payment guarantee, DOI will demand that the Authority to disconnect power for the government agencies.</p> <p>(THIRD PARTY)</p> <p>Mr. Perez reported to the Board that the Third Party group is expected to arrive on Guam on September 23rd, said party being the firm of Ernst & Whinney. A meeting will be set up with this group and DOI officials to discuss data requirements, accommodations, etc. He further stated that the Guam Legislature has exempted GPA from the Bill 362, which allows for the Third Party audit, together with the solicitation of the sealed proposals on multi-step bidding on the insurance RFP.</p> <p>The Board then asked Mr. Perez on the status of the oil proposals. He reported that the matter is still being studied and that nothing yet is definite on this matter, insofar as its exemption from Bill 362.</p>	



TELEX 6131

GUAM POWER AUTHORITY

P. O. BOX 2977, AGANA, GUAM, USA 96910-2977

August 8, 1985

TO: BOARD OF DIRECTORS
FROM: GENERAL MANAGER *[Signature]*
SUBJECT: GOVERNMENT ACCOUNTS

The Management of GPA met with the following officials of the Government of Guam relative to resolving the problem with government arrears. Two meetings were conducted with:

Mr. David Santos, Chairman, Fiscal Policy
Mr. Steve Torres, Director of Administration
Ms. Bertha Duenas, Deputy Director BMR
Ms. Lou Perez, Controller, GovGuam

The meetings were very productive and resulted in the formulation of a plan by which the government arrears will be addressed. This plan can be summarized as follows:

1. Guam Power Authority will pay the balance of the GORCO Note of \$1.547 Million and the Dept. of Revenue and Taxation will declare such Note as paid in full. The Government will transmit to GPA a check in the amount of \$1.547 Million as partial payment of billings in arrears to June 30, 1985.
2. The Government of Guam will pay the July billings in full within two weeks and will guarantee and promise to remain current from this point on for all government billings.
3. For unpaid balance of bills in arrears which are not satisfied with the \$1.547 Million check, the Government will make 12 equal monthly installments on the fifteenth day of every month.

This is a summary of the agreement which will be prepared by Legal Counsel for both the Authority and the Governor's Office and the exchange of checks and signing of the agreement will occur within the next few days.

I have just gotten off the phone with the Department of Interior and will be transmitting this letter to them. They have indicated that the agreement sounds acceptable but that it will be submitted to the Solicitor for final comments and that Assistant Secretary Kentoya will telefax a response to my office early in the evening. It was pointed out, however, that if the program is accepted, GPA may be required to make monthly report to the Assistant Secretary and that the Government must agree to the idea that if the agreement is not lived up to, GPA will discontinue service.

A full report of all subjects covered during the meeting will be prepared for transmittal to each individual board member.

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		<p>consideration and discussion and upon said discussion and consideration, were approved by the Board.</p> <p>Mr. Becher then commented by saying that he is still anxiously waiting to see what the auditors report state and that he is very optimistic that they will look with the eye of the PUC itself as to the adequacy of rates.</p> <p>The Chairman then asked the General Manager what was the question of the auditors. Mr. Perez replied that their questions was the pending capital improvements versus the revenues that GPA gets from the Southern portion of the island.</p> <p>This concluded the Controller's report to the Board.</p> <p><u>NAVY REPRESENTATIVE</u></p> <p>The Chairman then announced that the next order of business was a report from the Navy Representative. Mr. Bob Duncan, Navy Representative, was then asked if he had any reports to make at this time.</p> <p>Mr. Duncan stated that there was one item which he wanted to comment on and made a part of this minutes. This item being related to the Board by Mr. Perez, who was related from Senator Parkinson which was related to Senator Parkinson from someone else. This being the debt service coverage of GPA. He stated that to him this seems a lot of long string of information to be factual. Navy's position is that GPA is making a very good effort improving s debt service coverage. Navy further has no complaints about the debt service coverage and the hear-say is just that--Navy's quite pleased with GPA's financial position and improvements in the last few years and this is for the record.</p> <p>Mr. Perez replied that he is happy with this statement.</p> <p><u>OLD BUSINESS:</u></p> <p>A. Government of Guam/GPA Agreement - Re: Power Bills</p> <p>Mr. Perer stated that he has mentioned previously that this being re-hashed with attorneys. One of the problem that the Authority is having with this subject is that there is a directors within the Government of Guam (directors of Public Works), who refuses to recognize the streetlights and he states that as far as he is concerned, he will only recognize streetlights that he wants to and refuses to pay for the rest of the streetlights. Department of Administration has come back to him (General Manager), asking</p>	

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		<p>for an inventory that they can go to the Director of Public Works on the subject of streetlights and tell him to pay for all of the streetlights. As long as the Director of Public Works will not certify payments for the streetlights, Department of Administration cannot pay for them.</p> <p>Mr. Perez informed the Board that he has pointed out to both Departments that by law, the streetlights were re-energized and for this, he must recognize all streetlights. He also stressed that in accordance with laws, that if the Government refuses to pay for the streetlights, the Speaker of the Legislature must be so advised. He has not complied with this law due to the political battle that GPA would encounter, however, something serious must be done, in order that the Director of Public Works recognizes all of the streetlights and pays for all of them.</p> <p>This problem came about when at the time in September 7, 1983, when the streetlights were in tremendous arrears, GPA threatened and did in fact disconnected streetlights. During this time, the Director of Public Works, was tasked by the Governor, in view of the over expenditure of streetlights and the inadequacy of streetlights funding. He was tasked to come up with a new listing of what are essential lights to be retained and, in the process of this, the Director did come up with a listing as to what Government of Guam pay and the streetlights will be disconnected. While this was in process, a Court order came about and ordered GPA to re-connect all streetlights that have been disconnected, including all the "illegal" streetlights.</p> <p>At the conclusion of this report, Mr. Perez reported to the Board that so far the Authority has been lucky, the collection is still at 97% and if at any one time that it goes below 95%, DOI will come down hard on the Authority and put the Authority into default. One individual, Marion Horn, the Solicitor General for DOI, was adamantly against the GPA refinancing and, if at any time that GPA goes into the "wrong", the Solicitor General will clam down against GPA.</p> <p>The Chairman of the Board then asked the General Manager whatever happened to the Promissory Note that was supposed to have been signed by the Governor for payments to GPA. The General Manager replied that payment was given was to GPA on the first installment of \$211,000, however, this amount is a drop in the bucket by comparison to what the Government has to pay in million dollar a month current bill.</p> <p>Mr. Perez advised the Board that this Note is still awaiting the signature of the Governor and will follow through on this upon the Governor's return to the island.</p>	

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		<p>Mr. Carbullido then asked legal counsel what his opinion is in the collection efforts of the Authority from the government agencies. Mr. Arriola stated that if they don't want to pay, there is nothing the Authority can do under the circumstances.</p> <p>Mr. Carbullido then stated that would it help management if this Board gave instructions and order to management to prepare some sort of letter, endorsed by this Board, that if and when the agencies are given a certain a period to pay their bills, they will be subject to disconnection.</p> <p>Upon further discussion, the Secretary then recommended to the Chairman and the Board that this Board instruct management to find some solution to the collection efforts of the government agencies in connection with their payments and to report back to the Board on his efforts and nothing prevails, then this Board will initiate some actions on its own to enforce collection efforts.</p> <p>UPON CONSIDERATION AND DISCUSSION, THE BOARD INSTRUCTED MANAGEMENT TO COME UP WITH SOME DISCONNECTION SCHEDULE AND TO PRESENT SAID SCHEDULE TO THIS BOARD AT THE NEXT REGULAR BOARD MEETING.</p> <p>B. Harmon Plaza Lease</p> <p>The Chairman stated that the next order of business was the Harmon Plaza Lease.</p> <p>Mr. Perez, however, reported that he has not been able to get together with the owner of the building. No figures have been instituted or instigated and that the landlord, however, is willing to sit down with management to negotiate the figures. The lease has not been finalized and he will be contacting the landlord by next week to invite him to sit down and negotiate the lease price and terms with. At this time, he cannot report to the Board on the results of any negotiations but that once he starts to discuss matters with the landlord, he will be making his report to the Board at the next regular Board meeting.</p> <p>C. Budget Supplemental for Reclassification</p> <p>The Chairman then announced that the next matter of discussion is the Budget Supplemental for Reclassification.</p> <p>At this time, Mr. San Agustin, Deputy General Manager, then stated that this subject was brought up the last Board meeting, however, due to time constrain, the Board and management did not have time to discuss the matter and seek the Board's approval.</p>	

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Minute No.	Ref. No.	Minutes	Action
		<p>At this point, Mr. Carbullido, Board Secretary then asked Legal Counsel if he had anything to offer as far as his opinions are concerned. Legal Counsel then replied that he knows nothing of the Power Pool Agreement.</p> <p>Mr. Robert Duncan, Navy Representative, was then asked by the Board Chairman if he had any comments in regards to the amendment. Mr. Duncan made no comments at this time.</p> <p>Mr. Carbullido then asked the General Manager whether he believes that the Authority can get by without the amendment. Mr. Perez replied by saying that GPA can pay its portion of the cost and Navy is going to have problems and he fully understands their concern and that he has told both Captain Bell and Captain Olson that GPA has presented its amendment in Washington what the Authority wanted on it, and further that GPA will agree to Navy using the Industrial Fund, with the understanding that specific languages be inserted in the amendment specified by GPA.</p> <p>Mr. Perez informed the Board that Ernst & Whinney will be paid by DOI, whereby GPA and Navy reimburse DOI for said payment in each of its portion.</p> <p>Mr. Carbullido then asked the General Manager that by the Board not approving this amendment, is there any danger in the Power Pool Agreement in this effect. Mr. Perez replied by stating that he does not think so and that what he is asking the Board is for instructions for management to go back to Captain Olson and Commodore Hoffman and discuss on this matter further.</p> <p>Upon deliberation by the Board on this subject matter, the Board thereupon gave instructions to management to communicate further with Captain Olson and Commodore Hoffman on the amendment to the Power Pool Agreement and thereafter, report back to this Board on the outcome of the discussion. Management was also informed that the Board will take no action on this subject matter until a report is presented back to the Board on the discussions and negotiations with Captain Olson and Commodore Hoffman.</p> <p>The Board then requested Mr. Kin Arriola, Legal Counsel, if he has any reservations on accompanying management to the discussions and negotiations with Captain Olson and Commodore Hoffman. Mr. Arriola replied that he will try since he has no knowledge of the Power Pool Agreement.</p> <p>Mr. Perez reported to the Board on another matter, indicating that he had meeting with Senator Parkinson on the two matters. One being the Government bills. He informed the Senator that the mechanism, the MOU and the Promissory Note is still tied up with</p>	

Minute No.	Ref. No.	Minutes	Action
		<p>the attorneys and, therefore, has not been signed. However, despite the fact that the documents have not been signed, the Authority has been receiving payments and that the Authority is not below the 95% collection ratio. This report has somewhat satisfied the Senator. He, however, suggested that the Authority work out some system in the collection efforts from the Government.</p> <p>Mr. Perez further reported to the Board that one of the problems that the Authority is encountering with the Government is that the power bills go to the various departments, however, the departments does not turn in their bills to Department of Administration until the last day, and in turn Department of Administration refuses to cut a check due to the fact that they don't know what they are paying--they claim that they have to go over the documents. One way to resolve this problem is that the Authority has set up a system whereby it will send duplicate copies of bills. By doing this, they will not have the excuse that they do not have documentations on how to pay the bills. This was also stressed to Senator Parkinson and he has stated to the General Manager that if the agencies do not pay their bills, to go ahead with disconnection procedures and not take any chances that a default will come down on the Authority from DOI.</p> <p>The other matter that Senator Parkinson brought up with Mr. Perez is that someone from the Navy had been inquiring from Senator Parkinson's staff as to why GPA is permitted to maintain a debt service coverage well above the coverage agreed to by the Legislature's resolution which permitted the refinancing of the FFB Note. The Senator also mentioned that his staff has noted with discussions with the individual inquiring that GPA's debt service coverage was causing problems with the Navy's Industrial Fund and that the question was asked as to when the Legislature is going to do something about GPA's "obscene" profits. Upon discussion with Senator Parkinson and Mr. Perez, the following were noted to the Senator:</p> <ol style="list-style-type: none"> 1. In accordance with the Power Pool Agreement, the Navy will have to match whatever debt service coverage GPA has. The Navy, at present, is matching GPA's DSC, thus meaning more money to GPA. 2. Navy had always stated that the major reason why Navy was reluctant in turning over the control of the Islandwide Power System was due to GPA's financial viability. Now that the Authority has that viability, what reason does Navy have to complain and then wanting to revert to the situations of the past. 3. Navy has also always stated that one of the reasons for their reluctance in turning over control of the IWPS was due to political 	

NEW BUSINESS:

Delegation of Authority

This item was deferred until the next regular Board meeting.

Gabrial Building

Documents were handed to the Board by the Assistant General Manager of Administration relative to the subject. The Assistant General Manager gave a presentation on this lease. This documentation has been incorporated as part of these minutes.

According to Mrs. Garrido, our Comptroller has communicated to Mr. Sabrial our intention to extend the present lease for another five years, subject to negotiations on certain items.

After the presentation a discussion ensued on the floor relative to said lease.

Upon consideration of the information given by Management, a motion was made by Mrs. Paulino to renew the lease of the Gabriel Building at a period of ten years with all of the conditions as presented by the Assistant General Manager of Administration, provided that it is reviewed by the Legal Counsel. The motion was seconded by Mr. Carbullido. Thereupon, the motion was unanimously approved by the Board.

FEMMA

The General Manager stated that in the packets of the Directors was a correspondence from the Federal Emergency Management Agency demanding monies allegedly owed from Typhoon Pamela. Management wishes some direction as to how to handle this, as it is their contention that there is no valid basis for their claim.

Upon the advice of Counsel Arriola, the Board denied liability.

Counsel Unpingco is handling this matter and will draft a reply to this effect.

Delinquent Government of Guam Accounts

The Assistant General Manager of Administration gave a briefing to the Board of the present status of the delinquent GovGuam Accounts. A letter has been drafted to the Governor relative to this matter. The figures owing to the Authority have been incorporated as part of these minutes.

Management has drafted a letter to the Governor of Guam for the signature of the Chairman addressing this problem.

There was no objection by the Board to sending the letter to the Governor of Guam relative to the delinquent Government of Guam account.

Debarment of General Supply and Atlanticia Guam

Counsel Arriola stated that he received two letters, one from Lujan & Lujan on behalf of Pangalinen and the other from Richard Moylan, both to debar subject ~~corporations.~~ Counsel Arriola advised the Board that he met with Mr. Cooper last Friday on three matters, FEMMA, the

MINUTES OF THE
GUAM POWER AUTHORITY
BOARD OF DIRECTORS

REGULAR MEETING
April 1, 1986
3:00PM

The Acting Chairman, Juan Buenas, called the meeting to order at 3:13PM in the Conference Room of the Authority's Main Office in Agaña. Members present were Francisco Carbullido, Board Secretary, Cleotilde Paulino, Board Member, and Robert Duncan, representing Navy PWC.

APPROVAL OF MINUTES:

The Chairman announced that the first item on the agenda was the approval of the minutes of the meeting held on March 18, 1986. Upon consideration and upon motion duly made and seconded, the minutes of March 18, 1986 were approved subject to correction.

COMMUNICATIONS:

Letter from Governor of Guam: Concrete Poles

Mr. Ben Pangalinen, Special Assistant to Governor Ricardo J. Bordallo, Governor of Guam presented a letter to the Board relative to the concrete poles of Pangalinen Pole Manufacturing. This letter has been incorporated as part of these minutes.

Mr. John Benavente, Assistant General Manager, Operations, advised the Board that the concrete poles the Authority is seeking for is a pole that can be utilized for a variety of service conditions. However, there are certain service conditions whereby the existing Pangalinen poles can be utilized. This would alleviate some of our present problems. He did mention looking into this possibility at the last Board meeting.

The General Manager stated that later in the meeting, Management has prepared a presentation regarding the concrete poles and emergency procurement. He further stated that we cannot categorically say that the poles that are currently available from Mr. Pangalinen cannot be used. What we can say is that we have identified specific locations and given the conditions which exist in those locations, we have determined that those poles could be utilized to meet the service needs for those particular sites. However, he advised the Board, these poles may not meet the service requirements elsewhere because different conditions may exist.

Letter from Governor of Guam: Delinquent GovGuam Accounts

Mr. Aze, General Manager advised the Board that the Authority has received a letter from the Governor relative to the delinquent GovGuam accounts. It is in response to the letter that was sent to his office on this subject. It does state what their concerns are.

The Assistant General Manager of Administration has had several meetings with the officials from the Department of Administration in working out a resolution to this problem.

PUC Decision and Order: Rate reduction

Subject correspondence has been incorporated as part of these minutes.

Mr. Ada provided the Board with a synopsis of the Decision and Order and stated that the additional reporting requirements to the Public Utilities Commission would necessitate no additional man-hours as these are things that the Authority was heading toward as a matter of good management practices.

Counsel Arriola advised the Board that the enabling legislation provides that any contract which could increase rates and charges must have the prior written approval of the PUC. He has provided his legal opinion to Management on this.

A lengthy discussion ensued on the floor after which the Board instructed Counsel to render an opinion on the Decision and Order and return to the Board at the next regular session.

Letter from Department of Navy: Cabras Island Boat Owners

Mr. Ada advised the Board that the Authority was in receipt of a letter from Commander Donal Hill, US Naval Legal Services. This letter is attached as part of these minutes.

The point of the letter advised GPA that in the event of future suits, the Authority will be named as a third party defendant which may require the Authority to bear part of the cost of the suit. Mr. Ada further advised the Board that a copy of this correspondence has been given to legal counsel for his review. Hopefully, we can decide what action to take at the next Board meeting.

Mr. Robert Duncan, Navy Representative, advised the Board that the marina is located on the parcel of land that the Navy turned over to GPA to build the Cabras Power Plant. The Authority is allowing the marina to exist. GPA did write the Navy and ask their permission to let the marina to exist there and Navy's response was that it should not be there.

The Board thereupon deferred further discussion on this matter until the next regular Board meeting.

Reports:

General Manager

Tom Ada, General Manager stated that he had no report to make at this time.

Comptroller

George Becher, Comptroller stated that he had no report at this time.

Navy Representative

The General Manager, Mr. Thomas Ads, advised the Board that he attended the Ernst & Whinney 80% Review in Hawaii during the period May 18-23, 1986. He was accompanied by four GPA officials, Mr. John Benavente, Mr. George Becher, Mr. Andy Galajda,

and Mr. Oliver Wood. He stated that the trip was well worth the money expended from the standpoint that the relationships between the Hawaiian Electric and the Guam Power Authority have been re-established, and it is hoped that subsequent to this visit, that we will be able to send staff personnel to Hawaii to link up with their counterparts to receive a comparative orientation of their operation. Additionally, from the standpoint from the E & W study, to date, the input that was provided was very valuable and that the study is coming along quite well. He further advised the Board that during the week of July 21, 1986, Ernst & Whinney, the Department of Navy, Department of Interior and GPA will be providing a briefing to the Governor, the Board of Directors of the Guam Power Authority, and the Public Utilities Commission. At that point the 100% draft will be available wherein the Board will have the opportunity at that time to listen fully to its findings and recommendations and likewise to provide its recommendations to the consultants.

The Assistant General Manager of Administration provided the Board with an update on the status of the delinquent Government of Guam accounts. She advised the Board that contrary to newspaper accounts, the penalties were not waived. The next meeting will take place June 5, and the street light status will be discussed. The Department of Administration promised that they will accelerate payment on the street lights by paying at least 80% to show their good faith. The 20% is what is being disputed. She further advised the Board that the collection efforts have been successful, and in a short period of time we have been able to get at least 50% of the metered accounts payment.

A lengthy discussion followed on this subject.

Ms. Annette Donner gave an after-action report on the GPA 17th Anniversary festivities. A copy of this report is attached as part of these minutes.

Legal Counsel

Mr. Arriola, Counsel for the Authority advised the Board that Senator Parkinson is elected not to participate in the suit - GPA vs PUC.

On the subject of the Esta Later Charters, he advised the Board that a surveyor will be going down to the marina to have a look and determine where he located. The original camp location is not where Mr. Garber is presently located.

Comptroller

Mr. Becher, Comptroller advised the Board on our financial status. A copy of this presentation has been incorporated as part of these minutes.

A lengthy discussion followed after which Mr. Olaya commended Mr. Becher for his very good financial report to the Board.

Next Representative

Mr. Duncan advised the Board that on the 80% Review by Ernst & Whinney, the Navy found the review to show a lot of discrepancies between the 50% Review and the 80% review. We are

Mr. Duncan advised the Board that in regards to the Errol & Whiney study, we are making good progress in expanding the scope of work for the cost of service study. That should be finalized within a week.

Controller Search Committee

Mr. Tarasak advised the Board on the status of the search for a new Controller. Ads have been placed in the LA Times and Wall Street Journal. Response has been very good on these ads. Some resumes have been received. There is further screening to be done. We should be ready to conduct interviews during the week of September 22.

Cabrea Island Marina Committee

Mr. Dlay, Chairman of this committee requested an extension. He has not had a chance to call for a meeting of this committee.

Request was granted.

General Manager

The General Manager advised the Board that P.L. 12-43 was recently enacted, which provides for the wage grade reclassification of the last group of classified employees. This increase will be received this pay period.

On the matter of GovGuam delinquent accounts, the General Manager reported that when the PUC met several weeks ago, he pointed out then that these accounts, which at this point totals \$7 million dollars, are attributed to three agencies. (GMH, PUAJ & DOE). Unfortunately, he made the statement at that time that local statute protects the essential services from having their power terminated. This statement was in error. There is no local statute that protects these agencies from being terminated. However, he pointed out that the Public Utility Regulatory Policies Act (PURPA), which many mainland utilities follow as a guideline, states that "service may not be terminated if such action is dangerous to the community's health and if there is a matter of life and death involved in such termination". He pointed out that PURPA is not a law, it simply offers recommended policies for utilities to follow. He offered two policy directions that he recommends the Authority pursue:

1. GPA should continue the policy of not disconnecting Government agencies where public health and welfare are concerned.
2. GPA restructure the billing of the GovGuam accounts such that it recognizes only one account (e.g. the Government of Guam).

He has asked for the comments of the Department of Administration and Bureau of Budgets on this.

A long discussion ensued on this subject during which Vice Chairman Duenas stated that at some point, the Authority must bite the bullet. These bills will have to be processed if no action is taken.

Further discussion followed on this subject during which the General Manager stated that he wanted to

try to receive this issue locally as opposed to having the
201 202 in and garner Section 38 funds.

The Vice Chairman asked why we could not
terminate the electricity of the Commissioners and the
Administration buildings of PUAG and DPS.

Mr. Olaya suggested that we continue the
policy of not terminating essential services to the public
such as GNH & PUAG. However, non-essential services should
begin to have their services disconnected due to non
payment. Even partial payments would be accepted. We need
to be taken seriously.

The General Manager stated the problem here
is not one of fiscal irresponsibility on their part, more so
than a cash flow problem.

The Controller suggested that since this is a
serious problem, we include this as a regular part of the
agenda to keep the Board informed.

Mr. Carbullido motioned to approve the policy
directions which the General Manager has submitted. The
motion was seconded by Mrs. Paulino. Mr. Ulloa reaffirmed
that Mr. Ada had full authority insofar as disconnecting any
other entity. Thereupon, the motion was unanimously
carried.

OLD BUSINESS

None.

NEW BUSINESS

FY '67 BUDGET

The General Manager had stated in the
previous meeting that Management had hoped to have a copy of
this budget for the Board members's perusal. However, we
were not able able to meet that deadline and we are still
going through the second cuts on the budget.

Mr. Mesunson gave an update on the status of
the FY '67 budgets. He suggested that since the Operating
Budget will be available sometime next week, the Board
review what is there and look at the Capital Budget the
following week.

After further discussion, the Board elected
to call a Special Session on this subject for September 10,
1966 at 5:30PM.

PUBLIC PARTICIPATION

The Chairman then announced that the meeting
was open for public participation, and there being none,
moved on to the next order of business.

ADOPTING RESOLUTIONS

Mrs. Garrido advised the Board that due to
the absence of officers, the Authority needs to adopt the
Banking resolution and updating the signatories as we
have a few weeks ago.

APPROVAL OF MINUTES

The Chairman announced that the first item on the agenda was the approval of the minutes of October 1, 1986.

Upon consideration, the minutes of October 1, 1986 were approved as presented.

REPORTS

General Manager

Mr. Benavente presented a briefing on the Island Wide Power Outage that occurred this past weekend. The outage was as a result of a snake hitting on a breaker on the Tumon substation. Since there is no breaker-failure scheme at Harmon, this was felt back to the power plant and caused the units to isolate themselves.

A lengthy discussion ensued on this matter, during which management was in a bind for the last week of not being able to get the system back on line. Also, the Board recognized management's attempts to improve the system based upon the capital and resources available. After further discussion, Management was instructed to provide a report on what the system lacks and how such money will be needed to make the necessary improvements.

On the subject of the extensions, the necessary funds have been allocated. There are approximately eight families that will be affected by this. Our new policy will make this more feasible for them. The Ardiente line extension project has been completed, which the Board has approved previously.

PEDCO's fuel tanker will be arriving tomorrow, at approximately 3:00 PM, with a delivery of 223,000 barrels. Currently, we have approximately 200,000 barrels on hand. At the time of the delivery we will have a 75 day supply of oil.

Controller

Mr. Meeuwsen reported on the contract we have with Touche Ross to provide certain financial advice, and a timetable on the completion of these tasks. A copy of this report has been incorporated as part of these official records.

Mr. Meeuwsen also reported on the status of the Government of Guam delinquent accounts. A copy of this report has been attached as part of these official minutes. According to Mr. Meeuwsen's report, the Guam Memorial Hospital has not made a payment since September 1985. This problem of unpaid accounts is quite critical, as we have a capital budget for FY'87 which is dependant upon the collections of these amounts.

Mr. Ada advised the Board that we are at the top point now where the penalties are exceeding the billings.

Mr. Meeuwsen advised the Board that the requirement for the penalty comes from a PUC rate order.

The Government of Guam is under the impression that the penalties are illegal and are not paying it.

Mr. Duncan advised the Board that this is a very serious matter. Navy has agreed to match GPA's Debt Service Coverage. GPA claims these penalties as revenue, the DSC increases. The Navy pays based upon this, just if you are going to collect. If you don't collect, then there is no legal reason to have paid this.

The Chairman stated that he hoped that Navy has stopped paying this.

Mr. Duncan responded that he has asked GPA to set this aside, but Management felt they shouldn't, so it continues to grow.

Mr. Ada stated that in his discussions with the Department of Interior, they have indicated concern with this growing delinquency. It will come to a point when they will have to intervene, if we cannot resolve the problem locally.

A lengthy discussion ensued on this matter, after which the Chairman agreed to have Counsel draft a letter to the Chairman of the Board of Trustees of GIM addressing this issue.

Legal Counsel

Mr. Arriola reported that at the recommendation of the Chairman, Mr. Ullas, a meeting was held with Mr. Peter Perez, the attorney for PEDCO. As a result of this meeting, a few days ago a letter was received from London. Attorney Arriola has reviewed this letter and has compared it with the contract and in its form, would cover the requirements of the fuel insurance. Counsel did notify Mr. Perez that this would be acceptable to GPA. A copy of this letter from Mr. Perez has been attached as part of these minutes.

The Chairman advised counsel that a letter has been received from Senator Parkinson relative to introducing legislation by GPA to treat GovBus as one account. A copy of this letter has been incorporated as part of these minutes. Counsel had no objection.

OLD BUSINESS

The Chairman asked if there were any old business. There being none, he went on to

NEW BUSINESS

Off Island Travel

Mrs. Barrido presented travel requests for the following:

1. Mr. Joseph Naputi to attend ACMIEEE sponsored Computer Conference in Dallas, Texas.
2. Mrs. Thelma Barrido to attend APPA sponsored Designing Retail Rates Seminar in Scottsdale, Arizona.

REVIEW OF MINUTES

The Chairman announced that the first item on the agenda was the approval of the minutes of October 13, 1966.

Upon consideration, subject minutes were approved as presented.

REPORTS

General Manager

Mr. Thomas Ada, General Manager introduced Tessie Fabila as acting Controller until Mr. Meeuwsen returns from off-island.

The Chairman asked for a motion to ratify this appointment, pursuant to his appointment memorandum.

Mrs. Paulino moved to ratify the appointment of Mrs. Fabila as Acting Controller until the return of Mr. Meeuwsen. The motion was seconded by Mr. Carbullido. Thereupon the motion was carried.

Controller

Mrs. Fabila updated the Board on the status of the GovGuam receivables. A copy of this report has been attached as part of these minutes.

Mr. Ada reported that GMH has received the Memorandum of Understanding, however, they have some objections to certain provisions in this Memorandum. They will be getting back with us on this.

The Chairman added that a meeting has been scheduled with him and the Chairman of the GMH's Board of Trustees tomorrow at 1:30PM. For the information of the Board, the Chairman has met with the Chairman of GMH, and at that meeting they were amenable to structuring a Memorandum of Understanding, with an interim arrangement relative to the delinquent accounts. We had our legal counsel prepare this memorandum, that in turn was transmitted to their Board. At this point in time, there has been no response. We will memorialize the meeting to take place tomorrow.

Legal Counsel

Counsel Anriola stated that at the last meeting the Chairman asked him to research the problem of whether or not the District Improvement Law is applicable to the extensions of power lines. In his opinion, it is applicable. A copy of his opinion is attached at part of these minutes.

Counsel further reported to the Board that the Vice-Chairman asked him to draft legislation for submission to the Guam Legislature, which would grant the Authority the right and power to enter into properties acquired by our easements or right-of-ways to cut trees, underpinning structures, etc. He informed him that such legislation is not required because of our easements and grants of right of ways. Our easements already have these

- Continue -

Mr. Duncan reported that he had no report to make at this time.

Navy Representative

Mr. Duncan reported that he had no report to make at this time.

Cable TV Committee

Mr. Carbullido advised the Board that in the absence of the Chairman of this committee, Mr. John Duenas, He will be making the report. He advised the members of the Board that at the present time, everything is being tabled for more information to be gathered in order for a presentation to be made to the Board. A meeting has been scheduled for this coming Friday.

OLD BUSINESS:

Internal Audit Section

The Chairman advised the committee that Mr. Duenas is working on this. We are attempting to get position descriptions within GovBusas to utilize, as we hope to have this section operative as quickly as possible.

The Chairman appointed Mr. John Duenas to chair a committee to hire for the positions of Chief Auditor and Auditor I. The Chairman also appointed Mr. Francisco Carbullido and Mrs. Cleotilde Paulino to assist on this committee.

Mr. Carbullido moved to establish the positions of Chief Auditor, Auditor I and Auditor II. The motion was seconded by Mrs. Paulino. Thereupon the motion was unanimously carried.

Amendment for Travel

The Chairman announced that there is an amendment to his travel. His TA should be amended to allow him and Mr. Joaquin Arriola, Legal Counsel to attend the Ernst & Whinney conference in California. He has indicated to the General Manager that any meeting connected to the Power Pool Agreement should be attended by a member of the Board.

Mr. Ada requested an amendment to Management's travel (himself, Mr. Benavente & Ms. Donner). He would like to visit the island of Kaul for one day in order to take a look at their generating facility that has the stag unit. This is the kind of unit that we want to add to our system. Since the flight will not be leaving until late Friday evening, they will drop in on Hawaiian Electric Company and meet with officials there.

Mr. Carbullido moved to approve the amendments to the TA's as presented for Mr. Ullas, Mr. Ada, Mr. Benavente and Ms. Donner, and to approve additional travel for Mr. Arriola to include his attending the Ernst & Whinney conference in California. The motion was seconded by Mrs. Paulino.

- Continue -

Board of Directors
November 3, 1985
Page 3

NEW BUSINESS

Request for Budget Transfer Authority

The Chairman advised the Board that he has disseminated Mr. Ada's request for budget transfer authority. This request authorizes the General Manager the flexibility of decreasing a particular budget category by up to 10% and similarly increase another budget category.

Since the Chairman has not had time to go over this memorandum, he asked if we could defer this matter until a later date.

There was no objection.

Senator Parkinson proposed legislation regarding E & W

The Chairman stated that he was invited to appear before a public hearing tomorrow morning at 9:00AM, November 6, 1985. The Chairman asked the Counsel Arriola be in attendance at this meeting. Mr. Ulloa stated that he has had discussions with the General Manager, and the GM has discussed this with Counsel, and they are in agreement with the attitude that the Navy should pay not less than anyone else, and he is sure that the Navy is not seeking any subsidy from the people of Guam.

A long discussion ensued on the floor on this subject, after which Mr. Ulloa read the following testimony which he hopes to present at the hearing tomorrow, with approval of the Board members present:

"GPA wishes to take this opportunity to comment on the proposed bill which seeks to mandate the rate level, which is to be negotiated between the US Navy and Guam Power Authority. GPA understands that the intent of the bill is to prevent the establishment of preferential rates to the US Navy as a customer of GPA. This similarly reflects the position of the GPA Board of Directors, Governor of Guam, Ricardo Bordallo. Hence, we can conclude that there is consensus in this respect. GPA will interpret the base of this bill as a mandate on how it will conduct its negotiations with the Navy and that GPA will do its best, the best it can in reaching an agreement which is in the best interest of the community. Thank you for the opportunity."

There was no objection from the Board.

Mr. Duncan stated that the Navy is not seeking preferential rates and neither is E & W recommending one.

Further discussion ensued on this subject.

Reorganization request to liquidate GovGuam delinquent accounts.

The Chairman advised the Board that he has transmitted three letters to Senator Don Parkinson. Copies of these letters are attached as part of these minutes.

- Continue -

APPROVAL OF MINUTES

The minutes of November 3, 1986 were presented for approval. Mr. Duenas noted that during this session, the position of Auditor II was approved by the Board of Directors for the Internal Audit Section, along with the position of Chief Auditor and Auditor I. Mr. Duenas noted that during the meeting of October 13, 1986, he only asked for the approval of the positions of Chief Auditor and Auditor I. He asked that the position of Auditor II be deleted. There was no objection.

Thereupon, upon motion duly made and seconded, subject minutes were approved subject to correction as noted.

REPORTS

General Manager

Mr. Ada reported that he has prepared his report on his trip to the Frost & Whinney conference in California. This will be provided to the Board shortly.

Controller

Mr. Macoussen announced that he has the Financial Statements for the Fiscal Year ending September 30, 1986 drafted. They are not finalized due to the fact that they are undergoing audit by Arthur Andersen. This should be completed within two weeks. There are some potentially significant adjustments that they are in the process of reviewing. A lot of this had to do with the Government of Guam delinquent accounts.

Mr. Ulloa advised the Board that Senator Don Parkinson has been actively pursuing getting a bill passed that will appropriate funds to pay GovGuam delinquent power bills.

Mr. Arriola advised the Board that there was a meeting with Nancy Boone and Frank Solomon with GPA officials in California in regards to the delinquent power bills of the Government of Guam. At this meeting Ms. Boone assured GPA that Section 30 funds could be tapped to liquidate GovGuam delinquencies. It appears that the situation will be resolved one way or the other.

Navx Representative

Mr. Tenorio reported that he had no report to make at this time.

Cable TV Committee

Mr. Duenas advised the Board that he had very little to report on the Cable TV pole attachments. The Committee has met twice and they are still working on their figures and hopefully within two weeks they will be able to present a final report to the Board.

Mr. Carbullido added that they hope to finish this by the end of the year.

OLD BUSINESS

GovGuas Delinquent Accounts

Mrs. Garrido gave a presentation to the Board on a plan to disconnect certain agencies of the Government of Guas for delinquent power bills. To date we have not received payment of October power bills. This amount was due November 25, 1986. Payments that we have received were for FY'86 balances.

On Friday, a letter of Intent to Disconnect will be issued to the Department of Administration. They will also be advised that on the 30th of November, a 5% penalty will be assessed pursuant to the Rate Order. If by the close of business December 1, 1986, we do not receive any payment, a 48 hour tag notice on the morning of December 2, 1986. If payment is not received by close of business December 3, 1986, then disconnection of non essential agencies will begin.

A discussion ensued on the floor on this subject. There was no objection to Management's plan to disconnect.

Internal Audit Section

Mr. Duenas announced that the Civil Service Commission has granted GPA the authority of utilizing the positions of Chief Auditor and Auditor I. These positions have been announced and the announcement closes December 10, 1986. He further advised that he is planning a meeting with his committee and will report any developments.

NEW BUSINESS

Travel Authorizations

Mr. Ulloa asked for the approval of the Board to send Mr. Duenas to Denver, Colorado to attend an APPA sponsored course on the Fundamentals of Utility Budgeting.

Mr. Carbullido moved to approve travel for any Board member and anyone from Management who wishes to attend the course on Fundamentals of Utility Budgeting, scheduled for December 8, 1986. The motion was seconded by Mr. Olaya. Thereupon, the motion was unanimously carried.

Christmas Party

Mr. Ada stated that he had a request from the Employee Association to assist them in this annual function. If the employees are to bear the cost, they would have to pay \$30.00 per couple. The Association requests that the Authority pay for the facility rental and meals. The cost will be approximately \$7,000. Mr. Ada further advised the Board that there is an item under the approved FY'87 budget, under the General Manager's budget for \$20,000 for "Employee Social and Welfare" funding. The intent of this was to pay

Ada advised the Board that he has provided them copies of the proposed Delegation of Authority. This item will be an agenda item at a later date.

Mr. Ada also advised the Board that according to the minutes of December 4, 1986, which instructed Management to get approval prior to disconnecting any GovSuzsa agency. He stated that while he realized that he does work at the pleasure of the Board, he felt that this was an infringement on his management of the Authority.

Upon consideration, Mr. Duenas motioned to rescind this motion.

Mr. Ulloa suggested that further discussion on this subject be tabled until the return of Mr. Carbullido who could explain his reasoning for this motion.

NEW BUSINESS

Mr. Ulloa stated that the Authority should consider engaging a special counsel for the termination of the Power Pool. Materials have been provided to the Board members on this subject.

Mr. Ada stated that since tomorrow is the last day for Mr. Meeussen, an acting Controller needs to be appointed until Mr. Pecan comes on board on December 29, 1986. Mr. Ada asked that Mrs. Fabila be appointed acting Controller until that time.

There was no objection from the Board.

Management then presented a request for salary increase for Mr. Frank Chargulaf, Assistant to the Controller. Mr. Chargulaf is an unclassified employee, who has recently returned from the mainland where he has been preparing to take the CPA exam. He has since taken that exam, although the result will not be known for a few weeks. Mr. Chargulaf has great potential and is presently earning \$21,419. Management proposed an increase to \$25,000.

A brief discussion ensued on the floor during which Mr. Duenas pointed out to the Board that Mr. Chargulaf is a dedicated, loyal employee, who has two degrees. He stressed that this individual is worth more than \$25,000. Mr. Olvera then moved that Mr. Chargulaf's salary be increased to \$30,000 per annum. The motion was seconded by Mrs. Pauline. Thereupon the motion was unanimously carried.

There was no public participation, therefore the meeting was adjourned at 7:20 PM.

A T T E S T

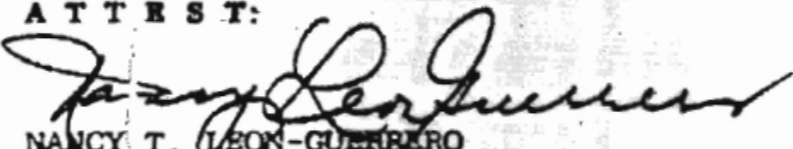
Terencio G. Carbullido
Secretary

DRAFT

Minute No.	Ref No.	Minutes	Action
		<p><u>APPROVAL OF MINUTES:</u></p> <p>The Chairman announced that the first item on the agenda was the approval of the minutes of January 21, 1987.</p> <p>The Chairman then queried the General Manager regarding his progress on implementing cost containment measures.</p> <p>Mr. Ada stated that Management should have a cost containment proposal to present at the next Board meeting with dollar values.</p> <p>The Chairman then advised the Board that Mr. Williams has submitted his fee schedule as requested.</p> <p>The General Manager stated that he did meet with the BBMR director, who indicated that he would get back with Mr. Ada with more specifics on what would be acceptable for them. The BBMR director stated that he would be satisfied with our giving him a monthly vacancy listing as opposed to sending in the GG1's each time.</p> <p>Upon review and discussion, Mr. Hernandez MOVED, SECONDED BY MR. TUROSIK TO APPROVE SUBJECT MINUTES AS WRITTEN. There being no objections, the motion was thereupon carried.</p> <p><u>REPORTS:</u></p> <p><u>General Manager</u></p> <p>The General Manager reported that the Ernst & Whinney 40% review should have been in the hands of the Authority as of today. We have not yet gotten this report and attempts to contact the Project Manager have been unsuccessful. We may have to reconsider whether we are going to have enough time to review this report prior to the meeting in San Diego.</p> <p>Mr. Ada further reported that a meeting was held with the Guam Memorial Hospital Administrator on Monday.</p>	

Minute No.	Ref No.	Minutes	Action
		<p>Nothing was resolved at this meeting. At present GMH is in arrears for November and December billings - approximately \$60,000 and all other government agencies are current.</p> <p>A brief discussion ensued on the floor regarding the penalties accrued by the Government of Guam.</p> <p>The Chairman then tasked Mr. Ada and Mr. Pecon with addressing this issue with BBMR by letter for the Chairman's signature.</p> <p>Mr. Sablan then stated that he would try to meet with GMH's Board Chairman on this issue.</p> <p>Mr. Benavente reported on the fuel oil inventory and vehicle readiness.</p> <p>A discussion ensued on the floor during which the Board asked Management for a list of who vehicles are assigned to.</p> <p>Mr. Hernandez stated that he would like to see what effect down time has on the day to day operations and identify those vehicles that are down for long periods of time, along with the reason the vehicle is down and the cost to the Authority.</p> <p>Management stated that this would be a standard report.</p> <p>Controller</p> <p>Mr. Pecon gave a comparative on budget to actual revenues and a report on the first quarter budget variance. A copy of this report is attached as part of these minutes.</p> <p>A discussion ensued on the floor relative to these reports.</p> <p>The Controller then gave a summary of budget amendments and a report on variant positions. He</p>	

Minute No.	Ref No.	Minutes
		<p>amendment to the present budget of \$115,000 for Touche Ross. This amendment is necessary due to a ceiling on the original award to Touche Ross of \$225,000. A breakdown of the task orders given TR was provided to the Board. A copy of this breakdown has been attached as part of these minutes.</p> <p>A brief discussion ensued on the floor after which it was MOVED, SECONDED AND AGREED TO INCREASE THE BUDGET FOR TOUCHE ROSS & COMPANY IN THE AMOUNT OF \$115,000. There being no objections, the motion was carried.</p> <p><u>Banking Resolution</u></p> <p>Mrs. Fabila advised the Board that it is necessary to revise the existing Banking Resolution to delete the name of Mr. Thomas Ada.</p> <p>It was then MOVED, SECONDED AND AGREED TO ADOPT THE BANKING RESOLUTION AS PRESENTED BY THE CONTROLLER'S OFFICE, DELETING THE NAME OF MR. ADA. There being no objections, the motion was unanimously carried.</p> <p><u>Indemnity Agreement</u></p> <p>Mrs. Fabila also presented to the Board a Release and Indemnity Agreement, which Counsel has prepared in accordance with our request. This agreement is in response to the services that the banks will perform in accommodating the stubs for GPA customers. Payments are to be delivered to the Bank of Hawaii. A copy of this agreement is attached as part of these minutes.</p> <p>Upon consideration, it was MOVED, SECONDED AND AGREED TO APPROVE THE INDEMNITY AGREEMENT AS PRESENTED BY THE CONTROLLER'S OFFICE. There being no objections, the motion was thereupon carried.</p> <p><u>Related Matters</u></p> <p>A discussion then ensued on the floor relative to penalties owed by the Government of Guam. During this discussion, the Chairman stated that the Authority should enter into a proper agreement with the Government of Guam that will not jeopardize their cash position. If it takes several years to get these monies, there would be</p>
71/87		
72/87		
73/87		

Minutes No.	Ref No.	Minutes
74/87		<p>no problem. The Chairman further stated that he would like to see incorporated into this agreement a provision which states that if there is some windfall in the GovGuam coffers, the Authority should have some of these monies reverted to it.</p>
75/87		<p>A discussion then ensued on the floor relative to the fuel adjustment on customer billings. Management was instructed to do further research on this matter.</p> <p>There being no further business to bring before the Board, the meeting was adjourned at 8:00PM.</p> <p>ATTEST:  NANCY T. LEON-GUERRERO SECRETARY BOARD OF DIRECTORS</p> <p>/ss</p>

BP

Minute No.	Ref No.	Minutes
113/87		<p><u>ROLL CALL:</u></p> <p>Mrs. Brooks and Mr. Hernandez were excused from the proceedings.</p>
114/87	34/87	<p><u>REVIEW OF MINUTES/DISCUSSION OF MATTERS ARISING FROM MINUTES:</u></p> <p>The Chairman then announced that the first item on the agenda was the review of the minutes of March 5, 1987.</p>
	72/87	<p>The Chairman stated that the proposal requested from GMH to repay their delinquent accounts has not been received. He further stated that he was unsure as to whether Mrs. Tainatongo did, in fact, bring this matter before her Board since the Controller had not been advised of his discussion with Mrs. Tainatongo. He advised the Board that he had written Mrs. Tainatongo a letter informing her that we needed to know their intentions before the end of the month or be subject disconnection of services.</p>
	84/87	<p>Mr. Pecon stated that there was no need to request the additional \$25,000 for out of pocket expenses for Touche Ross. The request was for \$115,000 only.</p>
	90/87	<p>Mr. Enavente advised the Board that he has done some preliminary research into the feasibility of a satellite office in the southern portion of the island. He will be making a report on this in the future.</p>
SP1-6/87		<p>The Chairman advised the Board members that Counsel Williams has to do further research prior to debarring any vendors. The list given out by the Superior Court does not specify whether or not an individual was convicted of white collar crimes in connection with the Government of Guam. Mr. Williams will be reporting his findings in the near future.</p>
	97/87	<p>The Acting General Manager advised the Board on the apprenticeship training program. He stated that the in-house committee did meet with GCC to discuss their standards and programs. This is an on-going project, which will be reported on at regular intervals.</p>
		<p>Mr. Duncan stated that this item should read "he stated</p>

Minute No.	Ref No.	Minutes	Act
		whether or not the Authority will be reimbursed for costs incurred.	
118/87		<p><u>Navy Representative</u></p> <p>Mr. Duncan stated that he had no report to make at this time.</p> <p><u>Controller</u></p>	
119/87	89/87	Mr. Pecon requested the Board's approval to contract Mr. Grennan as the sole source for the current contract for insurance and risk management consulting service.	
120/87		Upon consideration, the Secretary then MOVED, SECONDED BY MR. TUROSİK TO APPROVE THE REQUEST OF THE CONTROLLER TO CONTRACT MR. GRENNAN AS THE SOLE SOURCE FOR THE CURRENT CONTRACT FOR INSURANCE AND RISK MANAGEMENT CONSULTING SERVICE. There being no objections, the motion was thereupon carried.	
		The Controller then briefly went over the financial statements for the month of February.	
121/87		A discussion then followed on the cost of mailing the power bills. Management was then tasked to look into ways to save on the cost to mail these bills.	JH
		Mr. Pecon then advised the Board on the Government of Guam delinquent accounts. He outlined some options for the Authority to consider regarding these delinquent accounts.	
122/87		A discussion then ensued on the floor during which Management was tasked with getting with BEMR to find out what their cash position is as quickly as possible.	BF
		<u>OLD BUSINESS:</u>	
		There was no old business to discuss at this time.	
		<u>NEW BUSINESS:</u>	
123/87		<u>Budget Amendment</u>	

Minute No.	Ref No.	Minutes	Act
75/87		ROLL CALL	
		All Board members were present	
		REVIEW OF MINUTES/DISCUSSION OF MATTERS ARISING FROM MINUTES	
		The Chairman announced that the first item on the agenda was the approval of the minutes of February 18, 1987.	
76/87	34/87	The Chairman stated that he had requested a plan by today from GMH thru Mrs. Tainatongo, Board Chairperson. This has not been forthcoming. He then tasked Mr. Pecon to follow up on this matter. The Chairman will send an urgent letter requesting that action be taken immediately by the GMH Board on this matter.	BP/DJ
	SPI-7/87	When asked by the Chairman whether there will be discussion on prioritizing the CIP's at this meeting, the Acting General Manager responded that there would be no discussion at this session, however, he is planning to incorporate this item with the O & M budget update and the cost containment measures that are being proposed. He hopes to be able to present this shortly to the Board for review.	
	SPI-7/87	On the Agat service relocations, Counsel Williams stated that this will require a lengthy discussion and suggests this be a separate agenda item to be presented after he has done further research.	
	72/87	The Controller asked for an amendment to the motion on increasing the budget for Touche Ross to be consistent with the letter from Touche Ross, which asks for an additional \$25,000 out of pocket expenses.	
77/87		The Chairman requested that this additional amount be addressed formally after assuring that the budgeted funds are available from the object account.	
		Mr. Pecon commented on the subject of the GovGuam penalties. He advised the Board that had provided communications to both the Department of Interior and to the Bureau of Budget and Management regarding the Authority's desires to collect the entire receivable, including the penalties as required under our tariff. He	

EXHIBIT A 40

Minute No.	Ref No.	Minutes	Action
		<p>indicated in these communications the problems that would be encountered by the Authority if these penalties are not paid. Mr. Pecon further stated that he also suggested payment plans to BBMR. Mr. Reidy has returned from Washington and the Controller hopes to hear from him shortly relative to what the status is.</p>	BP
78/87		<p>The Chairman then suggested that we defer further discussion on this matter until the next regular Board meeting.</p>	
79/87		<p>Mr. Benavente advised the Board that all GovGuam accounts are current with the exception of GMH and KGTF. A letter from BBMR is on file, whereby BBMR/the Administration, will be responsible for resolving KGTF's problems within 80-90 days.</p>	
		<p>There being no objections, it was then MOVED, SECONDED AND AGREED TO APPROVE THE MINUTES OF FEBRUARY 19, 1987 AS WRITTEN. There being no objections, the motion was thereupon carried.</p>	
		<p>REPORTS:</p>	
80/87		<p><u>General Manager</u></p> <p>The Acting General Manager, Mr. John Benavente gave a report on the boiler overhaul at Cabras. A copy of this report has been attached as part of these minutes.</p>	
81/87		<p>Mr. Hernandez asked that Management give a courtesy call to the members of the Board whenever there is an island wide power outage.</p>	JB
82/87		<p>The Acting General Manager then presented the Board with a safety report for the months of January and February 1987. A copy of this report has been incorporated as part of these minutes.</p>	
		<p>A brief discussion then ensued on the floor relative to the safety report, during which Management was tasked with finding ways to decrease the number of accidents.</p>	JB
83/87		<p>The Acting General Manager then gave a report on equipment down time. A copy of this report is attached as part of these minutes.</p>	JB
		<p>The Board asked for this report on a regular basis.</p>	



APPROVED _____

GUAM POWER AUTHORITY
BOARD OF DIRECTORS MEETING

March 30, 1987


The Board of Directors of the Guam Power Authority met in a special session on Monday, March 30, 1987, in the Conference Room of the Authority's Main Office in Agana, Guam. The meeting was called to order at 5:30PM by the Vice-Chairperson, Mrs. Doris Flores Brooks.

Members Present:	Doris Flores Brooks Nancy T. Leon-Guerrero Luis Hernandez Charles Turosik
Members Excused:	David J. Sablan
Management Present:	John Benavente Bruce Pecon
Staff Present:	Joe Taitague Annette Donner Juliette Ybarra Frank Chargulaf
Navy Representative:	Robert Duncan
Observers:	Dutch Van Doo
Media:	Tribune

Special
March 30, 1987

Minute No.	Ref No.	Minutes	Acti
		<p>The Acting Chairperson, Mrs. Doris Flores Brooks announced that the Chairman, Mr. David J. Sablan was currently off island.</p> <p>The Controller then provided the Board with an arrearage summary relative to the Government of Guam delinquent accounts and settlement plan assumptions. A copy of this presentation has been attached as part of these minutes.</p> <p>A Promissory Note was then presented to the Board to be executed between the Guam Power Authority and the Government of Guam to satisfy their delinquent accounts. A copy of this note has been attached as part of these minutes.</p> <p>Mrs. Brooks noted that we are collecting approximately \$6.2 million in penalties and \$4.1 million against metered sales.</p> <p>Upon consideration, Mr. Hernandez then MOVED, SECONDED BY MR. TUDOSIK TO APPROVE THE PROMISSORY NOTE TO BE EXECUTED BETWEEN THE GUAM POWER AUTHORITY AND THE GOVERNMENT OF GUAM. There being no objections, the motion was carried.</p> <p>Management was then tasked with coming up with a revised cash position based upon this Note.</p> <p>A discussion then followed on the floor relative to the notice given to the PUC relative to the possible rate change.</p> <p>Mr. Hernandez then MOVED, SECONDED BY NANCY LEON GUERRERO TO TAKE DEFINITE ACTION TO WITHDRAW OUR NOTICE FROM THE PUBLIC UTILITIES COMMISSION IF THE PROMISSORY NOTE IS SIGNED BY THE GOVERNOR OF GUAM. There being no objections, the motion was carried.</p> <p>A discussion then ensued on the floor relative to the seriously delinquent accounts of the Guam Memorial Hospital.</p> <p>There being no further business to bring before the Board, the meeting was then adjourned at 8:30PM.</p>	

Special
March 30, 1987

Minute No.	Ref No.	Minutes	Acci.
		<p>A T T E S T</p> <p> <u>Nancy Lada</u> Secretary</p>	

Minute No.	Ref No.	Minutes	Act
139/87		<p>additional rate increases are given to GMH, they expect that they will make no payments for the remainder of this fiscal year. The GMH Board will address this at their next meeting.</p> <p>A discussion then ensued on the floor relative to this subject during which Management was tasked with providing the Board an update and recommendations on this subject at the next Board meeting.</p> <p>A discussion then followed on the floor relative to the footnotes on the draft audit.</p> <p><u>Legal Counsel</u></p>	MGR
140/87	44/87	<p>Counsel Williams then provided the Board with an update on the status of those vendors that have been convicted of white collar crimes against the Government of Guam. He presented the Board with three lists:</p> <ul style="list-style-type: none"> * Those vendors who have been debarred. * Those vendors whose debarment is pending - if they do not respond, they will automatically be debarred. * Those vendors who should be debarred. <p>These lists have been attached as part of these minutes.</p>	
141/87		<p>A discussion then ensued on the floor concerning this subject during which the names of former GPA employees who were convicted of white collar crimes against the Authority were included on the listing for those to be debarred.</p>	DW
142/87		<p>Counsel was tasked with providing an updated listing of proposed vendors and individuals to be debarred at the next regular meeting.</p>	DW
143/87		<p>Counsel was also tasked by the Board to provide a status on all outstanding claims against the Authority at the next Board meeting.</p>	DW
144/87		<p><u>Navy Representative</u></p> <p>Mr. Duncan advised the Board that the Navy has sent</p>	

Minute No.	Ref No.	Minutes	Acti
		<p>responses on the Authority's questions on the proposed generator and joint manning criteria.</p> <p><u>OLD BUSINESS:</u></p>	
45/87	SP4-4/87	<p><u>Promissory Note</u></p> <p>The Controller advised the Board that two Promissory Notes were signed by the Governor. One was for metered sales and penalties thru FY' 86 and the other was for FY'87 penalties. A copy of these Notes are attached as part of these minutes.</p>	
46/87		<p><u>FY'87 Cash</u></p> <p>Mr. Pecon then advised the Board on the FY'87 cash position. A copy of this presentation has been attached as part of these minutes.</p> <p>A discussion then followed on the floor relative to this subject.</p>	
47/87	24/87	<p>Upon consideration of the presentation by the Controller it was then MOVED, SECONDED AND AGREED TO WITHDRAW THE NOTICE TO THE PUBLIC UTILITIES COMMISSION RELATIVE TO THE PROPOSED RATE CHANGE. There being no objections the motion was unanimously carried.</p>	
48/87		<p>Management was tasked with drafting the letter for the PUC for the Chairman.</p>	JB
49/87		<p><u>Related Matters</u></p> <p>Mr. Hernandez asked Management for a report on human resources development. He stated that the Board is interested in accomplishments by the employees and would like to recognize those employees.</p> <p>A brief discussion then ensued on the floor during which Mr. Benavente stated that he would advise the Board on this at the next regular meeting.</p>	
50/87		<p>There being no further business to bring before the Board, the meeting was adjourned at 8:10PM.</p>	

Date	Ref No.	Minutes	Action
177/87		The Chairman then announced that the first item on the agenda was the review of the minutes of April 15, 1987.	
	157/87	Mr. Pecon noted that this item should be corrected to read "Mr. Todd Smith"	SS
178/87	171/87	Mr. Pecon then advised the Board that discussion on the bad debt write offs would be deferred until the next regular session.	
		<u>APPROVAL OF MINUTES:</u>	
179/87		Upon consideration, Mr. Turosik MOVED, SECONDED BY MRS. LEON- GUERRERO TO APPROVE THE MINUTES OF APRIL 15, 1987, SUBJECT TO CORRECTION AS NOTED. There being no objection, the motion was carried.	
		<u>REPORTS:</u>	
180/87		<u>Acting General Manager</u>	
		Mr. Benavente, the Acting General Manager gave an update on the correspondence that had been received by the Authority and our responses. Copies of these letters have been attached as part of these minutes.	
181/87	SP4-4/87	Mr. Benavente then advised the Board that the first payment on the GovGuam Promissory Note had been received.	
182/87	95/87	Mr. Benavente then advised the Board on Esta Later Charters. He stated that they are not completely moved from our property as they were asked to do.	
183/87		The Board then instructed to get with Counsel to send an Eviction Notice to Esta Later Charters.	
		Mr. Benavente went on to advise the Board that the Authority has been unable to obtain bidders to place the fence at Estancia to keep unauthorized individuals out of the area.	

RECORDED & INDEXED
 APR 19 1987

Date	Ref. No.	Minutes	Action
184/87		Management was instructed to keep the Board advised on this situation.	MGMT
185/87		The Acting General Manager then presented a report to the Board from Mr. William Quichocho, Manager, Customer Services regarding the opening of the Southern Satellite Office. A copy of this report is attached as part of these minutes.	
186/87	79/87	There were no objections from the Board, and the opening of the Satellite office is planned for the near future.	
185/87		Mr. Benavente reported to the Board the Mr. Tom Fritts is on island beginning the snake study. The Board will be kept informed regarding his progress.	
186/87	79/87	Mr. Benavente advised the Board that supplemental appropriation is in the works to address the KGTF situation.	
187/87		The Board instructed Management to check with the General Manager of KGTF to see if there are any funds that can be used to begin paying on their power bills.	MGMT
187/87		The Acting General Manager then requested Board approval to give \$2500 to the GPA Employee's Association to hold an Anniversary Week picnic.	
188/87	172/87	A discussion then ensued on the floor relative to this request after which Mrs. Leon- Guerrero MOVED, SECONDED BY MR. TUROSİK TO CONTRIBUTE \$5.00 PER EMPLOYEE TO THE GPA EMPLOYEE'S ASSOCIATION, TO BE USED FOR MEMBERSHIP FEES (NON-MEMBERS) AND DUES (MEMBERS). There being no objections, the motion was carried.	
188/87	172/87	The Acting General Manager advised the Board that he would be coming to them with a proposal at a later date regarding the vehicles, after he has had time to analyze a system to monitor the utilization of vehicles.	
189/87		<u>Controller</u>	
189/87		The Controller reported that the audited financial statements have been transmitted to our lender prior to the deadline.	

Date	Ref No.	Minutes	Action
		<p>Mr. Benavente went on to advise the Board that a ribbon cutting ceremony will be held on June 2 at 11:30AM.</p> <p>The Chairman asked that a letter be drafted for his signature to be sent to the Agat Commissioner thanking him for his support in setting up the office and inviting him to the ceremony.</p>	
208/87		The General Manager then advised the Board on generation peaks. A copy of the statistics are attached as part of these minutes.	
209/87	187/87	Mr. Benavente then advised the Board that the Anniversary Picnic has been rescheduled for June 7 at the Port Authority Beach.	MGMT
210/87	79/87	The General Manager then reported that he was able to speak with KGTF regarding payment of their delinquent power bills. Unfortunately, they just do not have the funds to make even token payments. However, payment of these bills are provided in the supplemental request submitted by the Administration. A public hearing will be held on this on Monday, June 1. The GMH supplemental is also included in the package.	
211/87	95/87	On the subject of ESTA LATER Charters, the General Manager advised the Board that they have moved the large building from the area, although it is not completely off the property. He further advised the Board that we do have a Purchase Order for \$4500 to replace the fence at Cabras. The fence will be installed next week, as will the fabrication of the "No Trespassing" signs.	
212/87		The General Manger then went on to advise the Board that the new owner of the Kadena de Amour had requested that he be allowed to moor his boat on our property until August until repairs are made. Mr. Benavente stated that he advised him by letter that he would have to move his boat no later than June 1 and referred him to the Port. Copies of these correspondences have been attached as part of these minutes.	
213/87		The General Manager then provided an update on the status of the Gasm Memorial Hospital delinquent accounts. The GMH Board of Trustees had a meeting and decided to give token payments to GMH to go towards	

EXHIBIT A 44

Date	Ref No.	Minutes	Action
		<p>paying their delinquent power bills. He asked for a letter from GMH stating their intentions but as of this time it has not been received.</p> <p>The Chairmen stated that if we do not have their official position relative to the repayment of their delinquent power bills by our next meeting, he would recommend implementing the conservation measures discussed previously.</p> <p>Mr. Hernandez recommended Management attend each GMH Board meeting.</p> <p>Mr. Benavente stated that he would personally attend the next GMH Board meeting.</p>	
14/87		<p>Mrs. Brooks then recommended that Management attend the Public Hearing on the supplemental appropriation and ask that GPA be given the funds for the delinquent power bills directly for GMH.</p>	MGMT
		<p><u>Capital Projects Reports</u></p>	
15/87		<p>On the subject of major projects, Mr. Benavente advised the Board the the Cabras Power Plant painting contract was awarded to GOROLCO at \$397,000.</p>	
16/87		<p>He further advised the Board that the P213 Barrigada to Barrigada Heights extension was awarded to Western Pacific Electric with a completion date of October 17, 1987.</p>	
17/87		<p>He went on to advise the Board that the bids for the Agst upgrade are being solicited on May 28 with an opening date of June 30. A village meeting is planned to advise the residents of that village what is being done.</p>	
		<p><u>Controller</u></p>	
218/87		<p>Mr. Pecon highlighted some points on the April financial statements.</p> <p>He then went on to advise the Board on items identified in the Management Letter from Touche Ross as needing action. Copies of this presentation has been attached as part of these minutes.</p> <p>A brief discussion then ensued on the floor relative to</p>	



GUAM POWER AUTHORITY

P. O. BOX 2977, AGANA, GUAM, USA 96910-2977

APPROVED June 17, 1987

GUAM POWER AUTHORITY

BOARD OF DIRECTORS MEETING

June 03, 1987

The Board of Directors of the Guam Power Authority met in a regular session on Wednesday, June 3, 1987, in the Conference Room of the Authority's Main Office in Agana, Guam. The meeting was called to order at 6:00PM by the Chairman, Mr. David J. Sablan.

Members Present:	David J. Sablan Doris Flores Brooks Nancy T. Leon-Guerrero
Members Excused:	Charles Turosik Luis Hernandez
Management Present:	John Benavente Bruce Pecon
Staff Present:	Joe Taitague William Quichocho Annette Donner Juliette Ybarra Teresita Fabila
Legal Counsel:	Merideth McDermid
Observers:	Dutch Van Dox
Media:	Tribune

EXHIBIT A 45

Minute No.	Ref No.	Minutes	Action
35/87		<p><u>ROLL CALL:</u></p> <p>The Chairman noted that Mr. Turosik was off island and Mr. Hernandez was ill. Members present constiuted a quorum.</p>	
36/87		<p><u>REVIEW OF MINUTES/DISCUSSION OF MATTERS ARISING FROM MINUTES:</u></p> <p>The Chairman then stated that the next item on the agenda was the review of the minutes of May 27, 1987.</p>	
37/87		<p>Upon consideration, MRS. BROOKS MOVED, SECONDED BY MRS. LEON GUERRERO TO APPROVE SUBJECT MINUTES SUBJECT TO CORRECTION. There being no objections, the motion was carried.</p>	
38/87		<p>The Chairman asked that the General Manager send out a letter to the Customer Service Staff to thank them for their support and the food that was donated for the ribbon cutting ceremony.</p>	B
39/87		<p><u>REPORTS</u></p>	
		<p><u>General Manager</u></p>	
		<p>Mr. Benavente advised the Board on the status of the Power Pool. He stated that he had spoken with Captain Everette, who indicated that the tentative date of June 22 for the 40% negotiations is not a good date. He asked that we consider the week of July 13 for these negotiations.</p>	
		<p>The General Manager then went on to advise the Board that the Anniversary picnic is scheduled for this Sunday, June 7, 1987. He stated that invitations were extended to the Governor, Lt. Governor and Captain Olsen.</p>	
40/87		<p>On the subject of Guam Memorial Hospital, the General Manager advised the Board that the GMH Board of Trustees had agreed to give GPA \$10,000 toward their delinquent power bills. However, to date, this has not been received. Mr. Benavente further advised the Board that he had attended this meeting and expressed the</p>	

Minute No.	Ref No.	Minutes	Action
		<p>disappointment of GPA's Board that no repayment plan had been received as requested. He stated that this plan would be forthcoming as would the payment.</p> <p>A discussion then ensued on the floor relative to this subject.</p>	
41/87		<p>The General Manager then advised the Board that the parking lot which the employees and customers had been using had been closed by the owners because no contract had been executed for the use of the land. At this time, the Manager of Customer Services is negotiating with the owners in order to resolve this issue.</p>	
42/87		<p>Mr. Benavente also advised the Board that another payment had been received toward the Promissory Note executed by the Government of Guam for repayment of their delinquent power bills.</p>	
		<p><u>Controller</u></p>	
43/87		<p>The Controller briefed the Board on overtime, annual and sick leave usage by the Authority. A copy of this report has been attached as part of these minutes.</p>	
44/87		<p>A brief discussion then ensued on the floor during which the Board asked for further investigation as to the reasons why we are averaging so much overtime and research way in which overtime can be reduced.</p>	
45/87		<p><u>Legal Counsel</u></p> <p>Ms. McDermid, pursuant to a request from the Board, provided an opinion on Request for Proposals for Audit Services.</p> <p>Mr. Peñon suggested that the Board form an Audit Committee for the selection of Audit Services for the Authority.</p>	
46/87		<p>There were no objections from the Board and an Audit Committee was formed naming Nancy Leon Guerrero as Chairperson with John Benavente and Teresita Fabila as members. Counsel McDermid was appointed trustee of the bids.</p>	

BP

Minute No.	Ref No.	Minutes	Action
47/87		<p>Mrs. Brooks suggested that prior to releasing the solicitation, Counsel should check it to insure that all legal requirements are satisfied.</p> <p>There were no objections.</p> <p><u>Navy Representative</u></p> <p>Mr. Duncan was off island.</p>	MM
8/87		<p><u>OLD BUSINESS:</u></p> <p><u>Stone & Webster Study</u></p> <p>Pursuant to the request made at the previous meeting, Mr. Benavente provided further information to the Board as justification on Stone & Webster's recommendation for the new generating unit. A copy of this presentation has been attached as part of these minutes.</p>	
9/87		<p><u>Cash Trends</u></p> <p>Mr. Pecon advised the Board on FY'87 Cash Trends which was deferred at the previous meeting. A copy of this presentation has been attached as part of these minutes.</p>	
0/87		<p>A brief discussion then ensued on the floor during which Management was requested to provide a copy of the Touche Ross report where the costs connected with implementing the Ernst & Whinney recommendations are outlined by fiscal year.</p>	SP
1/87		<p><u>NEW BUSINESS:</u></p> <p><u>Borrowing Authority</u></p> <p>The Controller then advised the Board that because GPA has no policy on short term borrowing, it exposes the Authority to a cash flow crisis, according to a statement made by Ernst & Whinney. He stated at the present time, he is looking for a facility to offer</p>	

Minute No.	Ref No.	Minutes	Action
2/87		<p>these services. A copy of Mr. Pecon's presentation is incorporated as part of these minutes.</p>	
2/87		<p>Mr. Pecon requested the approval of the Board to solicit proposals for this service within the next few days and will advise the Board on the outcome at the next regular meeting.</p>	
3/87		<p>Upon discussion and consideration it was then MOVED BY MRS. LEON GUERRERO AND SECONDED BY MRS. BROOKS TO GRANT THE REQUEST OF THE CONTROLLER TO SOLICIT PROPOSALS FOR A FACILITY FOR THE PURPOSE OF SHORT TERM BORROWING, WITH THE ONLY EXPENSE TO BE INCURRED BEING THE COST OF THE NEWS ADVERTISEMENT. There being no objections, the motion was thereupon carried.</p>	
4/87		<p>Mr. Pecon further advised the Board that if we were to begin short term borrowing, Counsel has advised that according to the Federal Financing Bank, this new debt would have to be included in the Debt Service Coverage. The FFB has been notified at the request of the Chairman to ask for a waiver or amend this.</p>	
5/87		<p><u>Budget Transfer Authority</u></p>	
		<p>The Controller gave a brief overview on his request for budget transfer authority. A copy of his presentation has been incorporated as part of these minutes.</p>	
6/87		<p>Mrs. Brooks suggested that we use a 10% guideline instead of the 25% requested.</p>	
7/87		<p>Upon consideration it was MOVED BY MRS. DORIS FLORES BROOKS AND SECONDED BY MRS. NANCY LEON GUERRERO TO GRANT BUDGET TRANSFER AUTHORITY TO DIVISION MANAGERS WITH THE PROVISIO THAT NO MORE THAN 10% OF THE TOTAL DIVISION'S NON LABOR BUDGET TO TO BE TRANSFERRED WITHIN EACH DIVISION AND TO ALSO GRANT THE GENERAL MANAGER THE AUTHORITY TO TRANSFER NO MORE THAN 10% OF A DIVISION'S NON LABOR COSTS TO ANOTHER DIVISION. There being no objections, the motion was carried.</p>	
8/87		<p><u>FY'88 Budget Guidelines</u></p>	
		<p>Mr. Pecon advised the Board on those items that the</p>	

Minute No.	Ref No.	Minutes	Action
		<p>Board may want to provide further input on concerning the FY'88 budget. A copy of his presentation has been attached as part of these minutes.</p> <p>Mrs. Brooks then commended the Controller for his efforts in preparation of the FY'88 budget. She stated that he seems to have a firm handle on the preparations.</p> <p><u>NEW BUSINESS</u></p> <p><u>Schedule "C" Of Rate Schedules</u></p> <p>The Chairman then advised that the next item on the agenda was Schedule "C" - late payment charge. A copy of subject schedule has been attached as part of these minutes. Public Law 18-48 has changed the penalty charge to 1% per month on the outstanding Government of Guam bills. Schedule "C" is presently in our Rate Schedule charging Government accounts a 5% penalty on accounts that are not paid within 15 days, and can be construed as a substitute for disconnection. The Chairman stated that this should be removed from our schedule and we should follow the provisions of Public Law 18-48 only.</p>	
59/87			
60/87		<p>A discussion then ensued on the floor during which Counsel McDermid advised the Board that although the Authority does not need PUC approval to make this change, we do need to have a public hearing on the matter of removing Schedule C.</p>	
61/87		<p>Further discussion ensued on the floor during which MRS. NANCY LEON GUERRERO MOVED, SECONDED BY MRS. BROOKS TO HOLD A PUBLIC HEARING ON SUBJECT SCHEDULE AND TO COORDINATE WITH THE PUBLIC UTILITIES COMMISSION ON THIS MATTER. There being no objections, the motion was carried.</p>	
62/87		<p>Management was instructed to draft a letter to the Public Utilities Commission advising them of our intent.</p> <p><u>Travel Request</u></p>	
63/87		<p>The General Manager requested approval to send Mr.</p>	

Minute No.	Ref No.	Minutes	Action
54/87		<p>Felix Cruz off island for training. A copy of the General Manager's request is attached as part of these minutes.</p>	
		<p>A brief discussion then ensued on the floor during which the General Manager stated that he would work on a plan to bring off island training requests before the Board quarterly.</p>	
54/87		<p>It was then MOVED BY MRS. LEON GUERRERO AND SECONDED BY MRS. BROOKS TO APPROVE THE REQUEST FOR OFF ISLAND TRAINING AS MADE BY MANAGEMENT. There being no objections the motion was thereupon carried.</p>	
55/87		<p>There being no further business to bring before the Board, the meeting was adjourned at 8:55PM.</p>	
		<p><u>A T T E S T:</u></p>	
		<p>Nancy T. Leon Guerrero Secretary Board of Directors</p>	

Minute No.	Ref No.	Minutes	Action
74/87		<p>Mr. Sablan stated that he would follow up with the Governor on the progress of the transfer of assets.</p> <p>A discussion then ensued on the floor relative to this agenda during which the Board instructed Management to inform Captain Everette that we have no problems with the way the agenda is set up, however, we would like to discuss upon our arrival in Honolulu, the structure.</p>	MGMT
75/87		<p>Mr. Benavente then went on to advise the Board that Greg Tarasar will be coming in the week of June 28 for some initial briefings prior to the negotiations in Honolulu.</p>	
76/87		<p>The Board then decided to hold the meetings on June 29 & 30 at 5:30PM.</p>	
77/87	213/87	<p>Mr. Hernandez then MOVED, SECONDED BY MRS. BROOKS TO CHANGE THE DATES OF TRAVEL FOR THE 40% NEGOTIATIONS TO COMMENCE ON JULY 11. There being no objections, the motion was thereupon carried.</p>	
78/87		<p>Mr. Benavente then presented the Board with a letter from the Chairman of the Board of Trustees of the Guam Memorial Hospital. A copy of this letter has been attached as part of these minutes.</p> <p>A brief discussion ensued on the floor during which the Board expressed their concern that GMH has given no long term solution to their problems, and that there is no alternative if the Legislature does not give them an appropriation.</p> <p>The Chairman suggested that we tell GMH that GPA will accept 10% of their past due billings as outlined in their letter, pending receipt of an appropriation from the Legislature, but on the condition that they remain current on their current monthly billings.</p>	MGMT
79/87	78/87	<p>Management was instructed to draft a letter to GMH to this effect.</p>	
80/87		<p>The General Manager then advised the Board on the status of the Service Rules and Regulations. He stated that Counsel is reviewing the draft at this time.</p>	
80/87		<p>Upon consideration it was then MOVED BY MR. HERNANDEZ</p>	

EXHIBIT A-16

Minute No.	Ref No.	Minutes	Action
5/87		Mr. Pecon provided a brief overview of the Financial Statements for the month of May 1987. A copy of this statement has been attached as part of these minutes.	
16/87	113/87	The Controller then advised the Board that Peat Marwick has identified a source of information for the PETROMAR audit. This has been slowing down the project. A final report should be submitted within the next month or so.	MGMT
		<u>Legal Counsel</u>	
		Counsel was not present at this meeting.	
87/87		Mrs. Brooks asked Management to check on the cost of the debarment proceedings as requested earlier of Counsel.	LEGAL
		<u>Navy Representative</u>	
		Mr. Pangelinen, who was representing the Navy Public Works had no report to make at this time.	
		<u>OLD BUSINESS:</u>	
88/87	259/87	<u>Schedule C Public Hearing</u>	
		The General Manager provided copies of a letter which was sent to the Public Utilities Commission. A copy of this letter has been attached as part of these minutes.	
89/87		Mr. Benavente went on to advise that a Public Hearing on this matter may be held on August 6, 1987 and that they are trying to keep the cost down as much as possible.	MGMT
90/87	251/87	<u>Borrowing Facility</u>	
		The Controller provided the Board with a letter from Arthur M. Gelber & Company who responded to our request for proposal for professional services for the placement of a short term borrowing facility. A copy of this letter has been attached as part of these minutes.	

Minute No.	Ref No.	Minutes	Act
329/87		<p><u>ROLL CALL:</u></p> <p>The Acting Chairperson Mrs. Doris Flores Brooks noted that the Chairman, Mr. David Sablan was off island. Members present constituted a quorum.</p>	
330/87		<p><u>APPROVAL OF MINUTES:</u></p> <p>The first item on the agenda was the approval of the minutes of July 1, 1987.</p> <p>Upon consideration, it was then MOVED BY MR. HERNANDEZ AND SECONDED BY MR. TUROSİK TO APPROVE THE MINUTES OF JULY 1, 1987 AS PRESENTED. There being no objections, the motion was unanimously carried.</p>	
331/87		<p><u>REPORTS:</u></p> <p><u>General Manager</u></p>	
282/87		<p>The General Manager gave an update on the Tanguisson oil spill. He reported that they are nearing the final contract negotiations with Battelle. It appears that representatives from Batelle will be on island during the first or second week of August to begin the investigations into this spill and to provide recommendations on recovery of this oil.</p>	
SP1-7/87		<p>Mr. Benavente went on to advise the Board that bids have been received for the Agat 4KV upgrade. It appears that we will be awarding this contract to Western Pacific at \$169,000.</p>	
259/87		<p>The General Manager then advised the Board that the Public Utilities Commission has requested to move the Schedule "C" hearing until August 13. They are trying to get the members together for this hearing.</p>	
306/87		<p>Mr. Benavente reported to the Board that negotiations are still on-going with PECO for GPA to store \$12.00 per barrel fuel in their storage tanks. An amendment to the existing contract has been prepared, and once a price is agreed on, this amendment will be executed.</p>	
		<p>Mr. Benavente further advised the Board that he has contacted the PECO as to whether this contract would have to be approved by them. He was told that since this contract would not increase the rates, but would mean a significant</p>	

Date No.	Ref No.	Minutes	Action
		<p>made in getting the system back on-line.</p> <p>The General Manager stated that he would make an effort to contact each member in the event that there is another island wide power outage.</p> <p>A brief discussion then ensued on the status of GMH and their delinquent power billings. The General Manager advised the Board that no response has been received to our letter to the GMH Board of Trustees.</p> <p>The Acting Chairperson suggested that a follow up letter be sent to the GMH Board of Trustees and also to the Governor regarding the status of the appropriation.</p> <p>A brief discussion then followed on the status of the Annual Report. The General Manager stated that he would ensure that the Board had a copy of the final lay-out of the report no later than Friday.</p>	
335/87	311/87	<p>It was then MOVED BY MR. HERNANDEZ TO RESCIND THE PREVIOUS MOTION OF THE BOARD INCLUDING THE PICTURES OF THE CURRENT BOARD OF DIRECTORS IN THE 'FY'87 ANNUAL REPORT. THE MOTION WAS SECONDED BY MR. TUROSİK. There being no objections, the motion was thereupon carried.</p>	
336/87		<p>Mr. Hernandez commended the employees for their efforts in bringing the system back on-line after the power outage yesterday. MR. HERNANDEZ THEN MOVED, SECONDED BY MRS. LEON GUERRERO TO SEND A LETTER ON BEHALF OF THE BOARD OF DIRECTORS, WITH THE CHAIRMAN'S SIGNATURE. TO THOSE EMPLOYEES WHO WORKED TO BRING THE SYSTEM BACK ON-LINE AFTER THE ISLAND WIDE POWER OUTAGE COMMENDING THEM FOR THEIR EFFORTS. There being no objections the motion was carried.</p>	MGM
337/87		<p><u>Acting Controller Report</u></p> <p>Mrs. Fabila, who is acting in the capacity of Acting Controller, provided the Board with a recap of the June financial statement.</p> <p>Management was instructed to follow up with DOE regarding their delinquent billings.</p>	
338/87		<p><u>Legal Counsel</u></p> <p>Counsel McDermid then provided the Board with a legal opinion relative to the Navy's charges of "conflict of</p>	MGM

Minute No.	Ref No.	Minutes	Action
		<p><u>ROLL CALL:</u></p>	
3/87		<p>The Acting Chairperson, Mrs. Doris Flores Brooks noted that Mr. David J. Sablan and Mr. Charles Turosik were currently off island. Members present constituted a quorum.</p>	
		<p><u>APPROVAL OF MINUTES:</u></p>	
4/87		<p>The minutes of June 17, 1987 were then presented for approval.</p>	
5/87		<p>Upon consideration it was then MOVED BY MR. HERNANDEZ AND SECONDED BY MRS. LEON GUERRERO TO APPROVE THE MINUTES OF JUNE 17, 1987 AS PRESENTED. There being no objections, the motion was carried.</p>	
		<p><u>REPORTS:</u></p>	
		<p><u>General Manager</u></p>	
6/87		<p>Mr. Benavente then reported on the status of the PEDCO fuel contract. He advised the Board that he is presently working with the Navy to store approximately 200,000 barrels of \$12.00 per barrel fuel prior to the end of this fiscal year. This would represent a savings to both Navy and GPA customers since the price of fuel is expected to rise during the month of October.</p>	
6/87	32/87	<p>The GM then went on to advise the Board on the status of Guam Memorial Hospital. GPA has received 10% of GMH's current billing as they had promised.</p>	
7/87	259/87	<p>The public hearing on Schedule "C" is proceeding on schedule for August 6, 1987. Management will be providing a draft of written testimony to be presented at the public hearing by the next Board meeting.</p>	
8/87		<p>The GM then advised the Board that he has been asked to appear before the committee presently conducting hearings of 2011-205 regarding Cable TV. He will be asked questions concerning the pole attachment contract</p>	MGMT

Minute No.	Ref No.	Minutes	Action
314/87	SP4-3/B7	<p>presently before the Legislature. He stated that he would advise the Board as developments occurred.</p> <p>Mr. Pecon further advised the Board that we have received another payment on the Promissory Note and that all GovGuam agencies, with the exception of GMH and KGTF, are current.</p>	
315/87		<p><u>Legal Counsel</u></p> <p>Counsel was not present at this meeting.</p>	
316/87		<p>Counsel did however provide the Board with requested information regarding the cost of the debarments. A copy of this correspondence has been incorporated as part of these minutes.</p>	
317/87	87/87	<p><u>Navy Representative</u></p> <p>The Acting Chairperson asked Mr. Duncan if the Navy still plans to build the 20 megawatt generating unit.</p> <p>Mr. Duncan advised the Board that his meeting on the Mainland was a pre-proposal meeting. This meeting did not address financing, which was submitted in the FY'88 budget which will go before Congress. He stated that the size of the generating unit will depend on whatever funding Congress provides.</p>	
318/87		<p>Mr. Hernandez asked if the Navy had any specific concerns at this point regarding the upcoming 40% negotiations.</p> <p>Mr. Duncan stated that at this point, he was not aware of where the meetings were to take place.</p> <p>Mr. Benavente stated that he would be sending a letter to Captain Everette first thing in the morning.</p> <p>Mr. Hernandez stated that Navy should voice any concerns within the next week in order that they may be addressed prior to the meeting.</p>	

Minute No.	Ref No.	Minutes	Action
9/87		<p><u>ROLL CALL:</u></p> <p>The Chairman, Mr. David Sablan called the meeting to order at 5:40 PM. He noted that Mr. Luis Hernandez was off island.</p>	
0/87		<p><u>REVIEW OF MINUTES/DISCUSSION OF MATTERS ARISING FROM MINUTES:</u></p> <p>The minutes of July 22, 1987 were then presented for approval. Upon consideration, Mr. Turosik then moved, seconded by Nancy Leon Guerrero to approve subject minutes as presented. There being no objections, the motion was thereupon carried.</p>	
1/87	332/87	<p><u>General Manager</u></p> <p>Mr. Benavente then reported that there is no final report on the recent island wide power outage at this time. However, at this time, the cause appears to be the instability of the units at Cabras and Piti.</p> <p>The General Manager then reported on the Piti PCB cleanup. He stated that the Navy is beginning massive cleanup procedures. The estimate for cleanup is approximately \$2 million. The Navy has received about \$1 million in Federal funds for the cleanup.</p> <p>Management was tasked with keeping the Board informed on this matter.</p>	
	306/87	<p>Mr. Benavente then advised the Board that the public hearing on "Schedule C" is now scheduled for Tuesday, August 18, 1987 at 7:00PM at the Legislative Session Hall. A testimony has been prepared for the Chairman which has been incorporated as part of these minutes. The General Manager stated that he has spoken with the Chairman of the PUC, and that this should not be a lengthy hearing, and the cost should be minimal to the Authority.</p>	
	334/87	<p>He then briefed the Board on the status of the supplemental appropriation for GMH, KGTF, and DOE. Hearings</p>	

EXHIBIT A 49

Minute No.	Ref No.	Minutes	Action
		<p>are still being held at the Legislature on this subject.</p> <p>The General Manager informed the Board that the 80% briefings will be held beginning August 29 at the Pacific Star Hotel.</p> <p>He went on to inform the Board that Mr. Greg Tarasar will be on island during the week of August 16 for briefings to prepare for the 80% review. He will schedule a date with the Board for this briefing.</p>	MGMT
68/87		<p>The Chairman then asked for the status of Esta Later Charters and on the easements for Leo Slotnick.</p> <p>Mr. Benavente advised the Board that Esta Later has moved from GPA property and the fence was erected July 27. The Kadens de Amour has also been moved. There are presently two crafts remaining, and one belongs to the Port. Mr. Benavente stated that efforts are being made to get these boats moved from the area.</p> <p>He went on to advise the Board that estimates are being gathered to grade the road leading to our property, thereby easing the traffic onto Mr. Slotnick's property.</p> <p>Management was tasked with keeping the Board advised on these matters.</p>	MGMT
52/87		<p><u>Controller</u></p> <p>Mrs. Fabila advised the Board that the budget schedule is being followed and will be presented on time.</p> <p>The Acting Controller provided the Board with a billing summary for government accounts. A copy of this summary has been attached as part of these minutes.</p>	CONT
3/87		<p><u>Legal Counsel</u></p> <p>The Board stated that during the remainder of the power pool negotiations, they would feel more comfortable with having Counsel present.</p>	

DRAFT

Ref #	Minutes	Acti
	<p><u>ROLL CALL:</u></p> <p>The Chairmen noted that Mrs. Brooks was off island.</p> <p><u>REVIEW OF MINUTES/DISCUSSION OF MATTERS ARISING FROM MINUTES:</u></p> <p>The Chairman then announced that the first item on the agenda was the review of the minutes of August 5, 1987.</p> <p>Mrs. Leon Guerrero noted that a correction should be made to Minute #362/87. The word "previous" should be changed to "current".</p> <p>Upon consideration, it was then Moved by Mrs. Leon Guerrero and seconded by Mr. Turosik to approve the minutes of August 5, 1987, subject to correction. There being no objections, the motion was thereupon carried.</p> <p><u>REPORTS:</u></p> <p><u>General Manager</u></p> <p>Mr. Benavente then updated the Board on the status of the investigation into the cause of the July 21 island wide power outage and also the status of the Cabras repairs.</p> <p>The General Manager then went on to advise the Board that the Public Hearing for the elimination of Schedule "C" was conducted last evening. We should be hearing from the PUC on this matter in the near future.</p> <p>On the subject of the GMH,DOE and KGTF appropriation, the General Manager advised the Board that he had reviewed Bill 476 to insure that the appropriations are adequate and it appears that GMH will be approximately \$50,000 short. He has met with John Rosario to discuss this situation, who indicated that they will come up with the funds and intend to come current in their accounts. Hopefully, by the next Board meeting all government accounts will be current.</p> <p>Mr. Benavente then gave an update on the Cabras Island Marina. At present, there is one boat remaining which belongs to Junior Perez. He is in the process of moving it. However, the Port is requesting permission to keep their boat there at this time. They are looking into selling it.</p>	

EXHIBIT A 50

Minute Number	Ref #	Minutes
		<p><u>ROLL CALL:</u></p> <p>The Chairman noted that a quorum was present to begin the meeting.</p> <p><u>REVIEW OF MINUTES/DISCUSSION OF MATTERS ARISING FROM MINUTES:</u></p> <p>The minutes of the August 19, 1987 regular meeting were then reviewed.</p> <p>The General Manager then advised the Board that the Chairman of the Public Utilities Commission is considering scheduling a meeting the first week of October to discuss Schedule C.</p> <p>Mr. Benavente further advised the Board that a check is expected in the amount of \$306,000 from Guam Memorial Hospital.</p> <p>The General Manager went on to advise the Board that GPA has also received a check from DOE for \$298,000. Mr. Benavente also stated that he is working with KGTF and he hopes to have something from them shortly. They have received the appropriation, and it is just a matter of certifying the funds.</p> <p>The Chairman asked that the Board be advised once KGTF is current.</p> <p>The General Manager then advised the Board that he hopes to be able to provide the Board with an updated list of vehicle assignments by this Friday.</p> <p>Mr. Benavente then stated that he did issue a memorandum relative to the gate closing at the Tamuning substation. He stated that he would relay this information to Mr. Slotnick.</p> <p>Mr. Benavente then went on to advise the Board that he had presented the Board Resolution to Captain Olsen.</p> <p>Mr. Benavente then stated that he hopes to be able to come before the Board by the first meeting in October with a bid package for the bid process for the combustion turbines.</p> <p>Upon consideration, it was then MOVED BY MRS. LEON GUERREMO AND SECONDED BY MR. TEBOSIK TO APPROVE THE MINUTES OF AUGUST 19, 1987, SUBJECT TO THE INCLUSION OF THE APPROPRIATE MINUTE</p>

SEP 15 1987

Minute Number	Ref #	Minutes	Acti
14/88		<p><u>ROLL CALL:</u></p> <p>The Chairman noted that Mrs. Brooks was off island.</p>	
15/88		<p><u>REVIEW OF MINUTES/DISCUSSION OF MATTER ARISING FROM MINUTES:</u></p> <p>The minutes of 10/7/87 were then reviewed.</p>	
	334/87	<p>The General Manager stated that he had asked Counsel if we could legally waive the penalties as requested by GMH.</p>	
		<p>Mr. Benavente further stated that he has sent a letter to GMH advising them that we would be unable to comply with their request to waive these penalties.</p>	
		<p>He further stated that GMH has still not paid their September 1987 billing.</p>	
68/87		<p>Mr. Benavente stated that he still has not checked with Public Works regarding the grading of Mr. Slotnick's road.</p>	
		<p>The Chairman tasked Management with insuring that this was done as he was having lunch with Mr. Slotnick sometime next week.</p>	MG
306/87		<p>The Comptroller and General Manager advised the Board that they had spoken with Mr. Duenas, Chairman of the PUC who stated that they would be unable to get a quorum prior to November 7. After this time, the PUC will be getting together to take up the subject of Schedule C and the preparation of the RFP for audit services.</p>	
		<p>The Chairman asked that the General Manager follow up on this matter.</p>	MG
6/8		<p>The General Manager advised the Board that there would be a briefing on load shedding later on in his report.</p>	
11/8		<p>Mr. Benavente then advised the Board that they would have to rebid the painting of the storage tanks. They are just looking at painting the outside of the tanks. The bidders were higher than 10% of our estimates.</p>	

Minute umber	Ref #	Minutes	Action
		<p>The General Manager advised the Board- that last Wednesday, Cabras #2 was shut down to begin repairs to bring the unit back up to full capacity. Load shedding is occurring for short periods of time as a result of Cabras #1 getting worse. He stated that he expects Cabras #2 to be back in service no later than Friday. Once repairs on #2 are completed, they will begin work on Tanguisson #2 transformer. Once Tanguisson is up to speed, they will then begin work on Cabras #1.</p>	
		<p>Mr. Benavente then advised the Board on the status of the Government of Guam accounts. A copy of this report has been attached as part of these minutes. Parks and Recreation is working on an appropriation for back billings in the amount of \$38,000. If DVR is not paid this week, their meter will be tagged for disconnection. All other agencies are paid up to date or overpaid with the exception of GMH, whose appropriation was short approximately \$50,000.</p>	
		<p>The General Manager stated there were people from E & W on island this week going into the power plants and taking a look at our maintenance management system.</p>	
		<p>Mr. Benavente then advised the Board that the bid for the combustion turbine will appear in the newspapers tomorrow. This will have three financial options. The opening is scheduled for December 15, 1987.</p>	
		<p>Management was tasked with insuring that Counsel was consulted prior to the bid being released for publication.</p>	MGMT
		<p>The GM further advised the Board that the second portion of the bid was the request for a financing package. Chase Manhattan has shown an interest in this package.</p>	
		<p>A brief discussion then followed on the floor relative to this subject.</p>	
		<p>Mr. Benavente then went on to advise the Board that on November 10-13, we are expecting someone from E & W to begin the cost of service data gathering process.</p>	
		<p>He further advised the Board that on November 13-20, the rate committee meeting will take place in San Diego.</p>	

Ref #	Minutes	Action
	<p>He further stated that all GovGuam accounts are current with the exception of DVR, who is working with BEMR trying to resolve this situation.</p> <p>Mr. Hernandez recommended that we send a letter to DOA, thanking them for working to bring their accounts current.</p> <p>On the subject of the Power Pool negotiations to be held in San Francisco, California in January 1988, Mr. Benavente advised the Board that he has narrowed the choices down between the Sheraton-Airport Inn and the Grosvenor-Best Western, also near the Airport.</p> <p>He then went on to advise the Board that the Rate Committee is meeting this week in San Diego. He further stated that during the second week of December the Technical Committee and the Rate Committee will meet here on Guam. He also stated that E & W will be here the first week in December to do their evaluation audit and that Greg Tarasar will be here the last week week in November to brief us on the Rate Committee meeting, and prepare for the January meeting in San Francisco.</p>	JB
46/88	<p>The Chairman stated that he wanted the agenda for the Technical Committee prior to the meeting and a report on what transpired at the other meetings before the end of December.</p>	JB/B
47/88	<p><u>Controller</u></p> <p>Mr. Joseph Taitague, Budget Officer then presented the Board with a report which detailed the financial impact of 60% implementation of Option I to the Board. A copy of this report has been attached as part of these minutes.</p> <p>A discussion then ensued on the floor relative to this subject.</p>	
48/88	<p>Mr. Hernandez then MOVED, SECONDED BY MRS. LEON GUERRERO TO TASK COUNSEL WITH RESEARCHING P.L. 19-10 AND PROVIDE AN OPINION ON THIS LAW AND HIS RECOMMENDATIONS ON ANY ACTION TO BE TAKEN. There being no objections, the motion was thereupon carried.</p>	
49/88	<p>Counsel was also tasked with researching all laws which may apply to us, which could impact on our autonomy.</p> <p><u>NEW BUSINESS:</u></p>	DW

EXHIBIT A 53

Minute Number	Ref #	Minutes	Act
57/88		<p><u>ROLL CALL:</u></p> <p>The Chairman noted that all members were present.</p>	
58/88		<p><u>REVIEW OF MINUTES/DISCUSSION OF MATTERS ARISING FROM THE MINUTES:</u></p> <p>The minutes of November 18, 1987 were then presented for approval.</p>	
06/87		<p>Mr. Pecon was queried on the status of the rate filing. He indicated that he had an informal discussion with Mr. Duenas of the Public Utilities Commission on this matter, who stated that the PUC currently has an RFP drafted for audit services. This RFP will probably not be released until the first part of January.</p> <p>Management was tasked with staying on top of this matter.</p>	MGM
59/88		<p>Upon consideration, it was then MOVED BY MRS. LEON GUERRERO AND SECONDED BY MR. TUROSIX TO APPROVE THE MINUTES OF NOVEMBER 18, 1987 AS PRESENTED. There being no objections, the motion was thereupon carried.</p>	
60/88		<p><u>REPORTS:</u></p> <p><u>General Manager</u></p> <p>Mr. Benavente then provided the Board with an update on the status of generation. He stated that Cabras #1 was secured to begin repairs. Completion of these repairs are expected within 2-3 weeks. There are currently 178 megawatts available to the system, which is actually more than is needed this time of the year.</p> <p>The General Manager then advised the Board that GMH is now current. A letter was sent to the Administrator thanking him for his efforts in bringing this account current.</p> <p>A letter was also sent to the Department of Administration thanking them for their efforts in bringing the Government of Guam accounts current and keeping them current.</p> <p>Mr. Benavente further advised the Board that there are a few Government accounts which are not current, however, he has been assured that these payments will be in no later than Friday.</p>	

EXHIBIT A 54

Minute Number	Date	Minutes	Acti
	43/88	<p>DVR hopes to have their problems resolved no later than early January.</p> <p>Mr. Benavente then went on to advise the Board that he as provided a draft of a response to a letter which was received from Speaker Quitugua on the issue of the default.</p> <p>The Board then approved the draft and asked that the letter be processed for the Chairman's signature. The Board also asked that the Governor be given a copy of this letter.</p> <p>A copy of this letter has been attached as part of these minutes.</p> <p>The General Manager then presented his request to take his excess leave. He indicated that he would be on island if he is needed. He further requested that Mr. Andy Balajadia be appointed Acting General Manager in his absence.</p> <p>The Board then approved the GM's request for leave.</p>	
61/88		<p>MRS. LEON GUERRERO THEN MOVED, SECONDED BY MR. TUROSİK TO APPROVE THE APPOINTED OF MR. ANDY BALAJADIA OF ACTING GENERAL MANAGER UNTIL THE RETURN OF MR. BENAVENTE. There being no objections, the motion was thereupon carried.</p> <p>The General Manager then advised the Board that negotiations will begin on 11 December with Cable TV for the pole attachment rental. Hopefully, this issue will be resolved quickly.</p>	
62/88		<p><u>Comptroller</u></p> <p>Mr. Pecon presented the Board with a copy of a letter which was sent to the Inspector General in response to the travel audit. A copy of this correspondence has been attached as part of these minutes.</p> <p>The Comptroller stated that he and Counsel are still working on the course of action to take on this.</p> <p>The Comptroller then went on to inform the Board that the October Financial Statements are not ready at this time. These statements will most likely be ready by the next Board meeting.</p>	

DRAFT

DRAFT

Honorable Franklin J.A. Quitugua
Speaker
Nineteenth Guam Legislature
Box CB-1
Agana, Guam 96910

Dear Mr. Speaker:

The Board appreciates and understands your comments contained in your November 24, 1987 letter.

I recognize that the Legislature and the Governor are parties to the Second Refinancing Agreement (SRA) and would be involved in any default proceedings. However, the Guam Power Authority must comply with the SPA's terms and conditions on a day-to-day basis. Therefore, when Department of Interior officials informally made a direct query to GPA officials regarding the need to cure a perceived condition of default, it was deemed prudent to initiate the appropriate corrective action. In so doing, the Authority is merely responding to an Interior request, and did not presume to usurp the roles of the Governor or Legislature. On the contrary, the Authority sought to advise the two parties of a potential problem and hopefully bring about a suitable remedy.

As a practical matter, the Authority is currently seeking a short term borrowing facility and may soon be seeking long term financing for future capital expansion, and a default notice at this time will not improve GPA's bargaining position when negotiating loan terms with any would be lenders. In fact, our recent discussions with lending institutions on the U.S. mainland disclosed that Guam's image in the money markets is not good, with most lenders being very cognizant of the recent problem between Matthews & Wright and the Government of Guam.

The Authority would prefer that this latest problem be resolved as quickly and discreetly as possible. If you have any questions, I or GPA's management will be more than willing to discuss this matter at your convenience.

Sincerely,

DRAFT

DRAFT

DAVID J. SABLAN
CHAIRMAN



GUAM POWER AUTHORITY
P. O. BOX 2377, AGANA, GUAM, USA 96910-2377

December 1, 1987

Mr. John C. Rosario
Hospital Administrator
Guam Memorial Hospital Authority
850 Governor Carlos G. Camacho Road
Oka, Tamuning, Guam 96911

Dear Mr. Rosario:

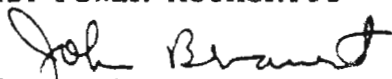
I wish to take this opportunity to thank you and your staff for your efforts in working to bring your account current and your ongoing work to keep it current. We commend you for these efforts.

Because of this, GMH has realized a great savings in additional penalties which could have been assessed had these accounts not been paid. In addition, GPA has been able to maintain its collection ratio, which is required under our bond covenants.

I thank you again for your assistance.

Sincerely,

GUAM POWER AUTHORITY


John M. Benavente
General Manager

COR015:JMB:ss

copy to:
Joseph F. Ada, Governor of Guam
Rosie Tainatongo, Chairperson, GMH
Board of Directors, GPA



GUAM POWER AUTHORITY
P. O. BOX 2977, AGANA, GUAM, USA 96916-2977

December 1, 1987

Wilfred Aflague
Director
Department of Administration
Box 884
Agana, Guam 96910

Dear Mr. Aflague:

I wish to take this opportunity to thank you and your staff for your efforts in working to bring the Government of Guam accounts current and to keep them current.


We realize that this took quite a bit of work on the part of your department and we commend you for these efforts.

Because of these efforts, the Government has realized tremendous savings in penalties which could have been assessed had these accounts not been paid. In addition, GPA has been able to maintain its collection ratio, which is required under our bond covenants.

I thank you again for your assistance.

Sincerely,

GUAM POWER AUTHORITY


John M. Benavente
General Manager

cor014:JMB:ss

copy to:
Joseph F. Ada, Governor of Guam
Board of Directors, GPA

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE TERRITORY OF GUAM

PUBLIC UTILITIES COMMISSION OF THE TERRITORY OF GUAM,	)	CASE NO. 88-003
)	
Complainant,	)	AFFIDAVIT OF
	)	G. GEORGE BECHER
vs.)	
)	
GUAM POWER AUTHORITY,)	
)	
Defendant.)	

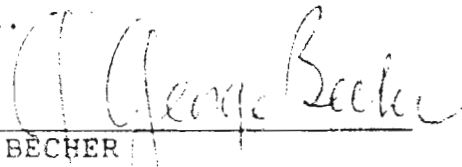
I, G. GEORGE BECHER, being first duly sworn upon my oath, depose and say as follows:

1. I was the duly appointed and acting Comptroller of the Guam Power Authority ("GPA") from 1976 to July, 1986.

2. The promulgation of Schedule C with penalties at the rate of five percent (5%) per month was for the purpose of inducing the Government of Guam to pay its power bills on a timely basis.

3. Although FERC accounting principles required any penalties to be treated as revenues, and available for the operating and capital needs of GPA, they would be a windfall to GPA because they were not included in any rate case as revenues.

Further, affiant saveth naught.


G. GEORGE BECHER

SUBSCRIBED and SWORN to before me this _____ day of September, 1988.

)SEAL(



DONALD C. WILLIAMS
SECRETARY PUBLIC
Public Utilities Commission
Guam, P.R. for the Territory of Guam

EXHIBIT 3

LAW OFFICES OF
BROOKS & KLITZKIE, P.C.
SUITE 101, 250 MARTIN STREET
P.O. BOX 90
AGANA, GUAM 96910

plaintiffs

Attorneys for

SUPERIOR COURT OF GUAM
TERRITORY OF GUAM

735
11/1/83
CIVIL ACTION NO. 691-83

ALBERTO C. LAMORENA III and FRANCISCO)
R. SANTOS,)

Civil Action 691-83

Plaintiffs,)

vs.)

COMPLAINT

THE GOVERNOR OF GUAM, THE BOARD OF)
DIRECTORS OF GUAM POWER AUTHORITY and)
THE GENERAL MANAGER OF GUAM POWER)
AUTHORITY,)

Defendants.)

1. Jurisdiction is vested in this Court by virtue of Section 82 of the Code of Civil Procedure.

2. The plaintiffs are citizens, residents and taxpayers of Guam and duly elected members of the 17th Guam Legislature.

3. The Governor is charged by the Organic Act with the duty of faithfully executing the laws of the Territory and with the general supervision and control of all the departments, bureaus, agencies and other instrumentalities of the executive branch of the government of the Territory in order to insure the public health, safety and welfare.

4. The Board of Directors ("Board") of Guam Power Authority ("GPA") is charged with the duty of setting the policies of the Authority and the General Manager of GPA is charged with the duty of executing the policies established by the Board. GPA is engaged in the business of providing electrical power to the

BROOKS & KLITZKIE, P.C.
SUITE 101, 259 MARTYR STREET
P.O. BOX 101
AGANA, GUAM 96901

1 people of the Territory.

2 5. The Legislature has established by law a
3 method for the Department of Public Works to purchase electrical
4 power from GPA to light street lights throughout the Territory.

5 6. Under Section S of Part XXXVII of Public Law
6 16-111 \$440,000 was appropriated to the Department of Public
7 Works for the lighting of the streets of the Territory.

8 7. Under Section E of Part IX of Substitute Bill 261,
9 which was duly adopted by the Legislature September 2, 1983, and
10 thereafter transmitted to the Governor, \$482,373 was appropriated
11 to the Department of Public Works for power charges for the
12 lighting of streets.

13 8. The lighting of the streets of the Territory is
14 a necessity to insure the health, safety and welfare of the people
15 of the Territory and of persons who visit the Territory.

16 9. Notwithstanding the necessity of having the streets
17 lighted, the Governor has transferred funds from the money
18 appropriated to the Department of Public Works and as a result the
19 Department of Public Works has not been able to pay GPA for
20 electrical charges incurred in the lighting of the streets. As a
21 result the Board and the Executive Director of GPA have commenced
22 a program of discontinuing street lighting throughout the Territory.

23 10. The actions of the Governor, the Board and
24 Executive Director of GPA have imperiled the public health, safety
25 and welfare of the people of the Territory, including the
26 plaintiffs, and they have no plain, adequate and speedy remedy at
27 law.

28

SEARCHED
SERIALIZED
INDEXED
FILED



TELEX 6131

GUAM POWER AUTHORITY

P. O. BOX 2577, AGANA, GUAM, 96910-2577

April 23, 1985

TO: JOE B. SAN AGUSTIN

FROM: JOAQUIN P. PEREZ (IN WASHINGTON)

SUBJECT: GOVQUAN ARREARS

In discussions with Dave Santos, Rev/Tax, an agreement was reached that GovGuan and GPA would settle the dispute over the penalties in the following manner:

1. Since GPA had "possession" of the Section 30 Funds, \$2.7 million in January and \$2.1 million in June, GPA would pay for the interest income lost for those amounts, computed from those months at the same rate GPA was earning on TCDs during those months. This computation should not be difficult to develop.
2. GPA will not assess the penalty clause for any bills prior to October 1984. The rationale behind this stems from the same principal as the lost opportunity on the impacted Section 30 funds. I have to agree with their contention that if the Section 30 funds had not been impacted Government may have been able to satisfy their power billings. But because Section 30 Funds were impacted, we'll never know, will we?
3. Penalty billings will start with the end of October bills. However, penalty charges will not be assessed on previous penalty charges, i.e., if we assess a penalty charge in October and the bill is still outstanding in November, we will assess the penalty on the actual bill less the penalty. We will not apply a penalty on a penalty. This would literally equate to 0% effective penalty on the year which is not only tantamount to money but may well be illegal despite our compliance with the Administrative Adjudication Act. If we get taken to court on this matter and the question of just and reasonable gets raised, we might find ourselves holding a very hot potato. The fact that GovGuan permitted the GORCO deal with no interest charges would seem to indicate that we should reciprocate in this matter.
4. There could be an agreement of exchanging checks for the GORCO Note and for the Government billings. But the exchange would have to be for the entire amount of the GORCO debt and an equal amount for the Government billings. The benefits of this deal would have to accrue to both parties and not only GPA as far as David is concerned. Any type of deal that would indicate that only GPA is receiving benefits would not be acceptable to David.

EXHIBIT D

I will discuss this further with David and we should have a resolution within one week of your receiving this memo. The computation on the trade off for the penalties can be prepared as soon as I get word to you that the plan has cleared with the Governor. David and I will clear this matter with the Governor in Washington. At the present moment nothing is to be done. Continue to collect what can be collected from the Government but if David and I can resolve this matter this month, it will be resolved before I return to Guam.


Joaquin P. Peres



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

AUG 8 1985



Chairman, Board of Directors
and General Manager
Guam Power Authority
P.O. Box 2977
Agana, Guam 96910

Dear Mr. Chairman and General Manager:

We are extremely concerned about the delinquency of payments of power bills by the Government of Guam. As you know, the second refinancing agreement requires (1) that the Authority will not allow its collection rate on current billings to fall below a rate of 95% for any three consecutive months, and (2) that the Authority will not knowingly continue to furnish electric energy to any customer who has an unpaid balance due for more than 60 days unless authorized by the Secretary.

Based on the August 8 report from you, the collection rates for May, June and July fell below 95%, caused by government arrears.

We understand you have reached the following agreement with the Government of Guam:

1. The Government of Guam will immediately pay \$1.547 million as partial payment for delinquent bills.
2. The Government of Guam will sign a promissory note to pay the remainder of outstanding bills with reasonable interest in equal monthly installments over the next 12 months.
3. The Government of Guam will sign a memorandum of understanding with GPA guaranteeing to pay the July billings in full within 2 weeks and guaranteeing to remain current from this point forward for all government billings.

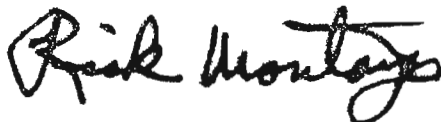
We find the substance of the proposed agreement to be acceptable. Please forward copies of the memorandum of understanding and promissory note to us as soon as possible for approval.

EX-107

Beginning the end of August, please submit to us a monthly report on your collection rates and Government of Guam's compliance with the memorandum of understanding.

We expect that all covenants contained in the second refinancing agreement will be strictly followed. Our concurrence with these terms is not to be construed as a waiver or modification of any terms contained in the Second Refinancing Agreement.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Montoya". The signature is written in a cursive, somewhat stylized script.

Richard T. Montoya
Assistant Secretary
Territorial and International Affairs



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JAN 30 1986

Chairman of the Board and
General Manager
Guam Power Authority
P.O. Box 2977
Agana, Guam 96910-2977

Dear Mr. Chairman and General Manager:

We are aware that the Guam Power Authority (GPA) Board of Directors has passed a resolution instructing the General Manager to transfer \$1.8 million to the General Fund of the Government of Guam. As we understand the facts, transfer of \$3.5 million is required under Public Law 18-15 from surplus funds of autonomous agencies if the transfer is not in conflict with loan covenants. In addition, the board is considering a proposed rate reduction of approximately 10.57 percent.

We are quite concerned about the impact of these actions on the financial condition of the GPA. Over the past several years, the preventative maintenance program of GPA facilities has been less than adequate due to the shortage of funds. In addition, there are unanswered questions concerning need for capital expansion, especially if the power pool is terminated and a new relationship is developed with the Department of Navy. On top of these two issues is the fact that the Government of Guam owes the Authority several million dollars for power charges dating back to the spring of 1985.

In this regard, would you please provide us with documentation of the effects of all the aforementioned issues on the financial condition of GPA, especially on reserve and surplus funds needed for improvements.

As you are aware, a contractor is performing an indepth analysis of the management, operation, and financial condition of the authority.

We strongly encourage you to delay action on the rate decrease and the transfer of funds until their report is issued in the spring of 1986. The information provided by this consultant could be extremely helpful to you and to the Public Utilities Commission in determining suitable power rates and funds needed by the Authority to operate in

EXHIBIT F

a viable way. It also may be used by us to determine if the actions defined in P.L. 18-15 are in fact a violation of our covenants. If the report indicates that funds are needed to improve GPA operations, and these funds have already been transferred to the Government of Guam, then GPA may be placed in technical default.

We have worked long and hard to reestablish GPA's credibility, to remove political interference, and to improve the financial condition of the Authority. Therefore, we caution you against taking action that may erase our accomplishments and limit the Authority's ability to perform.

We have full faith in your ability to accept the challenge, and wish to work with you closely in the future.

Sincerely,



Richard T. Montoya
Assistant Secretary
Territorial & International Affairs

cc: Governor of Guam
Speaker, Eighteenth Guam Legislature
Chairman, Public Utilities Commission



GUAM POWER AUTHORITY
P. O. BOX 2977, AGANA, GUAM, USA 96910-2977

March 18, 1986

The Honorable Ricardo J. Bordallo
Governor of Guam
Government of Guam
Agana, Guam 96910

Re: Government of Guam Delinquent Accounts

Dear Governor:

In view of the accounts for the Government of Guam line departments and autonomous agencies, the Board of Directors noted that payment has not been received for power billings totaling \$7,291,111.31 which include arrears, penalties and the current bill for February 28, 1986.

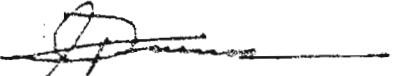
In an effort to resolve the Government of Guam's outstanding electric bills, we offer the following remedies:

1. Immediate payment of \$1,094,936.00 for accounts in arrears in excess of 60 days for line agencies.
2. Immediate payment of \$693,782.42 for the autonomous and other agencies.
3. In light of the apparent disagreement(s) on amounts due for penalties and street lights, that a select committee for GovGuam be designated to negotiate terms with GPA to resolve these disputes. And that negotiations be commenced immediately and completed no later than April 4, 1986 with a signed Memorandum of Understanding.

Unless we institute the above options, the Authority will soon be adversely affected by becoming in a technical default and/or a decision by DOI to tap from the "Section 30" funds again. Thus at the present, to disconnect the various Government of Guam agencies will be of no purpose versus the impact of the aforementioned.

It is regrettable that the Authority is compelled to institute this action, but the Board of Directors feel that it is left with no other alternative and has, therefore, ordered Management to enforce the Service Rules and Regulations of the Authority.

Respectfully yours,


JUAN M. DUENAS
Acting Chairman
Board of Directors

cc: Acting General Manager
Chairman, Fiscal Policy
Administrator, Guam Memorial Hospital
Director, Department of Administration
Director, Bureau of Budget, Management & Research

Attachments

EXHIBIT C



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGAÑA, GUAM 96910
U. S. A.

RICARDO J. BORDALLO
GOVERNOR

MAR 27 1986

Juan M. Duenas
Chairman, Board of Directors
Guam Power Authority
P.O. Box 2977
Agana, Guam 96910

Dear Mr. Chairman:

During the past year, my Fiscal Policy Committee has made sincere attempts to resolve the problem of the Government of Guam's delinquent electric bills with the former management of the Authority.

There are two major issues that must be resolved before any of the disputed billings can be paid. These are:

- 1) Number of streetlights authorized by the Government of Guam; and
- 2) the amount of penalties imposed in light of the \$4.7 Million of \$30 funds that the Department of Interior tapped to cover GPA's June 1984 and December 1984 FFB interest installments.

Additionally, a significant portion of the Government's unpaid (4th quarter 1985) bills represent expenditures incurred by the Department of Education and the Public Utility Agency of Guam beyond their authorized appropriation limits. This requires remedial action by the Legislature before such amounts can be certified and paid.

I have directed my Fiscal Policy Committee to work with your representatives in a positive attempt to resolve this problem.

I ask for your cooperation and hope that the management and staff of the Authority refrain from making further criticisms through the media regarding this problem.

This is a Government of Guam problem and the Guam Power Authority is a member of this Government.

Sincerely yours,


RICARDO J. BORDALLO
Governor

EXHIBIT 14

MEMORANDUM OF AGREEMENT NO. 1
BETWEEN THE
GUAM POWER AUTHORITY AND DEPARTMENT OF ADMINISTRATION
APRIL 4, 1986

This Memorandum of Agreement represents initial objectives agreed to by and between the Guam Power Authority and the Department of Administration regarding the resolution of the Government of Guam Delinquent Accounts.

The following objectives are agreed to:

1. Formation of Street Light Task Force, composed of representatives from GPA, DOA, DPW, and BBMR for the purpose of conducting a joint inventory of street lights. Initial meeting shall be conducted no later than 18 April 1986. Deadline for completion of inventory shall be 6 June 1986.

2. The Government of Guam agrees to stay current on its FY '86 monthly billings on that portion which is undisputed, i.e., metered consumption, and pay the amount stated in paragraph 3. GPA agrees to freeze penalties on account delinquencies for FY '85 and FY '86 as of March 31, 1986.

3. Upon final reconciliation of FY '85 accounts, Government of Guam agrees to pay reconciled amounts as partial payment on the accounts delinquent for the Government of Guam line agencies, excluding those amounts whereby legislative resolution is pending (due to FY '85 budget over-expenditures), and disputed street light and penalty charges. Reconciliation and payment shall be effected within a reasonable period of time, but no later than June 20, 1986.

4. Parties agree to formulate a repayment plan no later than June 20, 1986 to settle street light accounts and unpaid penalties.

5. A progress meeting will be held on April 25th to review the status of efforts.



THOMAS C. ADA
Acting General Manager



ESTEBAN U. TORRES
Director
Dept. of Administration

Date: 4/10/86

Date: 4/11/86

MEMORANDUM OF AGREEMENT NO. 2

BETWEEN THE

GUAM POWER AUTHORITY AND DEPARTMENT OF ADMINISTRATION

REGARDING GOVERNMENT OF GUAM DELINQUENT ACCOUNTS

This Agreement is entered into by the Director of Administration, Government of Guam, and the General Manager of the Guam Power Authority, who is duly authorized by its Board of Directors to act as its representative for the purposes of resolving the matter of the Government of Guam Delinquent Accounts.

The parties agree as follows:

1. Total penalties on delinquent line agency accounts as of March 31, 1986, are in the amount of One Million Nine Hundred Twenty Nine thousand Nine Hundred Sixty Three Dollars and Sixty One Cents (\$1,929,963.61) (See Attachment "A").
2. Total interest earned through October 1984 on Section 30 funds from which payments were applied to the FFB loan as the result of the default of Guam Power Authority amounts to One Million Nine Hundred Fifteen Thousand Four Hundred Eighty-Seven Dollars and Four Cents (\$1,915,487.04) (See Attachment "B").

RECEIVED JUL 7 1986

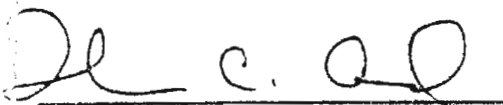
EVILINIE . . .

3. The above total amount of interest earned shall be offset against the above total amount of penalties, leaving a difference in penalties ~~in~~ in the amount of Fourteen Thousand Four Hundred Seventy Six Dollars and Fifty Seven Cents (\$14,476.57).

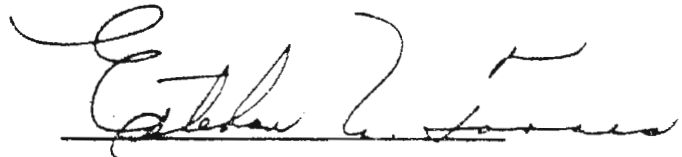
4. The Government of Guam shall make payment to the Guam Power Authority upon execution of this Agreement in the amount of \$14,476.57.

GUAM POWER AUTHORITY:

GOVERNMENT OF GUAM:



THOMAS C. ADA
General Manager



ESTEBAN U. TORRES
Director
Department of Administration

Date: 5/16/86

Date: 5/16/86

	FY 03 As of June 03	FY 03 July-Aug	FY 03 Oct 03-Mar 04	FY 03 - FY 03 Total	Total 2d Period	Total Unpaid Balance
(A) LHS RESOURCES						
600 000005-8 Dept. of Industrial Relations	0.00	0.00	95,872.94	95,872.94	40,578.64	136,451.58
600 000010-7 Dept. of Industrial Relations	0.00	0.00	(104.30)	(104.30)	2,324.51	2,428.81
600 000040-4 DOR-Data Processing	0.00	0.00	(280.62)	(280.62)	10,151.73	9,871.11
600 000050-3 Government House	0.00	4,001.37	(4,184.78)	(183.41)	7,156.11	6,972.70
600 000110-5 Nieves Flores Library	0.00	0.00	.00	.00	9,314.52	9,314.52
600 000115-5 Dept. of PH&SB	0.00	0.00	.00	.00	52,932.78	52,932.78
600 000125-4 Guam Police Department	0.00	0.00	(811.02)	(811.02)	41,084.34	40,273.32
600 000130-3 DPM-Village St. Lights	0.00	0.00	68,336.02	68,336.02	140,323.52	208,659.54
600 000135-3 DPM-Signal Lights	0.00	0.00	8,969.83	8,969.83	10,907.16	19,876.99
600 000140-2 DPM-FRC Adm Account	0.00	0.00	119,902.83	119,902.83	57,194.31	177,098.14
600 000150-1 Dept. of Parks & Rec.	0.00	0.00	(1,963.34)	(1,963.34)	22,782.19	20,818.85
600 000165-0 DVR	0.00	0.00	.00	.00	4,061.84	4,061.84
600 000190-7 Dept. of Youth Affairs	0.00	0.00	4,710.22	4,710.22	4,377.11	9,087.33
600 000195-7 Mental Health/Subst.	0.00	0.00	0.00	0.00	0.00	0.00
600 000205-4 DOR-Housing Div.	0.00	0.00	4.88	4.88	403.35	408.23
600 000215-3 PH&SB Senior Citizen	0.00	447.89	(575.21)	(127.32)	1,274.03	1,146.71
600 000230-1 Civil Defense	0.00	0.00	(99.12)	(99.12)	2,786.61	2,687.49
600 000250-9 Guam Fire Department	0.00	0.00	0.00	0.00	4,640.36	4,640.36
600 000260-8 Guam Health Planning	0.00	0.00	0.00	0.00	631.95	631.95
600 000270-7 Agaña Mun Planning Council	0.00	0.00	146.37	146.37	218.11	364.48
600 000290-5 Guam Contr Lic Board Office	0.00	0.00	(37.40)	(37.40)	622.67	585.27
600 000385-4 Revenue & Taxation	0.00	0.00	5,435.66	5,435.66	12,924.41	18,360.07
Sub-Total	00.00	44,449.26	1295,321.76	1299,771.02	1426,810.23	1726,581.27
600 000330-5 Dept. of Corrections	0.00	20,760.10	.00	20,760.10	20,061.59	40,821.69
600 000345-4 Dept. of Education	136,395.32	469,963.92	179,441.54	785,800.78	553,875.29	1,339,676.07
600 000345-2 PUBB	75,711.64	283,938.74	193.98	359,844.36	916,963.64	1,276,808.00
Sub-Total	212,106.96	774,662.76	179,635.52	1,166,405.24	1,490,900.52	2,657,325.77
600 000015-7 Commissioners Council	0.00	50.78	(20.48)	30.30	17.85	48.1
600 000300-2 Agaña Hts. Commissioner	0.00	1,693.03	(195.29)	1,497.75	1,897.54	3,395.29
600 000305-2 Agaña Commissioner	0.00	425.67	0.00	425.67	1,073.28	1,498.95
600 000310-1 Tamuning Commissioner	0.00	308.42	0.00	308.42	1,005.57	1,313.99
600 000315-1 Mangilao Commissioner	0.00	965.73	0.00	965.73	1,158.93	2,124.66
600 000320-0 Santa Rita Commissioner	0.00	243.77	(1.00)	242.77	455.85	698.62
600 000325-0 Piti Commissioner	0.00	0.00	1.15	1.15	0.00	1.15
600 000330-9 Agaña/Maina/Adolep Com	0.00	102.96	(1.00)	101.96	161.60	263.56
600 000335-9 Dededo Commissioner	0.00	607.61	10.00	617.61	1,342.73	1,960.34
600 000340-8 Yigo Commissioner	0.00	155.52	(1.00)	154.52	334.57	489.09
600 000345-8 Linao Commissioner	0.00	265.08	0.00	265.08	479.72	744.80
600 000350-7 Merizo Commissioner	0.00	513.17	0.00	513.17	1,127.56	1,640.73
600 000355-7 Inarajan Commissioner	0.00	528.48	(158.53)	369.95	632.30	1,002.25
600 000360-6 Talofofo Commissioner	0.00	222.51	(1.00)	221.51	436.07	657.58
600 000365-6 Yona Commissioner	0.00	191.18	0.00	191.18	325.69	516.87
600 000370-5 Ordot/Chalan Kegu Com	0.00	46.80	0.00	46.80	12.83	59.63
600 000375-3 Pongsong/Toto/Maita Com	0.00	195.19	155.30	350.49	491.17	841.66
600 000380-4 Sinajana Commissioner	0.00	758.90	(1.00)	757.90	1,299.48	2,057.38
Sub-Total	0.00	7,275.80	(197.84)	7,077.96	12,252.84	19,330.80

FILENAME: BVTM_7

Grand-Total	232,406.96	976,407.82	1474,759.44	11,473,274.22	61,929,963.61	83,403,237.14
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FUNDS APPLIED TO FFBI LOAN FROM SECTION 30
WHICH RESULTED FROM GM's DEFAULT ON LOAN
4.10.86

	<u>Funds applied to FFBI Loan</u>	<u>Date Disbursed</u>		<u>Date Applied</u>	<u>Days</u>
1	1,661,172.95	11-Jan-84	-	26-Oct-84	289
2	991,842.04	21-Feb-84	-	26-Oct-84	248
3	2,045,005.68	02-Jul-84	-	26-Oct-84	116

Interest 1

<u>Date</u>	<u>Funds Received</u>	<u>Compound Monthly</u>	<u>30 Days Period</u>		<u>Interest Earned</u>	<u>Total Interest Earned</u>
11-Jan-84	1,661,172.95	5%	30	=	83,058.65	
Feb-84	1,744,231.60	5%	30	=	87,211.58	
Mar-84	1,831,443.18	5%	30	=	91,572.16	
Apr-84	1,923,015.34	5%	30	=	96,150.77	
May-84	2,019,166.10	5%	30	=	100,958.31	
Jun-84	2,120,124.41	5%	30	=	106,006.22	
Jul-84	2,226,130.63	5%	30	=	111,306.53	
Aug-84	2,337,437.16	5%	30	=	116,871.86	
Sep-84	2,454,309.02	5%	30	=	122,715.45	
Oct-84	2,577,024.47	5%	19/30	=	81,605.77	997,457.30
						997,457.29

Interest 2

<u>Date</u>	<u>Funds Received</u>	<u>Compound Monthly</u>	<u>30 Days Period</u>		<u>Interest Earned</u>	
21-Feb-84	991,845.04	5%	30	=	49,592.25	
Mar-84	1,041,437.29	5%	30	=	52,071.86	
Apr-84	1,093,509.16	5%	30	=	54,675.46	
May-84	1,148,184.61	5%	30	=	57,409.23	
Jun-84	1,205,593.85	5%	30	=	60,279.69	
Jul-84	1,265,873.54	5%	30	=	63,293.68	
Aug-84	1,329,167.21	5%	30	=	66,458.36	
Sep-84	1,395,625.57	5%	30	=	69,781.28	
Oct-84	1,465,406.85	5%	8/30	=	19,538.76	493,100.57

Interest 3

<u>Date</u>	<u>Funds Received</u>	<u>Compound Monthly</u>	<u>30 Period</u>		<u>Interest Earned</u>	
02-Jul-84	2,045,005.68	5%	12	=	102,250.28	
Aug-84	2,147,299.25	5%	12	=	107,362.80	
Sep-84	2,254,628.75	5%	12	=	112,730.94	
Oct-84	2,367,998.70	5%	26/360	=	102,585.15	424,929.17

FILENAME: GOVT_5
ftc

1,915,487.04



GUAM POWER AUTHORITY

P. O. BOX 2977, AGANA, GUAM, USA 96910 2977

November 3, 1986


Honorable Senator Don Parkinson
Chairman, Committee on Energy
Utilities & Consumer Protection
18th Guam Legislature
Agana, Guam 96910

Dear Senator Parkinson:

As we discussed during our recent meeting, enclosed is a Bill which would appropriate the sum of \$7,933,929.00 to the Guam Power Authority so that penalties incurred by line departments and autonomous agencies of the Government of Guam will be paid off. In support thereof, additionally enclosed is an itemized list showing obligations incurred by the various line departments and autonomous agencies as of September 30, 1986.

We in the Board and Management want to thank you for your support and assistance, and further appreciate your understanding in the urgency of this matter. I trust the enclosures are fully adequate in support of the proposed legislation, but should you need additional information, please call me.

Very truly yours,



David J. Wilson
Chairman,
Board of Directors

cc: General Manager
Controller
Legal Counsel

Enclosures

COPY

EXHIBIT 1

EIGHTEENTH GUAM LEGISLATURE
1986 (SECOND) REGULAR SESSION

BILL NO.

Introduced by:

AN ACT TO APPROPRIATE SEVEN MILLION NINE HUNDRED THIRTY EIGHT THOUSAND NINE HUNDRED TWENTY NINE DOLLARS (\$7,938,929.00) TO GUAM POWER AUTHORITY TO LIQUIDATE PENALTIES INCURRED BY GOVERNMENT OF GUAM LINE AGENCIES AND AUTONOMOUS AGENCIES.

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

Section 1. The sum of Seven Million Nine Hundred Thirty Eight Thousand Nine Hundred Twenty Nine Dollars (\$7,939,929.00) is appropriated from the General Fund to the Guam Power Authority, for the purpose of liquidating penalties incurred by line and autonomous agencies of the Government of Guam, for the period ended September 30, 1986.



November 5, 1986

The Honorable Senator Don Parkinson
Chairman, Committee on Energy
Utilities & Consumer Protection
18th Guam Legislature
Agana, Guam 96910

Re: Government of Guam Power Bills

Dear Senator Parkinson:

Enclosed herewith is a bill which would amend the Government of Guam Fiscal Year 1987 Budget by consolidating all line department appropriations for electric power bills of the Government of Guam.

At first glance, the proposal for such a fund may appear too drastic. However, looking back over the years, line agencies invariably placed Guam Power Authority billings at the bottom of the payables. If power rates had gone up for Fiscal Year 1986, perhaps failure to pay would be understandable. To the contrary, power billings have substantially decreased because of the decrease in fuel costs. Yet, we hear laments about lack of funds to pay power bills. History has demonstrated that the present policy of appropriating funds to each line agency has not worked. Therefore, we strongly support this change as a matter of policy direction.

Again, thank you for your support and concern, and I trust you will agree with me that some action must be taken to pay off delinquent Government of Guam line agency accounts with the Guam Power Authority.

Very truly yours,

David J. Ulloa
Chairman
Board of Directors

cc: General Manager
Controller
Legal Council

Enclosures

EXHIBIT
CARION

EIGHTEENTH GUAM LEGISLATURE
1986 (SECOND) Regular Session

Bill No. _____

Introduced by:

AN ACT ESTABLISHING A CONSOLIDATED POWER BILL FUND.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. There is hereby created within the Execu-
3 tive Branch a Special Fund designated the "Consolidated Power
4 Bill Fund", to be maintained separate and apart from the General
5 Fund. Effective November 1, 1986, all sums appropriated for
6 "power" for all line agencies of the Executive Branch, including
7 the Department of Education, which sums remain unexpended from
8 current year funding, are hereby transferred and reappropriated
9 to this Special Fund, under the general cognizance of the
10 Director of Administration, who shall be the chief certifying
11 officer of such Fund. The sole purpose for use of this Special
12 Fund shall be in payment of consolidated power billings for all
13 Executive Branch agencies, including the Department of Education.
14 The Director of Administration shall make a report on all expen-
15 ditures from such Fund to the Legislature every quarter of the
16 Fiscal Year beginning the second quarter of Fiscal Year 1987.



GUAM POWER AUTHORITY
P. O. BOX 2977, AGANA, GUAM, USA 96910-2977

November 5, 1986

The Honorable Senator Don Parkinson
Chairman, Committee on Energy
Utilities & Consumer Protection
18th Guam Legislature
Agana, Guam 96910

Dear Senator Parkinson:

I am enclosing herein a Bill which will appropriate the sum of \$5,184,413.00 to Guam Power Authority to liquidate the metered billings incurred by Government of Guam line departments and autonomous agencies as of September 30, 1986.

As you are well aware, these accounts are seriously delinquent and Guam Power Authority has to collect these accounts, not just to cure potential technical default under our Loan Agreement, but more importantly, to preserve the Authority's financial ability to fund our on-going and continuing capital projects.

The Board and Management are deeply appreciative of your support and assistance, especially your recognition that the Government of Guam has to pay its accounts in a timely fashion as all other GPA customers.

Very truly yours,



David J. Ulloa
Chairman
Board of Directors

cc: General Manager
Controller
Legal Counsel

Enclosure

EIGHTEENTH GUAM LEGISLATURE
1985 (SECOND) REGULAR SESSION

Bill No.

Introduced by:

AN ACT TO APPROPRIATE THE SUM OF FIVE MILLION
ONE HUNDRED EIGHTY FOUR THOUSAND FOUR HUNDRED
THIRTEEN DOLLARS (\$5,184,413.00) TO GUAM
POWER AUTHORITY TO LIQUIDATE METERED BILLINGS
INCURRED BY GOVERNMENT OF GUAM LINE AGENCIES.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. The sum of Five Million One Hundred
3 Eighty Four Thousand Four Hundred Thirteen Dollars
4 (\$5,184,413.00) is hereby appropriated from the General
5 Fund to the Guam Power Authority, for the purpose of
6 liquidating metered billings incurred by Government of
7 Guam Line Agencies and Autonomous Agencies, for the
8 period ended September 30, 1986.



November 25, 1986

Miss Nancy Boone
Guam Desk Officer
U. S. Dept. of Interior
Washington, D.C. 20240

Re: Government/Guam Delinquent Account.

Dear Miss Boone:

This is a follow-up of our meeting in Oxnard, California, between you and Mr. Frank Solomon, and the General Manager, the Acting Comptroller, Counsel, and myself, representing Guam Power Authority on Monday, November 17.

Government of Guam line agencies and autonomous agencies owe Guam Power Authority \$7,939,929.00 for penalties, and \$5,184,413.00 for metered billings for the period ended September 30, 1986.

Numerous meetings were held between Department of Administration, Bureau of Budget and Management representatives, and GPA management, but the results were far from satisfactory. Thus on November 5, 1986, I transmitted two (2) Bills and requested Senator Parkinson to introduce them. I enclose copies of my letters together with enclosures. On the same date, I transmitted a Bill to consolidate all funds heretofore appropriated by the Legislature to the line agencies, for power consumption. I enclose a copy.

Bill 1054, copy enclosed, introduced by Senator Parkinson, seeks to appropriate the full amount, \$13,124,342.00. The Consolidated Power Bill Fund has not been introduced as of this date.

In the meantime, negotiations have been going on between Mr. Jose Torres, the Board Chairman of Guam Memorial Hospital Authority and myself, assisted by our respective personnel. As a result of such meetings, I instructed GPA counsel to draft a Memorandum of Agreement and Settlement of Claim, which I forwarded to the Board Chairman of Guam Memorial Hospital Authority. Copies are enclosed. I have been informed that Mr. Torres declined to execute the Agreement and Settlement. GPA counsel has suggested that GPA file its Claim with the Claims Officer of Guam Memorial Hospital Authority, under the Government of Guam Claims Act, and the Board will probably support such position.

EXHIBIT K

Miss Nancy Boone
U. S. Department of the Interior
Re: Government/Guam Delinquent
Account.
November 25, 1986

Because the Government of Guam line agencies have been seriously delinquent in the payment of their accounts with Guam Power Authority, I requested at our meeting in Oxnard, California, that the Department of the Interior withhold payment of Section 30 funds to the Government of Guam, and pay over to Guam Power Authority, such amounts as would liquidate Government of Guam's obligations with the Authority. You indicated that Interior had transmitted such payments to the Government of Guam, but that there may be adjustments that may be due the Government of Guam. You also indicated that grants will be forthcoming, for the benefit of Guam Memorial Hospital Authority.

This will confirm my request to you that any additional funds payable the Government of Guam under Section 30 of the Organic Act be transmitted to Guam Power Authority to liquidate Government of Guam's obligations. Further, all grants for the benefit of Guam Memorial Hospital Authority, should be withheld and paid over to Guam Power Authority.

Very truly yours,

David J. Ulloa
Board Chairman

Enclosures

EX-111



GUAM POWER AUTHORITY

P.O. BOX 2877, AGANA, GUAM, USA 96910-2877

November 28, 1986

Mr. Steve Torres
Director
Dept. of Administration
Agana, Guam 96910

Re: Gov Guam electric account

Dear Steve:

This letter is to inform you that the Guam Power Authority intends to pursue firm collections on the October 86 cycle billing in the amount of \$608,505.82.

At the close of business on December 1, 1986 if payment is not received GPA will issue disconnect notices on December 2, 1986 giving your offices an additional 48 hours to make payment in full. If no payment is received at the close of business on December 3, 1986 electric services will be disconnected as scheduled on December 4, 1986.

Please be further advised that penalties will be applied on balances outstanding on November 30, 1986.

Sincerely yours,

THOMAS C. ADA
General Manager

cc: Board of Directors

EXHIBIT 1

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE TERRITORY OF GUAM

PUBLIC UTILITIES COMMISSION	)	CASE NO. 88-003
OF THE TERRITORY OF GUAM,)	
)	
Complainant,	)	AFFIDAVIT OF
	)	BRUCE PECON
vs.)	
)	
GUAM POWER AUTHORITY,)	
)	
Defendant.)	
_____)	

I, BRUCE PECON, being first duly sworn upon my oath, depose and say as follows:

1. On December 29, 1986, I took office as the Comptroller of the Guam Power Authority (GPA) and I have been serving GPA in that capacity from that date to present.

2. As of December 31, 1986, the Government of Guam (Government) was indebted to GPA for approximately \$15.1 million which included \$5.3 million in metered sales and \$9.8 million in penalties, and the penalties were accumulating faster than the metered sales since the penalty was being calculated at the rate of five percent (5%) per month.

3. At the time of my appointment, the auditors were completing the audit of the fiscal year ended September 30, 1986 and were considering requiring GPA to write off the Government of Guam account receivable as uncollectible or qualifying the audit opinion. Either alternative would have

placed GPA in default for non-collection under the 1984 Second Refinancing Agreement. Furthermore, if the receivable was written off, GPA would have been required to refund money to the Navy under the Power Pool Agreement.

4. I was able to obtain a 90-day extension for completion of the audit from the Department of Interior and the Bond Trustee.

5. To avoid the potential default, I commenced negotiations with the Government of Guam with the approval of the GPA Board of Directors.

6. It was the Government of Guam's position that it should not have to pay the accumulated penalties, however, there was a willingness to pay the outstanding metered sales as long as payments could be made over time.

7. In light of the Government of Guam's financial condition and position on the penalties, the best arrangement I could negotiate is reflected in the two promissory notes dated March 31, 1988 which are attached to the Complaint filed by the Public Utilities Commission.

8. The settlement reflected by the promissory notes amounts to a recovery of all metered sales plus an approximate one percent compromise on the disputed penalty, which further resulted in having to refund no money to the Navy under the Power Pool Agreement.


9. In January, 1987, the Guam Legislature passed P.L. 18-48, which places a maximum of twelve percent (12%) per year on the penalties GPA could recover and upon the advice of counsel with board approval; GPA reduced the penalty calculation on Government accounts from five percent per month to twelve percent (12%) per year effective January 2, 1987, in accordance with P.L. 18-48.



BRUCE PECON

SUBSCRIBED and SWORN to before me this 8th day of September, 1988.

)SEAL(



DONALD C. WILLIAMS
NOTARY PUBLIC
In and for the Territory of Guam
My Commission Expires: OCT. 15, 1991

414 West Soledad Avenue
Agana, Guam 96910-5014
Telephone: 477-9041/42
Telex: 7215312 TRCO GM

August 23, 1988

RECEIVED
SEP 7 1988
G.P.A.

*William
ifw*

Mr. John Benavente
General Manager
Guam Power Authority
P. O. Box 2977
Agana, Guam 96910-2977

Dear Mr. Benavente:

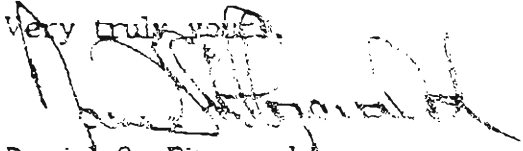
You have asked us to specify certain matters arising from our 1986 audit of the Guam Power Authority. During the course of the 1986 audit, a substantive issue arose concerning collectibility of certain penalty revenue assessed to the Government of Guam. The Government at that time denied that it would pay this amount and the Guam Legislature was not able to fund an appropriation for payment. Accordingly, GPA had recorded a material receivable, realization of which was in serious doubt. We therefore informed GPA that three alternatives existed with respect to their audited financial statements:

- a. Provide substantive evidence to satisfy us that the amounts would be collected. The required substantive evidence that we would need to satisfy ourselves would have to clearly establish the Government's intention to pay and provide evidence of their legal obligation to pay.
- b. In the absence of such evidence, we would qualify our audit report based on the uncertainty of collecting the receivable.
- c. Write the asset down to its net realizable value.

Since GPA could not provide evidence as to the collectibility of the disputed amounts (i.e. those amounts not encompassed within the promissary note signed by the Government of Guam), GPA was left with the other two alternatives.

Generally accepted accounting principles require that receivables be carried at their net realizable value. Irrespective of whether a rate order existed or not, it would not be appropriate to reflect the uncollectible asset on GPA's books without qualification of the report.

Very truly yours,


Daniel S. Fitzgerald
Director of Audit Operations
Guam/Micronesia

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE TERRITORY OF GUAM

PUBLIC UTILITIES COMMISSION OF THE TERRITORY OF GUAM,	)	CASE NO. 88-003
)	
Complainant,	)	AFFIDAVIT OF
	)	MICHAEL REIDY
vs.)	
)	
GUAM POWER AUTHORITY,)	
)	
Defendant.)	

I, MICHAEL REIDY, being first duly sworn upon my oath, hereby depose and say as follows:

1. I am the Director of the Bureau of Budget and Management of Resources for the Government of Guam and I have been serving in that capacity for the Government of Guam since January, 1987.

2. When I took office in January, 1987 the Government of Guam was in debt to the Guam Power Authority (GPA) in the approximate sum of \$15.1 million which included \$5.3 million in metered sales and \$9.8 million in penalties as a result of the previous administrations failure to keep the Government of Guam powers bills paid current.

3. It was the desire of the current administration to resolve the outstanding account with GPA, however, it was the Government's position that as a matter of public policy it would be inappropriate to pay the exorbitant penalties GPA was trying to impose on the Government.

4. As far as the Government was concerned, the actual amount which should be paid to GPA was in dispute and discussions were undertaken with representatives of GPA to resolve the matter in a manner consistent with GPA's recovery of a reasonable amount on the outstanding account and the financial ability of the Government to pay.


5. On March 31, 1987, the Government executed two promissory notes which represented the maximum amount the Government was willing to pay to GPA on the disputed bills for electrical service, and the payment schedules set forth in the promissory notes represented the maximum the Government could afford to pay in light of the Government's cash flow at that time.

6. As far as the Government is concerned, the promissory notes represent a valid and legally binding compromise of a disputed debt and represents maximum liability of the Government to GPA for the disputed power bills.


MICHAEL REIDY

SUBSCRIBED and SWORN to before me this 8th day of
September, 1988.

)SEAL(


Sherra L. Francisco
Notary Public in and for the
Territory of Guam.

My commission expires: 5/18/89



GUAM POWER AUTHORITY

P.O. BOX 2977, AGANA, GUAM, USA 96910-2977

MAR 31 1987

Mr. Richard Montoya
Assistant Secretary
C/O Ms. Nancy Boone
Chief, Territorial Liaison
U.S. Department of Interior
C St. between 18th & 19th Sts., N.W.
Washington, D.C. 20240

RE: FY 86 GOVGUAM ARREARAGES PAYMENT-GUAM POWER AUTHORITY

Dear Mr. Montoya:

Please review the enclosed promissory notes and provide your response to Touche Ross & Co., our independent auditors.

The Guam Power Authority audited financial statements for the fiscal year ended September 30, 1986 will be issued by our auditors after they have received your response to their query regarding your decision to declare or not declare GPA in default of the covenants contained in the FFB promissory note.

Please send your response by facsimile to Touche Ross & Co. as soon as possible. You may send it to either the Touche Ross FAX number of 671/477-3334 or the GPA FAX number of 671/472-1987.

Thank you for your assistance.

Sincerely,


JOHN M. BENAVENTE
ACTING GENERAL MANAGER

Enclosures

cc: Mr. Frank Solomon
Touche Ross & Co. (Guam)

EXHIBIT P.1

PROMISSORY NOTE

\$2,204,315.00

Agana, Guam
March 31, 1987

FOR VALUE RECEIVED, the GOVERNMENT OF GUAM (the "Government") promises to pay to the order of the GUAM POWER AUTHORITY (the "Authority"), at the Authority's office in Agana, Guam, or at such other place as the Authority may designate, the principal sum of TWO MILLION TWO HUNDRED FOUR THOUSAND THREE HUNDRED FIFTEEN AND NO/100 DOLLARS (\$2,204,315.00) in lawful money, without interest, as follows:

1. Equal payments of SIXTEEN THOUSAND SIX HUNDRED SIXTY-SEVEN AND NO/100 DOLLARS (\$16,667.00) per month commencing on October 1, 1987, with a like payment on the first day of each month thereafter until September 1, 1988.
2. Equal payments of SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$75,000.00) per month commencing on October 1, 1988, with a like payment on the first day of each month thereafter through September 1, 1989.
3. Equal payments of NINETY-TWO THOUSAND TWENTY-SIX AND NO/100 DOLLARS (\$92,026.00) per month commencing on October 1, 1989, with a like payment on the first of every month thereafter until September 1, 1990, at which

EXHIBIT P-1

time all of the unpaid balance shall be due and payable in full.

The obligation of the Government under the terms hereof is subject to action by the Legislature of Guam to appropriate the funds necessary to satisfy the payment schedules set forth herein.

It is understood that this Note constitutes payment of FY-87 penalties incurred by the Government for non-payment of electrical power services provided by the Authority and by acceptance of this Note as payment to the Authority, the Government will cease to incur penalties for non-payment of past due power bills. Therefore, in the event of a default, the unpaid obligations under the terms hereof shall accrue interest at the rate of twelve percent (12%) per annum until paid.

In the event of the happening of any one or more of the following events, any one of which shall constitute an event of default to wit: (a) failure of the Legislature of Guam to appropriate sufficient sums to enable the Government to make the payments required under the terms hereof in a timely manner; (b) the non-payment of any sums payable hereunder when due; then this Note and all sums due hereunder shall become due and payable in full upon thirty (30) days written notice by the Authority to the Government;

provided the Government does not cure the default within said thirty (30) day period.

The Government agrees to pay all cost of collection and attorneys' fees incurred by the Authority in enforcing this Note upon the occurrence of any event of default, whether or not suit is brought and whether or not final judgment is obtained.

The Government hereby waives presentment for payment, demand, (except as specifically set forth herein) notice of dishonor and protest of this Note and all other notices in connection with the delivery, acceptance, performance, default or enforcement of this Note.

None of the terms or provisions of this Note may be waived, altered, modified or amended except as the Authority may consent thereto in writing and failure of the Authority to complain of any act or omission on the part of the Government, no matter how long the same may continue, shall not be deemed a waiver by the Authority of any of its rights hereunder. No waiver at any time, express or implied, of any breach of any provision hereof shall be deemed a waiver of a breach of any other provision hereof or a consent to any subsequent breach of the same or any other provision. No acceptance of any partial payment of the Note shall constitute an accord or satisfaction but shall only be deemed a part payment of the amount then due.

If payment hereunder shall become due and payable on any Saturday, Sunday or public holiday then the payment date thereof shall be extended to the next succeeding business day.

GOVERNMENT OF GUAM

By: Joseph F. Ada
Governor of Guam

DCW13 (055)

EXHIBIT 2

PROMISSORY NOTE

\$6,052,800.00

Agana, Guam
March 31, 1987

FOR VALUE RECEIVED, the GOVERNMENT OF GUAM (the "Government") promises to pay to the order of the GUAM POWER AUTHORITY (the "Authority"), at the Authority's office in Agana, Guam, or at such other place as the Authority may designate, the principal sum of SIX MILLION FIFTY-TWO THOUSAND EIGHT HUNDRED AND NO/100 DOLLARS (\$6,052,800.00) in lawful money, without interest, as follows:

1. The sum of FOUR MILLION SIXTY-TWO THOUSAND SEVEN HUNDRED NINETY-SEVEN AND NO/100 DOLLARS (\$4,062,797.00) will be paid in equal monthly installments of THREE HUNDRED THIRTY-EIGHT THOUSAND FIVE HUNDRED SIXTY-SIX AND NO/100 DOLLARS (\$338,566.00) each commencing on May 1, 1987, with a like payment on the first day of each month thereafter until April 1, 1988, at which time all sums due under this payment schedule shall be due and payable in full.

2. The balance of ONE MILLION NINE HUNDRED NINETY THOUSAND THREE AND NO/100 DOLLARS (\$1,990,003.00) shall be paid as follows:

(a) In equal monthly installments of SIXTEEN THOUSAND SIX HUNDRED SIXTY-SEVEN AND NO/100 DOLLARS (\$16,667.00) commencing on October 1, 1987, with a like

EXHIBIT D.1

payment on the first day of each month thereafter through September 1, 1988.

(b) In equal monthly installments of FIFTY-EIGHT THOUSAND THREE HUNDRED THIRTY-THREE AND NO/100 DOLLARS (\$58,333.00) commencing on October 1, 1988, with a like payment on the first day of each month thereafter through September 1, 1989.

(c) In equal monthly installments of NINETY THOUSAND EIGHT HUNDRED THIRTY-FOUR AND NO/100 DOLLARS (\$90,834.00) commencing on October 1, 1989, with a like payment on the first day of each month thereafter through September 1, 1990, at which time all sums due under this payment schedule shall be due and payable in full.

It is acknowledged that the Legislature of Guam has appropriated the funds necessary to satisfy the payment schedules set forth herein.

It is understood that this Note in part constitutes payment of penalties incurred through FY-86 by the Government for non-payment of electrical power services provided by the Authority and by acceptance of this Note as payment to the Authority, the Government will cease to incur penalties for non-payment of past due power bills. Therefore, in the event of a default, the unpaid obligations under the terms hereof shall accrue interest at the rate of twelve percent (12%) per annum until paid.

In the event of the non-payment of any sums payable hereunder when due then this Note and all sums due hereunder shall become due and payable in full upon thirty (30) days written notice by the Authority to the Government; provided the Government does not cure the default within said thirty (30) day period.

The Government agrees to pay all cost of collection and attorneys' fees incurred by the Authority in enforcing this Note upon the occurrence of any event of default, whether or not suit is brought and whether or not final judgment is obtained.

The Government hereby waives presentment for payment, demand, (except as specifically set forth herein) notice of dishonor and protest of this Note and all other notices in connection with the delivery, acceptance, performance, default or enforcement of this Note.

None of the terms or provisions of this Note may be waived, altered, modified or amended except as the Authority may consent thereto in writing and and failure of the Authority to complain of any act or omission on the part of the Government, no matter how long the same may continue, shall not be deemed a waiver by the Authority of any of its rights hereunder. No waiver at any time, express or implied, of any breach of any provision hereof shall be deemed

a waiver of a breach of any other provision hereof or a consent to any subsequent breach of the same or any other provision. No acceptance of any partial payment of the Note shall constitute an accord or satisfaction but shall only be deemed a part payment of the amount then due.

If payment hereunder shall become due and payable on any Saturday, Sunday or public holiday then the payment date thereof shall be extended to the next succeeding business day.

GOVERNMENT OF GUAM

By: Joseph E. Bore
Governor of Guam

DCW13(056)

EXHIBIT P-1



GUAM POWER AUTHORITY
P. O. BOX 2977, AGANA, GUAM, USA 96910-2977

February 23, 1987

Ms. Nancy Boone
Chief, Territorial Liaison
Office of the Secretary
U.S. Department of Interior
C St., Between 18th & 19th Sts., N.W.
Washington, D.C. 20420

RE: FY86-GovGuam Power Billings

Dear Ms. Boone:

I enjoyed meeting with you in San Diego and am confident we will have a good working relationship in the critical months ahead.

As a followup to our discussion regarding the monies owing GPA from GOVGUAM, and knowing that you will likely be discussing this matter with the Governor, I would like to reiterate the concerns that GPA imparted to you at the conference. Specifically, if GOVGUAM were to pay only the \$4.0 million metered sales portion of the \$11.9 million it owed GPA from FY86, and did not agree to pay the remaining \$7.9 million in penalties as has been provided in a local appropriation, two primary impacts would occur:

- (1) GPA must refund \$3.0 million to Navy, since Navy remitted cash to GPA based on debt service calculations which included the \$7.9 million dollars on penalties.
- (2) GPA's debt service coverage for FY87 would be reduced below the 1.5x minimum, on the presumption the \$1.9 million in FY87 penalty revenues related to FY86 unpaid balances would also not be paid.

The cash impact of trying to repay \$3.0 million to the U.S. Navy coupled with the possible debt service coverage default in FY87 would likely require the Board to seek immediate rate relief in the form of an interim rate increase request to the Public Utilities Commission of Guam. However, GPA has informally proposed to the Governor a schedule of deferred payments which I think provides GOVGUAM with sufficient time to correct for such flow problems and yet assure GPA (and its creditors) that it is resolving this matter in a fiscally responsible manner. The Board has indicated, nonetheless, that the full amount

EX-1011

Please pass a copy of this letter to Mr. Michael Reidy for his own information and ready reference during your discussions with Governor Ada this week. Thank you for your assistance and I look forward to working with you.


JOHN M. BENAVENTE
Acting General Manager

cc: Michael Reidy, Director SBMR

BP/JMB/jn



OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

APR 20 1987

APR 27 1987
S.P.A.

Mr. John M. Benavente
Acting General Manager
Guam Power Authority
P.O. Box 2977
Agana, Guam 96910-2977

Dear Mr. Benavente:

Thank you for your letter of March 31 asking for our review of the two promissory notes signed by the Government of Guam on payment of delinquent accounts.

The overdue accounts of the Government of Guam have been of great concern to us, and we are pleased that Governor Ada has signed the promissory notes obligating the Government of Guam to payment of the agreed-upon amounts. We have reviewed the notes in the context of compliance with the Second Refinancing Agreement of 1984 between the Department of the Interior and the Guam Power Authority and find them to be acceptable. It appears there will be no violation of the covenants. We would, however, request from you, in writing, an analysis over the life of the promissory notes of your ability to meet the covenant requiring a 95 percent collection rate for any three consecutive months. We would also request that you notify us if any of the events of default described in the promissory notes should occur.

We expect that all covenants contained in the Second Refinancing Agreement will be strictly followed. Our concurrence with the agreement you have reached with the Government of Guam is not to be construed as a waiver or modification of any terms contained in the Second Refinancing Agreement.

Sincerely,

Richard T. Montoya
Assistant Secretary--Territorial
and International Affairs

cc: Touche Ross & Company (Guam)

EXHIBIT Q

1 taxes. The Director may expend such sums as are necessary to
2 recruit auditors, revenue agents, revenue officers or other related
3 support staff, to purchase not more than two (2) personal computers
4 and related software, to purchase necessary office furniture and to
5 reimburse local travel.

6 Section 13. The sum of Six Million Four Hundred Eighteen
7 Thousand Five Hundred Dollars (\$6,418,500) is appropriated from the
8 General Fund to the Government of Guam Retirement Fund to provide
9 for the continued implementation of the One Hundred Dollar (\$100)
10 annuity benefits, the Seven Hundred Dollar (\$700) supplemental
11 annuity benefits, the Eight Hundred Thirty Eight Dollar (\$838) annuity
12 benefits, the Governor's and Lt. Governor's pensions, and retirees'
13 group insurance premiums.

14 Section 14. The sum of One Million One Hundred Fifty Nine
15 Thousand Three Hundred Seventy Three Dollars (\$1,159,373) is
16 appropriated from the General Fund to the Government of Guam
17 Retirement Fund for the purpose of funding in a lump sum a Four
18 Hundred Nineteen Dollar (\$419) Cost of Living Allowance for
19 government of Guam retirees or their survivors for Fiscal Year 1988.

20 Section 15. The sum of Fifty Thousand Dollars (\$50,000) is
21 appropriated from the General Fund to pay Four Hundred Nineteen
22 Dollars (\$419) Cost of Living Allowance to each eligible classified
23 government of Guam employee, other than those classified employees
24 already covered in the Territorial agency budgets of this Act. The
25 appropriation in this section shall include applicable benefits in
26 addition to the Four Hundred Nineteen Dollars (\$419) COLA paid to
27 each employee. Payments shall be made pro rata in the bi-weekly
28 compensation of the employees.

29 Section 16. Subsection (a) of Section 21 of P.L. 18-48-----

1 is amended to read:

2 "(a) The sum of Eight Million Two Hundred Fifty-seven
3 Thousand One Hundred Fifteen Dollars (\$8,257,115) is appropriated
4 from the General Fund to the Guam Power Authority for the
5 purpose of liquidating meter billings and penalties incurred by
6 government of Guam line agencies and autonomous agencies, for
7 the periods end up through September 30, 1986; except, of this
8 appropriation, Two Million Two Hundred Four Thousand Three
9 Hundred Fifteen Dollars (\$2,204,315) may be used for the purpose
10 of liquidating penalties incurred by the government of Guam up
11 until March 31, 1987."

12 Section 17. The sum of One Hundred ^{Fifty Six} ~~Seventy One~~ Thousand
13 Four Hundred Thirty Eight Dollars (^{15,433} ~~\$171,438~~) is appropriated from the
14 General Fund to the Department of Mental Health and Substance Abuse
15 to fund the operation of the Guma Manhoben Program for Fiscal Year
16 1988.

17 Section 18. The sum of ^{NINE HUNDRED NINETY TWO THOUSAND SEVEN} ~~Four Million~~ Dollars (^{992,743} ~~\$4,000,000~~) is
18 appropriated from the General Fund to the Hospital Operations Fund to
19 fund the Guam Memorial Hospital Authority's Fiscal Year 1988 operating
20 budget.

21 Section 19. The sum of Two Hundred Thirty Thousand Dollars
22 (⁻⁰⁻ ~~\$230,000~~) is appropriated from the General Fund to the Department of
23 Land Management for the purpose of microfilming land records,
24 registration, mapping, and surveying of unsurveyed government land.



*TELEX 6131

P. O. BOX 2977, AGANA, GUAM, USA 96910-2977

June 11, 1987

VIA HAND DELIVERY

*Delivered
6/11/87
JG*

Mr. Joseph Duenas
Chairman
Public Utilities Commission
Post Office Box 862
Agana, Guam 96910

RE: REMOVAL OF GPA LATE PAYMENT CHARGE

Dear Mr. Duenas:

The GPA Board decided at its June 3, 1987 Board meeting to remove Schedule "C", late payment charge. This charge has not been very effective as an incentive for government accounts to remain current, as evidenced by the past substantial buildup of unpaid billings. The legislature has reduced the amount of penalty which can be collected from the Government from 5% to 1% per month which provides even less incentive to the Government to keep its bills current. Thus, with the continuation of a penalty charge it is possible that in the future GPA will again be faced with accumulated past due billings and penalties which will only serve to distort GPA's true financial picture.

The Board is satisfied that by elimination of the charge the Board will then be in a position to disconnect any delinquent government accounts thereby making the Government subject to the same rules as GPA's other customers. As you are aware, the disconnect policy has been an effective deterrent to accumulation of unpaid billings.

The Public Utilities Commission is hereby requested to take such action as it deems appropriate including holding a hearing on this matter if necessary, to insure the validity of the Board's action in elimination of the penalty.

If you have any questions, please contact either myself or the General Manager, Mr. John Benavente.

Sincerely,

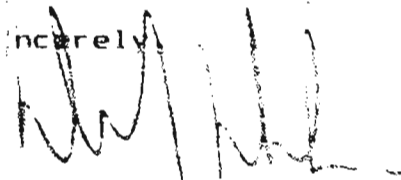

D.J. SABLAN
Chairman
Board of Directors

EXHIBIT 5

whenever used in this Note, any one of the following events:

a) Failure by the Authority to make any payment of Principal or interest or Late Charges (if any) on this Note when and as the same shall become due and payable, and said failure to pay shall continue for a period of two hundred (200) days from the date of scheduled payment; or

b) The FFB, or its successors or assigns as holder hereof, shall have received a Notice of Acceleration (as said term is defined in the Second Refinancing Agreement dated _____, 1984, by and between the Authority and the Secretary) from the Secretary.

10. Upon the occurrence of an Event of Default under this Note, the entire outstanding Principal amount, together with all accrued interest thereon and Late Charges, if any, shall be immediately due and payable.

11. The holder of this Note may sell, assign or otherwise transfer all or any part of this Note, and the Guaranty of the Secretary attached hereto, shall continue in full force and effect.

12. This Note is issued, executed and delivered on behalf of the Authority pursuant to the Guam Power Authority

Revenue Bond Act of 1968 and Section 21552(e)(12 GCA Section 8203(e)) thereof, and pursuant to Resolution No. 79 (the "Resolution") adopted by the Board of Directors of the Authority on October 11, 1984, and both principal hereof and interest hereon are payable solely from funds derived (a) from revenues derived from the Authority's system (defined and referred to in the Resolution); or (b) from the proceeds of sale of the first additional revenue bonds hereafter issued by the Board of Directors of the Authority (as referred to in the Resolution); or, (c) from such other funds as may be available to the Authority, and the Authority is not obligated to pay the same except from such funds. This Note is a special obligation of the Authority, secured as aforesaid, and is issued subject to and subordinate to all outstanding revenue bonds heretofore issued by the Authority and the holder of this Note cannot compel the forfeiture of any property of the Authority. The Note is not a lien or charge against the Territory of Guam, or against the Governor of Guam, or against any property or funds of said Territory, said Governor, the Authority or said Board of Directors except as provided in the Resolution. Neither the payment of the principal hereof nor any part hereof, nor any interest thereon constitutes a debt, liability or obligation of the Territory of Guam or the Governor of Guam.

13. This Note, so long as the FFB is the holder hereof, shall, to the extent permitted by law, be subject to such modification as may be mutually agreed upon in writing by the Authority, the FFB, and the Secretary.

IN WITNESS WHEREOF, the GUAM POWER AUTHORITY has caused this Note to be signed in its name and on its behalf by the manual signature of the Chairman of its Board of Directors.

DATED: _____, 1984

GUAM POWER AUTHORITY

By

JESUS G. CAMACHO, Chairman
Board of Directors

GUARANTY

The United States of America acting through the Secretary of the Department of the Interior ("Secretary"), hereby guarantees to the Federal Financing Bank ("FFB"), or assigns, as holder of the Note dated _____, 1984, (the "Note") to which this Guaranty is attached, upon the demand of such holder, and pledges the full faith and credit of the United States of America for, payment of the full amount of the unpaid interest on, and the unpaid balance of the principal of, the Note, including interest on overdue installments of principal and/or interest accruing pursuant to the Note.

This Guaranty is issued pursuant to the Organic Act of Guam, as amended, and the Financing Agreement, dated _____, 1984, between the Secretary and the FFB, and is irrevocable, incontestable and unconditional in the hands of the holder hereof, irrespective of the validity, legality or enforceability of the Note, or any other circumstances which might constitute a legal or equitable discharge of a surety or guarantor.

DATED _____, 1984

DEPARTMENT OF THE INTERIOR

By _____
WILLIAM D. CLARK
Secretary of the Interior

T0009/1
11-27-84

CLM POWER AUTHORITY - PAYMENT SCHEDULE
DECEMBER 3, 1984 PROMISSORY NOTE

		RATE = 7.000%			(365)	
PAYMENT DATE	PRINCIPAL	GPA INTEREST	TOTAL GPA PAYMENT	BALANCE	DAYS	
	12/3/1984			36,000,000.00		
1:	3-15-1985	435,000.00	704,219.18	1,139,219.18	35,565,000.00	102
2:	9-16-1985	440,000.00	1,261,826.71	1,701,826.71	35,125,000.00	185
3:	3-17-1986	465,000.00	1,226,006.85	1,691,006.85	34,660,000.00	182
4:	9-15-1986	470,000.00	1,209,776.44	1,679,776.44	34,190,000.00	182
5:	3-16-1987	505,000.00	1,193,371.51	1,698,371.51	33,685,000.00	182
6:	9-15-1987	505,000.00	1,182,205.07	1,687,205.07	33,180,000.00	183
7:	3-15-1988	540,000.00	1,158,118.36	1,698,118.36	32,640,000.00	182
8:	9-15-1988	535,000.00	1,151,789.59	1,686,789.59	32,105,000.00	184
9:	3-15-1989	575,000.00	1,114,439.32	1,689,439.32	31,530,000.00	181
10:	9-15-1989	575,000.00	1,112,620.27	1,687,620.27	30,955,000.00	184
11:	3-15-1990	615,000.00	1,074,520.14	1,689,520.14	30,340,000.00	181
12:	9-17-1990	620,000.00	1,082,265.21	1,702,265.21	29,720,000.00	186
13:	3-15-1991	655,000.00	1,020,250.96	1,675,250.96	29,065,000.00	179
14:	9-16-1991	660,000.00	1,031,210.27	1,691,210.27	28,405,000.00	185
15:	3-16-1992	705,000.00	991,451.23	1,696,451.23	27,700,000.00	182
16:	9-15-1992	705,000.00	972,156.16	1,677,156.16	26,995,000.00	183
17:	3-15-1993	755,000.00	937,059.32	1,692,059.32	26,240,000.00	181
18:	9-15-1993	755,000.00	925,948.49	1,680,948.49	25,485,000.00	184
19:	3-15-1994	805,000.00	884,643.70	1,689,643.70	24,680,000.00	181
20:	9-15-1994	810,000.00	870,899.73	1,680,899.73	23,870,000.00	184
21:	3-15-1995	865,000.00	828,583.29	1,693,583.29	23,005,000.00	181
22:	9-15-1995	865,000.00	811,792.88	1,676,792.88	22,140,000.00	184
23:	3-15-1996	920,000.00	772,776.99	1,692,776.99	21,220,000.00	182
24:	9-16-1996	925,000.00	752,873.97	1,677,873.97	20,295,000.00	185
25:	3-17-1997	990,000.00	708,378.90	1,698,378.90	19,305,000.00	182
26:	9-15-1997	990,000.00	673,823.84	1,663,823.84	18,315,000.00	182
27:	3-16-1998	1,055,000.00	639,268.77	1,694,268.77	17,260,000.00	182
28:	9-15-1998	1,060,000.00	605,755.07	1,665,755.07	16,200,000.00	183
29:	3-15-1999	1,130,000.00	562,339.73	1,692,339.73	15,070,000.00	181
30:	9-15-1999	1,135,000.00	531,785.21	1,666,785.21	13,935,000.00	184
31:	3-15-2000	1,210,000.00	486,388.77	1,696,388.77	12,725,000.00	182
32:	9-15-2000	1,215,000.00	449,035.62	1,664,035.62	11,510,000.00	184
33:	3-15-2001	1,295,000.00	399,538.90	1,694,538.90	10,215,000.00	181
34:	9-17-2001	1,295,000.00	364,381.64	1,659,381.64	8,920,000.00	186
35:	3-15-2002	1,385,000.00	306,212.60	1,691,212.60	7,535,000.00	179
36:	9-16-2002	1,390,000.00	267,337.67	1,657,337.67	6,145,000.00	185
37:	3-17-2003	1,485,000.00	214,485.75	1,699,485.75	4,660,000.00	182
38:	9-15-2003	1,485,000.00	162,653.15	1,647,653.15	3,175,000.00	182
39:	3-15-2004	1,580,000.00	110,620.55	1,695,620.55	1,590,000.00	182
40:	9-15-2004	1,580,000.00	56,107.43	1,646,107.40	0.00	184
		36,000,000.00	30,809,110.21			

of Directors or the General Manager of the Guam Power Authority, and (i) appoint in their places members or a General Manager who shall serve at the pleasure of the Secretary, or (ii) contract for the management of the Guam Power Authority or (2) issue a Notice of Acceleration directing the holder of the 1984 Note to declare the entire unpaid principal balance of such Note together with all accrued interest and late charges as provided under such Note, if any, immediately due and payable.

Provided, however, that upon the occurrence of an event of default described in subsection (a), the Secretary shall not issue a Notice of Acceleration but shall promptly cause to be paid to the holder of the 1984 Note all amounts of principal, interest and late charges then due and payable under such Note from such funds as may then be or thereafter become available pursuant to Section 2 hereof.

6. Miscellaneous:

(a) Investment of Funds. All moneys held by the Trustee and allocated to the Interest and Principal Fund shall be invested in Federal Securities (as that term is defined in Resolution No. 1 adopted by the Board of Directors of the Authority on June 16, 1969) or certificates of deposit or interest bearing accounts of any bank or savings and loan association duly licensed to conduct such business within the Territory of Guam (collectively "Savings Accounts") maturing not later than the date on which such moneys are required for payment by the Trustee. Moneys held in the Reserve Fund not then required to be applied to payment of the 1984 Note shall be invested in Federal Securities (as so defined) or Savings Accounts which mature not more than twelve years from the date of purchase by the Trustee. Not more than NINE HUNDRED THOUSAND DOLLARS (\$900,000.00) of the Reserve Fund shall be invested in Savings Accounts at any one time. For the purpose of determining the amount of money in the Reserve Fund, all investment of moneys therein shall be valued at their current market values as of the immediately preceding March 15 or September 15. All interest received on any moneys so invested shall be deposited in and for the purposes of the Reserve Fund.

(b) Appointment of Trustee. On or before the sixtieth (60th) day following the date hereof, the Authority will appoint a bank duly licensed to conduct the banking business within the Territory of Guam and approved by the Secretary as Trustee for the Authority, the holders of the 1984 Note, the Secretary and the Government of Guam, to act as the legal depository of the Authority for the purpose of receiving all moneys which the Treasurer is

required to pay to the Trustee hereunder, and to allocate and use and apply the same as provided herein.

The Board of Directors of the Authority may, with the approval of the Secretary, remove the Trustee initially appointed, and any successor thereto, and may, with the approval of the Secretary, appoint a successor or successors thereto; provided that any successor Trustee shall be a bank duly licensed to conduct the banking business within the Territory of Guam having a capital and surplus of not less than FIFTY MILLION DOLLARS (\$50,000,000).

Any Trustee, as a condition of its appointment shall enter into a trust agreement with the Authority for the benefit of the holder of the 1984 Note, the Secretary, the Authority and the Government of Guam providing that the Trustee shall faithfully execute and perform the duties and obligations of Trustee specified herein. The Trustee at the request of the Secretary, shall provide to him statements of account for the Interest and Principal Fund and the Reserve Fund showing deposits, withdrawals, income earned, expenses incurred, and current balances. The Trustee may at any time resign and be discharged of its duties and obligations by giving not less than sixty (60) days written notice to the Authority and the Secretary specifying the date when such resignation shall take effect. Such resignation shall take effect on the date specified in such notice unless previously a successor shall have been appointed as hereinabove provided, in which event such resignation shall take effect immediately upon the appointment of such successor; provided, however, that such resignation of the Trustee shall in no event take effect until such successor shall have been appointed.

(c) Partial Invalidity. If any one or more of the covenants or agreements, or portions thereof, provided herein on the part of the Authority or the Board to be performed should be contrary to law, then such covenant or covenants, such agreement or agreements, or such portions hereof, shall be null and void and shall be deemed separable from the remaining covenants and agreements or portions thereof and shall in no way affect the validity of this Agreement or the 1984 Note but the Secretary and holder of the 1984 Note shall retain all the rights and benefits accorded to them under applicable provisions of law.

(d) Notice. Whenever herein the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice, and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

(e) Section Headings. The heading or titles of the several Sections and other subdivisions, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this agreement, and all references herein to "Sections" and other subdivisions are to the corresponding Section or subdivisions of this agreement, and the words "herein", "hereof", "hereunder" and "this agreement" and other words of similar import refer to this agreement as a whole and not to any particular Section or subdivision hereof unless otherwise expressly stated.

(f) Waivers. Failure of the Secretary or the holder of the 1984 Note to complain of any act or omission on the part of the Authority or the Government of Guam no matter how long the same may continue, shall not be deemed a waiver by said party of any of its rights hereunder. No waiver at any time, express or implied, of any breach of any provision hereof shall be deemed a waiver of a breach of any other provision hereof or a consent to any subsequent breach of the same or any other provision. No acceptance of any partial payment of the 1984 Note shall constitute an accord or satisfaction but shall only be deemed a part payment of the amount then due.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed in the City of Washington, District of Columbia, on the date and year first hereinabove set forth.

GUAM POWER AUTHORITY

/s/ Jesus G. Camacho
JESUS G. CAMACHO
Chairman of the Board
of Directors

(Seal)

Attest:

/s/ David J. Sablan
DAVID J. SABLAN
Secretary of the Board
of Directors

DEPARTMENT OF THE INTERIOR

/s/ William P. Clark
WILLIAM P. CLARK
Secretary of the Interior
Department of the Interior
United States of America

(Seal)

Attest:

/s/ Richard T. Montoya
RICHARD T. MONTOYA
Assistant Secretary of
the Interior for
Territorial and Inter-
national Affairs

EXHIBIT T

The Government of Guam, pursuant to the law of Guam, acting through the Governor of Guam and in accordance with Resolution 542 duly and regularly adopted by the Seventeenth Guam Legislature on the first day of December, 1984, does hereby approve the foregoing refinancing agreement, the terms and conditions and covenants thereof and the issuance of the 1984 Note for THIRTY-SIX MILLION DOLLARS (\$36,000,000) contemplated therein. In consideration of the execution of said refinancing agreement by the Secretary of the Interior of the Department of the Interior of the United States of America and his execution on behalf of the United States of America of the guarantee to the Federal Financing Bank of said 1984 Note, the Government of Guam promises and covenants that the independent rate making authority vested in the Public Utilities Commission by Guam Public Law 17-74 will not be impaired, and any person, entity, board, commission, agency or other instrumentality authorized or empowered under the laws of the Territory of Guam to establish, modify, review, approve or otherwise regulate rates, and charges for the sale or use of electric energy produced, transmitted, distributed, or furnished by the Authority shall be bound by the laws of the Territory of Guam to establish, maintain and approve rates sufficient to satisfy all financial obligations and future capital investment needs of the Guam Power Authority as determined in accordance with generally accepted rate-making practices of public utilities. The Government of Guam further promises and covenants that no person shall be nominated or appointed to the Board of Directors of the Guam Power Authority without the prior consent of the Secretary.

Done this 3rd day of December, 1984

/s/ Ricardo J. Bordallo
RICARDO J. BORDALLO
Governor of Guam

T0009/E
11-27-84

1. For value received, the GUAM POWER AUTHORITY ("Authority"), a public corporation and autonomous instrumentality of the Government of Guam, hereby promises to pay \$36,000,000 (the "Principal") to the Federal Financing Bank ("FFB"), which term includes successors and assigns, by September 15, 2004. Interest shall be paid on March 15 and September 15 of each year, adjusted for Business Days pursuant to paragraph 7 hereof, as long as any part of the Principal remains outstanding (the "Payment Dates") on the daily unpaid Principal balance calculated on a 365-day year and the actual number of days elapsed from the date hereof until the date of payment at a rate of seven (7) percent per annum (the "Note Rate") in accordance with Section 11 of the Organic Act of Guam, as amended.

2. The Principal hereof shall be repayable in forty Principal installments on the Payment Dates beginning with March 15, 1985, and ending on September 15, 2004. Prior to the FFB's acceptance of this Note, the Authority shall provide the FFB with a schedule of Principal installments sufficient to repay the Principal amount in 40 installments.

EXHIBIT A

EXHIBIT T

As soon as practicable after the date hereof, the FFB shall provide the Authority with a schedule of Principal and interest payments due under this Note, and such schedule shall thereafter be considered a part of this Note.

3. Principal and interest shall be paid in Federal funds by wire transfer to the Federal Reserve Bank of New York on each Payment Date and the wire shall include the following credit information:

United States Treasury
New York, New York
021030004
TREAS NYC/(20180006)
For credit to the Federal Financing Bank
Treasury Annex No. 1
Washington, D.C. 20226

4. All payments on this Note shall be first applied to Late Charges (if any), then to interest and next to Principal. All payments due under this Note are subject to the Guaranty of the Secretary of the Interior ("Secretary") attached hereto, as to timely payment when and as due.

5. In the event any payment of Principal or interest under this Note is not made when and as due, the amount payable shall be such payment, plus interest thereon from the due date to the date of payment (herein the "Late Charges") at a current rate established by the FFB pursuant

to Section 6 of the Federal Financing Bank Act of 1973, as amended (12 U.S.C. 2285) and based on the rate prevailing in the market for the most recently auctioned 13-week United States Treasury bills. Upon the expiration of each successive 91-day period following the scheduled Payment Date for any outstanding payment, the FFB shall establish a new rate pursuant to this paragraph and such rate shall be applied to the outstanding payment and all Late Charges accrued thereon to date. During any period when Late Charges are accruing on an overdue payment, additional interest at the Note Rate shall not accrue on the overdue payment. Nothing in this paragraph 5 shall be construed as permitting or implying that the Authority may, without the written consent of the FFB, modify, extend, alter or affect in any manner whatsoever (except as explicitly provided herein) the right of the FFB to receive any and all payments of Principal and interest on the dates specified in this Note.

6. Upon acceptance of this Note, the FFB shall apply the proceeds of this Note to payment of the outstanding Principal balance of the obligation of the Authority to the FFB guaranteed by the Secretary pursuant to Public Law 94-395, 90 Stat. 1199 (1976) as amended, evidenced by the Note dated December 11, 1980 as amended by Amendment No. 1 effective June 30, 1982.

7. If a payment of Principal or interest is due on a day on which either the FFB or the Federal Reserve Bank of New York (the "FRB") is not open for business, such payment shall be made on the first day thereafter on which both the FFB and the FRB are open for business (a "Business Day"). Such payment shall include interest accrued to and including the Business Day on which payment is made and the subsequent payment shall include interest accrued from the Business Day on which payment is made.

8. The Authority may, upon five (5) Business Days' written notice to the FFB with the written approval of the Secretary on any Payment Date repurchase all or part of the outstanding Principal of this Note at a repurchase price equal to the Principal amount so to be repurchased plus accrued interest thereon to the date fixed for repurchase. Partial repurchases of the outstanding Principal shall be applied to the schedule described in paragraph 2 hereof, in the inverse order in which such installments are due. Following any such partial repurchase, the FFB shall provide the Authority with a revised schedule of Principal and interest payments and such schedule shall thereafter be considered a part of this Note.

9. The following shall be "Events of Default" under this Note and the term "Event of Default" shall mean,

1984 REFINANCING

SECOND REFINANCING AGREEMENT

\$36,000,000

.....

1984 PROMISSORY NOTE

.....

FINANCING AGREEMENT

FFB - DOI

.....

1980 NOTE - "PAID"

GUAM POWER AUTHORITY

SECOND REFINANCING AGREEMENT

\$36,000,000.00

Due on or before December 31, 2004

By and Between

THE GUAM POWER AUTHORITY

and

THE SECRETARY OF THE INTERIOR

United States of America

December 3, 1984

SECRET

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SECOND REFINANCING AGREEMENT

This agreement made and entered into this 3rd day of ~~December~~, 1984, by and between the GUAM POWER AUTHORITY, a public corporation and autonomous instrumentality of the Government of Guam (the "Authority"), and the SECRETARY OF THE INTERIOR of the Department of the Interior of the UNITED STATES OF AMERICA (the "Secretary").

W I T N E S S E T H:

WHEREAS, the Guam Power Authority now owns and operates an electric power system and is engaged in the production, transmission, distribution and sale of electric power to the inhabitants of the Territory of Guam; and

WHEREAS, the Authority issued a promissory note dated December 31, 1980, to the Federal Financing Bank, a body corporate and an instrumentality of the United States Government (the "FFB"), in the principal amount of THIRTY-SIX MILLION DOLLARS (\$36,000,000) which indebtedness will become due and payable on December 31, 1990 (the "1980 Note"); and

WHEREAS, the United States Congress by the enactment of Public Law 98-454 authorized refinancing of the 1980 Note, subject to certain conditions, and to that end directed the FFB to purchase certain obligations of the Authority and directed the Secretary to guarantee the same; and

WHEREAS, the Board of Directors of the Guam Power Authority by its Resolution No. 79 has requested a second refinancing agreement pertaining to the indebtedness evidenced by the 1980 Note; and

WHEREAS, the Authority has or will issue its note in the principal amount of THIRTY-SIX MILLION DOLLARS (\$36,000,000) providing for (i) substantially equal semi-annual installments of principal and interest, (ii) maturity of obligations no later than December 31, 2004, and (iii) an annual simple interest rate of seven per centum, to be subject to the terms of this agreement and substantially in the form attached hereto as Exhibit "A" and by this reference incorporated herein (the "1984 Note"); and

WHEREAS, in consideration of the execution of this Agreement by the Authority and its approval by the Government of Guam the FFB has agreed to purchase said 1984 Note and the Secretary has agreed to guarantee it on behalf of the United States of America;

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions contained herein, and intending to be legally bound hereby, the Authority and the Secretary agree with each other as follows:

1. Nature of Obligation: The indebtedness evidenced by the 1984 Note shall be incurred, and the payment of the principal of and interest on the 1984 Note shall be subject and subordinate to, the contractual obligation of the Authority and its Board of Directors to the holders of all outstanding revenue bonds heretofore issued by the Authority and Board of Directors under the Guam Power Authority Revenue Bond Act of 1968, Chapter VII, Title XXII of the Government Code of the Territory of Guam, codified as Article 2, Chapter 8, Title 12 of the Guam Code Annotated (the "Revenue Bond Act"). The principal of and interest on the 1984 Note shall be payable only from funds derived (a) from Revenues of the System (as those terms are defined in Resolutions Nos. 1 and 19 adopted by the Board of Directors of the Authority on June 16, 1969, and October 31, 1972, respectively) legally available for such payment in the surplus fund created by paragraph (5) of Section 5.03 of said Resolutions Nos. 1 and 19, or (b) from the proceeds of sale of the first additional revenue bonds hereafter issued under the Revenue Bond Act, and in accordance with the provisions of said Resolutions Nos. 1 and 19, or (c) from such other funds as may be available to the Authority.

The 1984 Note is a special obligation of the Authority secured only as herein provided and the owner of the 1984 Note cannot compel the forfeiture of any property of the Authority. The 1984 Note is not a lien or charge against the Territory of Guam, or against the Governor of Guam, or against any property or funds of said Territory, said Governor, the Authority or the Board of Directors of the Authority except as herein provided in Section 2. Neither the payment of the principal of the 1984 Note nor any part thereof nor any interest thereon constitutes a debt, liability or obligation of the Territory of Guam or of the Governor of Guam except as provided herein.

2. Failure to Pay; Right of Offset: The Authority, and the Government of Guam, by its approval of this agreement, agree and consent that should the Authority fail to pay in full any installment of interest or principal when due of the 1984 Note, the Secretary of the Treasury of the Department of the Treasury of the United States (the "Secretary of the Treasury") upon notice from the Secretary is authorized to (and pursuant to Section 11 of the Organic Act of Guam as amended, shall) deduct and pay to the FFB or the Secretary, according to their respective interests, such amount from sums collected and payable pursuant to Section 30 of the Organic Act of Guam, as amended. The Authority

and the Government of Guam by its approval of this agreement agree and consent that Acts of the Congress of the United States making appropriations may provide for the withholding of any payments from the United States to the government of Guam which may hereafter become due pursuant to any law and offset the amount of such withheld payments against any claim the United States may have against the government of Guam or the Guam Power Authority pursuant to the guarantee of the 1984 Note. The right of offset contained herein arises only as set forth in this Section; no event of default set out in Section 5 shall give rise to such right of offset UNLESS such right would also arise under this Section. The Authority and all persons approving this Agreement agree that any monetary obligation of the Authority to the Government of Guam arising as a result of an offset authorized by this Section is payable by the Authority only from funds which under Section 1 hereof are available for payment of principal and interest on the 1984 Note, and the Government of Guam shall have no right to make any offset against the Authority which would reduce the Revenues of the System (as those terms are defined in Section 1 hereof).

3. Authorization: The parties hereto, hereby represent and warrant to each other that each has reviewed all proceedings relative hereto and has found and determined that each and all of the matters hereinabove recited are true and correct and that the parties have duly and regularly complied with all applicable provisions of law and are authorized by law to undertake, agree and enter into the obligations herein contained upon the terms herein provided.

4. Covenants: As used in this section capitalized terms not otherwise defined herein but defined in Resolution No. 1 adopted by the Board of Directors of the Authority June 16, 1969, have the meanings therein set forth.

(a) General Covenant. The Authority and the Board, for themselves, their successors and assigns, represent, warrant, covenant and agree with the Secretary as a material inducement to his execution of the guarantee of the 1984 Note, that so long as the 1984 Note shall remain outstanding and the principal thereof or interest thereon shall be unpaid or unprovided for, the Authority and the Board will faithfully perform all of the covenants and agreements herein contained. The Governor of Guam, the treasurer of the Authority, the Director and all other officers and agencies of the Territory of Guam shall (i) be bound by all of the covenants and agreements set forth herein; and (ii) perform all such covenants and agreements which, under the Organic Act of Guam or any provision of the Code or any other statute of the Territory of Guam, can be

taken for or on behalf of in lieu of the Board only by the Governor of Guam, the treasurer of the Authority, the Director or other such officer or agency.

(b) Punctual Payment. The Authority will punctually pay or cause to be paid the principal and interest to become due in respect of the 1984 Note, in strict conformity with the terms thereof.

(c) Limitations on Free Use of Facilities. None of the electric energy owned, controlled or supplied by the Authority shall be furnished or supplied free to any person, but on the contrary shall always be sold or furnished so as to produce Revenues hereunder.

(d) Collection. The Authority will not knowingly continue to furnish electric energy to any customer, public or private, when such customer has an unpaid balance due and owing to the Authority that has been due for more than sixty (60) days unless (i) the Secretary has authorized the Authority in writing to continue service to such customer, or (ii) there is a good faith dispute (not including a claimed right by the customer to offset) concerning the entire overdue amount. The Authority shall establish and maintain rules and regulations governing the collection of delinquent accounts and the discontinuation of service and shall uniformly apply and enforce the same. The Authority will not allow its collection rate on current billings to fall below a rate of ninety-five percent (95%) for any three consecutive months beginning January 1, 1985, unless the same is caused by circumstances beyond the control of the Authority, as determined by the Secretary.

(e) Operation and Maintenance of the System. The Authority will operate the System continuously, in accordance with electric utility standards for similar areas and situations, to the extent practicable under conditions as they may from time to time exist, in an efficient and economical manner, and will at all times maintain, preserve and keep, or cause to be maintained, preserved and kept, the System, including all parts thereof and appurtenances thereto, in good repair, working order and condition, and in such manner that the operating efficiency thereof will be of the highest character and so that all lawful orders of any governmental agency or authority having jurisdiction in the premises will be complied with (provided the Authority shall not be required to comply with any such orders so long as the validity or application thereof shall be contested in good faith), and the Authority will from time to time make, or cause to be made, all necessary and proper repairs and replacements so that the business carried on in connection with the System by the Authority for the production, transmission and distribution of electric energy at all times may

be properly and advantageously conducted in a manner consistent with prudent management, and the rights and security of the Holders of the Bonds and the Secretary are fully protected and preserved. Once in every three years the Secretary shall obtain an engineer's certificate stating that the signer has inspected the System and setting forth (i) whether the Authority has complied with the covenants set forth in the preceding sentence, (ii) such recommendations as the signer may make as to the proper maintenance, repair and operation of the System and an estimate of the amount of money necessary therefore, and (iii) such recommendation as the signer may have with respect to repairs, replacements, improvements and extensions of the System. The Secretary and the Authority shall equally divide the expense of obtaining such engineer's certificate. The Secretary may at his own cost and expense obtain an engineer's certificate at more frequent intervals. "Engineer's certificate" shall mean an opinion or statement signed by an independent engineer or engineering firm recognized to be well qualified in engineering matters relating to electric power systems and selected by the Secretary. The Authority shall fully cooperate with the engineers or firms selected and permit inspection of the System at reasonable times. Within sixty (60) days after receipt of the engineer's certificate, the Authority will provide comments to the Secretary on the recommendations and will initiate actions to correct deficiencies or make improvements, in accordance with the Authority's ability to take such action, weighing the costs and complexity of the corrective measures required and subject to its legal obligations to the Holders of the Bonds.

(f) Accounting Records and Financial Statements.

(i) The Authority will follow accounting procedures established by the Federal Energy Regulatory Commission for electric utilities and will keep proper books of records and accounts, in which complete and correct entries shall be made of all transactions relating to the System and the Revenues. Such books of records and accounts shall at all times during business hours be subject to the inspection of the Secretary, or his representative authorized in writing. The Board will file quarterly with the Secretary such reports compiled from said books of records and accounts as the Secretary may from time to time direct.

(ii) The Authority will place on file with the Secretary and the Governor of Guam and the Legislature of Guam and publish annually within one hundred twenty (120) days after the close of each Fiscal Year (commencing with the Fiscal Year ending in 1985), so long as the 1984 Note is outstanding, a statement in reasonable detail for

the preceding Fiscal Year showing Revenues, all expenditures from Revenues for operation and maintenance of the System and other expenditures from Revenues applicable to the System, together with a balance sheet in reasonable detail reflecting the financial condition of the Authority, including the balances of all Funds relating to the System or the 1984 Note held by the Treasurer as of the end of such Fiscal Year, which statement and balance sheet shall be accompanied by a certificate of an independent certified public accountant. Such statement may be included in, and be a part of, the general accounting statement of the Authority for such Fiscal Year.

(g) Inspection of Works and Records. The Authority will permit at all times the Secretary or any person designated by the Secretary to inspect any works, properties or facilities of the Authority, and all accounts and records thereof.

(h) Insurance. The Authority will secure and maintain public liability and property damage insurance relating to the operation of the System, including public liability insurance in an amount not less than \$1,000,000 for injuries, including death, to any one person, and in an amount not less than \$2,000,000 for injuries, including death, to two or more persons, on account of any one accident, and property damage insurance in an amount not less than \$1,000,000 for each occurrence. The Authority will also take out and maintain adequate fidelity insurance or bonds on all officers and employees handling or responsible for funds of the Authority.

The Authority will secure and maintain insurance on all facilities constituting the System against risks of loss or damage caused by or resulting from fire and also from action of the elements (including loss from typhoons, earthquakes, floods and tidal waves), to the extent that such insurance is obtainable at reasonable cost, in an amount not less than \$2,000,000 with a sub-limit of \$1,000,000 on all electric transmission and distribution lines, subject to a deductible amount of \$250,000 for all perils insured against to be applied separately to such electric transmission and distribution lines and subject to a deductible amount of \$250,000 to be applied separately to all other facilities of the System. All such policies of insurance shall be in form satisfactory to the Secretary.

The Authority shall, on or before the sixtieth (60th) day following the date hereof, submit to the Secretary a list of all insurance policies maintained in effect by the Authority on October 1, 1984, including the amount of coverage and policy limits as may be applicable and such other information as the Secretary may in writing request.

The Authority will not reduce the amount of coverage or the policy limits of any policy as shown on such list by more than twenty percent (20%) without the prior written consent of the Secretary, provided that the Authority may change insurance carriers, consolidate coverage or separate coverage, without such consent. This paragraph shall not be construed as limiting the obligations of the Authority under the other paragraphs of this subsection.

(i) Payment of Taxes and Claims. The Authority from time to time will duly pay and discharge, or cause to be paid and discharged, all taxes, assessments and other governmental charges lawfully imposed upon any properties of the Authority or upon any part thereof, or upon the Revenues therefrom, when the same shall become due, as well as any lawful claims for labor, material and supplies or other charges which, if unpaid, might by law become a lien or charge upon such properties or any part thereof or upon the Revenues, and will duly observe and conform to all valid requirements of any governmental authority relative to such properties or any part thereof and to all covenants, terms and conditions applicable thereto.

(j) Maintenance of Authority Organization. The Authority will maintain its autonomy and will not be dissolved or lose its franchise or right to exist or lose any rights necessary to enable it to maintain and operate the System and to the extent possible will enhance and increase its autonomy.

(k) Establishment of Rates and Charges. The Authority with the approval of such independent rate-making authority established by the Government of Guam as may be in existence will, at all times while the 1984 Note remains outstanding, establish, fix, and prescribe rates and charges for the sale or use of electric energy produced, transmitted, distributed or furnished from the System which satisfy all financial obligations and future capital investment needs of the Authority as determined in accordance with and consistent with generally accepted rate-making practices of public utilities. Net Revenues with respect to the then immediately ensuing twelve months shall at all times equal at least 1.5 times the combined annual debt service on (i) the 1984 Note, (ii) the Bonds then outstanding, and (iii) other obligations of the Authority (not including obligations to the Government of Guam) then having a remaining term of more than one (1) year. Annual debt service as used in the preceding sentence with reference to an obligation means the sum of all interest and principal payments having due under such obligation during the then immediately ensuing twelve (12) month period.

(l) Against Sale or Other Disposition of Property. The Authority will not sell, lease or dispose of the System or any part thereof essential to the proper operation of the System or to the maintenance of the Revenues except as herein expressly permitted. The Authority will not enter into any lease or agreement which impairs or impedes the operation of the System or any part thereof necessary to secure adequate Revenues for the payment of the principal of and interest on the Bonds and the 1984 Note, or which would otherwise impair or impede the rights of the Holders of the Bonds or the Secretary with respect to the Revenues or the operation of the System. Any real or personal property which has become nonoperative or which is not needed for the efficient and proper operation of the System, or any material or equipment which has worn out, may be sold at not less than the market value thereof without the consent of the Secretary, if such sale will not reduce Revenues and if all of the net proceeds of such sale are deposited in the Revenue Fund. The Authority may, with the consent of the Secretary sell, lease or dispose of other real or personal property if the result thereof will be to improve the operation or Revenues of the System.

(m) Against Competition. So long as the 1984 Note is outstanding, the Authority and the Board will not acquire, own or operate any electric production, transmission or distribution systems or facilities or improvements thereto which would compete with the System or reduce Net Revenues.

(n) Against Modification. Neither the Authority nor the government of Guam shall modify the requirements of this Agreement without the consent of the Secretary.

(o) Notification. The Authority shall promptly inform the Secretary of any legislation enacted by the Government of Guam violating or attempting to violate the covenants set forth herein or impairing or attempting to impair the ability of the Authority to perform any of its obligations hereunder. The Authority shall promptly inform the Secretary of the nomination, appointment, confirmation, resignation, death or removal of any person as a member of the Public Utilities Commission of the Territory of Guam.

(p) Special Reserve Funds. The Authority will maintain, in the following order of priority, the following special funds:

- (1) Interest and Principal Fund, and
- (2) Reserve Fund

All of the said funds shall be maintained by the trustee hereinafter named, its successors and assigns and any other corporation or association which may at any time be substituted in its place as herein provided (the "Trustee") to be held in trust and withdrawn only for the purposes hereinafter authorized.

(1) Interest and Principal Fund. On or before the seventh day of each month, beginning in April 1985, the treasurer of the Authority (the "Treasurer") shall transfer to the Trustee and the Trustee shall deposit in the Interest and Principal Fund an amount equal to the sum of (i) at least one-fifth of the aggregate amount of the principal and interest becoming due and payable on the next payment date, and (ii) the amount of unpaid late charges incurred under the 1984 Note (the "Late Charges") until deposits have been made at least thirty (30) days prior to the next payment date for the full amount of interest and principal next coming due on the 1984 Note and all unpaid Late Charges.

No deposit need be made into the Interest and Principal Fund if the amount contained therein is at least equal to the interest and principal to become due on the next payment date and all unpaid Late Charges. All moneys in the Interest and Principal Fund shall be used by the Trustee solely for the purpose of paying the interest, principal and Late Charges on the 1984 Note as such shall become due and payable provided that any balance of said Fund remaining after making the payment due on any payment date shall be transferred to the Reserve Fund.

(2) Reserve Fund. On or before the seventh day of each month beginning in the month of April 1985, the Treasurer shall transfer to the Trustee and the Trustee shall deposit in the Reserve Fund the sum of SEVENTY THOUSAND DOLLARS (\$70,000.00). No deposit need be made into the Reserve Fund so long as there shall be in the Reserve Fund a sum not less than THREE MILLION FOUR HUNDRED THOUSAND DOLLARS (\$3,400,000). All moneys in the Reserve Fund shall be used and withdrawn by the Trustee solely for the purpose of replenishing the Interest and Principal Fund in the event of any deficiency in said fund or for the purpose of paying the principal of and interest on and Late Charges incurred under the 1984 Note in the event that no other moneys of the Authority are available therefor, or for prepayment of the entire unpaid balance of the 1984 Note in the event there are sufficient sums available therefor (but such prepayment may be made only with the consent of the Authority). So long as the Authority is not in default hereunder, any amount in the Reserve Fund in excess of THREE MILLION FOUR HUNDRED THOUSAND DOLLARS (\$3,400,000) shall be withdrawn by

the Trustee from the Reserve Fund and transferred to the Treasurer for the benefit and use of the Authority.

(q) Management. The Authority may not, without the prior written consent of the Secretary which shall not be unreasonably withheld remove the General Manager of the Authority or employ any person as General Manager. The Authority will employ well qualified individuals in the positions of Comptroller, Manager of Generation, Manager of Engineering, Manager of Transmission and Distribution or any other position involving duties substantially similar to the duties of the employees holding the said positions on September 30, 1984. Qualification standards for these positions will be similar to those of comparable positions in the electric utilities industry. The Authority will forward to the Secretary copies of resumes for employees in these positions when any change occurs.

(r) Independent Consultant. The Secretary shall commission an independent third party, in coordination with the Authority, to identify financial, management, and service criteria for the Authority, including a debt service ratio (the ratio between Net Revenues and annual debt service as defined in Subsection (k) of Section 4 hereof) sufficient to provide for the future capital investment needs of the Authority. Within sixty (60) days after receipt of the independent consultant's criteria and recommendations the Authority will provide comments to the Secretary on the criteria and recommendations and will, if necessary, initiate proceedings before the Public Utility Commission of the Territory of Guam, or other independent rate-making authority then in existence, to establish, fix and prescribe rates and charges consistent with such criteria and recommendations.

5. Events of Default and Remedies: If one or more of the following events (herein called "events of default") shall happen, that is to say --

(a) if the Authority fails to make any payment of principal of or interest on the 1984 Note, or late charges as provided thereunder when and as the same shall become due and payable, and such default shall have continued for a period of thirty (30) days or;

(b) if default shall be made by the Authority in the observance of any of the covenants herein contained other than the covenants to make due and punctual payment of installments of the 1984 Note, and such

default shall have continued for a period of sixty (60) days after written notice thereof, specifying such default and requiring the same to be remedied, shall have been given to the Authority and the Governor of Guam by the Secretary; or

(c) if, under the provisions of any law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the Authority or of the whole or any substantial part of its property, and such custody or control shall not be terminated or stayed within sixty (60) days from the date of assumption of such custody or control; or

(d) if any court of competent jurisdiction shall determine that an event of default has occurred under Resolutions Nos. 1 and 19 adopted by the Board of Directors of the Authority on June 16, 1969 and October 31, 1972, respectively, and the Authority has not cured the same; or

(e) if Sections 2, 3 or 4 of the Guam Public Law 17-74 entitled "An Act to Add a New Chapter 12 to Title 12 of the Guam Code Annotated to Establish a Public Utilities Commission to Regulate Utility Rates" or any section of law added, modified, amended, or repealed thereby is modified, amended, or repealed, in whole or in part, either directly or as a result of sections of law hereinafter added, without the consent of the Secretary and such action is not reversed within sixty (60) days after written notice requiring such action to be reversed has been given to the Authority and the Governor by the Secretary; or

(f) the Governor of Guam nominates or appoints any person to the Board of Directors of the Guam Power Authority without the consent of the Secretary, which shall not be unreasonably withheld, and the Governor does not withdraw such nomination or appointment prior to confirmation by the Guam legislature.

then, the Secretary may do any one or more of the following:
(1) dismiss one or more or all of the members of the Board

DEFINITIONS REFERRED TO IN
SECOND REFINANCING AGREEMENT
CONTAINED IN:

GUAM POWER AUTHORITY

Resolution No. 1

authorizing the issuance of

\$11,000,000 PRINCIPAL AMOUNT

of

GUAM POWER AUTHORITY 1969 REVENUE BONDS

and of

\$1,425,000 Bonds of Series A

Adopted: June 16, 1969

EXHIBIT T

RESOLUTION NO. 1

Resolution authorizing the issuance of revenue bonds of the Guam Power Authority, to be designated "1969 Revenue Bonds," in the aggregate principal amount of \$11,000,000, prescribing the terms and conditions of said Bonds, and authorizing the issuance of \$1,425,000 principal amount of Bonds of Series A.

WHEREAS, the GUAM Power Authority now owns and operates an electric power system and is engaged in the distribution and sale of electric power to the inhabitants of the Territory of Guam; and

WHEREAS, this Board of Directors of the Guam Power Authority has determined that the public interest and convenience demand and require the acquisition and construction of the Project hereinafter described consisting of additions, betterments, extensions and improvements to said electric power system, to be financed by the issuance of revenue bonds as authorized by law; and

WHEREAS, all acts, conditions and things required by law to exist, happen and be performed precedent to and in connection with the issuance of said revenue bonds exist, have happened and have been performed in regular and due time, form and manner as required by law, and this Board of Directors is now duly empowered to issue said revenue bonds;

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE GUAM POWER AUTHORITY DOES HEREBY RESOLVE, DETERMINE AND DECLARE:

ARTICLE I

AUTHORITY FOR AND EQUALITY OF BONDS, AND DEFINITIONS

SECTION 1.01. *Due Authorization.* This Board has reviewed all proceedings heretofore taken relative to the authorization of the Bonds and has found, as a result of such review, and does hereby find and determine that each and all of the matters hereinabove recited are true and correct, and the Authority has duly and regularly complied with all applicable provisions of law and is duly authorized by law to issue revenue bonds in the manner and upon the terms in this Resolution provided.

SECTION 1.02. *Equal Security.* In consideration of the acceptance of the Bonds, the issuance of which is authorized hereunder, by those

who shall hold the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the Authority and the holders and registered owners from time to time of the Bonds and interest coupons appertaining thereto, and the covenants and agreements herein set forth to be performed on behalf of the Authority shall be for the equal and proportionate benefit, security and protection of all holders and registered owners of the Bonds and interest coupons authorized hereunder, without preference, priority or distinction as to security or otherwise of any of the Bonds or interest coupons authorized hereunder over any of the others by reason of time of issue, sale or negotiation hereof or otherwise for any cause whatsoever, except as expressly provided therein or herein, and except as Bonds of various series or any Additional Bonds may differ with respect to date, number, interest rates, maturity, redemption provisions or otherwise as expressly authorized hereunder.

SECTION 1.03. Definitions. Unless the context otherwise requires, the terms in this Section 1.03 defined shall, for all purposes of this Resolution, and of any resolution supplemental hereto, and of any certificate, opinion or other document herein mentioned, have the meanings herein specified.

Act

"Act" means the Guam Power Authority Revenue Bond Act of 1968, constituting Chapter 7 of Title XXII of the Code, and all laws of the Territory of Guam amendatory thereof or supplemental thereto.

Authority

"Authority" means the Guam Power Authority, a public corporation and autonomous instrumentality of the government of Guam created pursuant to the Guam Power Authority Act of 1968 (Chapter 6 of Title XXII of the Code), and all laws of the Territory of Guam amendatory thereof or supplemental thereto, now having its principal office in Agana, Guam.

Board

"Board" means the Board of Directors of the Authority. "Board" also means the Governor of Guam, the Director or any other officer

or agency of the Territory of Guam whenever any action which the Act or this Resolution or any Supplemental Resolution requires or permits the Board to take can, under the Organic Act of Guam or any provision of the Code or any other statute of the Territory of Guam, be taken for or on behalf or in lieu of the Board only by the Governor of Guam, the Director or such other officer or agency.

Bonds

"Bonds" means the \$11,000,000 principal amount of Guam Power Authority 1969 Revenue Bonds, and also any Additional Bonds, authorized by, and at any time outstanding pursuant to, this Resolution or any Supplemental Resolution. "Additional Bonds" means any Additional Bonds issued pursuant to Section 4.05.

"Serial Bonds" means Bonds for which no minimum sinking fund payments are provided. "Term Bonds" means Bonds payable at or before their specified maturity dates from minimum sinking fund payments established for that purpose and calculated to retire such Bonds on or before their specified maturity dates.

Certificate of the Authority

"Certificate of the Authority" and also the terms "statement of the Authority," "written request of the Authority" and "written consent of the Authority," mean an instrument in writing signed on behalf of the Authority by an officer or officers thereof. Any such instrument and any supporting opinions or representations may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed so as to form a single instrument. Any certificate or statement of the Authority may be based, in so far as it relates to legal, accounting or engineering matters, upon the opinion or representation of counsel, accountants, auditors or engineers, unless the officer (or officers) signing such certificate or statement knows, or in the exercise of reasonable care should have known, that the opinion or representation with respect to the matters upon which such certificate or statement may be based, as aforesaid, is erroneous. The same officer (or officers) of the Authority, or the same counsel or accountant or other persons, as the case may be,

need not certify to all of the matters required to be certified under any provision of this Resolution, but different officers, counsel, accountants or other persons may certify to different facts, respectively. Every certificate or statement or request of the Authority, and every certificate or representation or opinion of counsel, accountants, engineers, or other persons provided for herein shall include—

(1) a statement that the person making such certificate, statement, request, opinion or representation has read the pertinent provisions of this Resolution to which such certificate, statement, request, opinion or representation relates;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the certificate, statement, request, opinion or representation is based;

(3) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion with respect to the subject matter referred to in the instrument to which his signature is affixed; and

(4) with respect to any statement relating to compliance with any provision hereof, a statement whether or not, in the opinion of such person, such provision has been complied with.

Code

"Code" means the Government Code of Guam.

Director

"Director" means the Director of Administration, head of the Department of Administration, within the Executive Branch of the government of Guam and successor (pursuant to Public Law 9-239 of the Territory of Guam) to the Director of Finance, head of the Department of Finance, within the Executive Branch of the government of Guam, referred to in the Act.

Federal Securities

"Federal Securities" means Treasury notes, certificates of indebtedness, bills, bonds of the United States of America, or any other evidence of indebtedness secured by the full faith and credit of the United States of America; obligations issued pursuant to the Federal

Home Loan Bank Act or the National Housing Act; obligations issued by federal intermediate credit banks, federal land banks, and banks for cooperatives; and also any securities now or hereafter authorized, both the principal of and interest on which are guaranteed directly or indirectly by the full faith and credit of the United States of America, as and to the extent that such securities are eligible for the legal investment of Authority funds.

Financial Journal

"Financial journal" or "financial newspaper" means *The Wall Street Journal* or *The Bond Buyer* or any other newspaper or journal devoted to financial news and selected by the Trustee whose decision shall be final.

Fiscal Year

"Fiscal year" means the period beginning on July 1 of each year and ending on the next succeeding June 30.

Fund

Any "Fund" required by this Resolution to be established and maintained by the Treasurer or the Trustee may be established and maintained in the accounting records of the Treasurer or the Trustee either as a fund or an account, and may, for the purposes of such records, any audits thereof and any reports or statements with respect thereto, be treated either as a fund or as an account; but all such records with respect to all such Funds shall at all times be maintained in accordance with sound accounting practices and with due regard for the protection of the security of the Bonds and the rights of every holder thereof.

Holder or Bondholder

"Holder" or "Bondholder" means any person who shall be the bearer of any outstanding Bond that is registered to bearer or is not registered, or the registered owner of any outstanding Bond which shall at the time be registered other than to bearer.

Independent Public Accountant

"Independent public accountant" means any certified public accountant or firm of such accountants appointed and paid by the Authority, and who, or each of whom—

- (i) is in fact independent and not under domination of the Authority;
- (ii) does not have any substantial interest, direct or indirect, with the Authority; and
- (iii) is not connected with the Authority as an officer or employee of the Authority, but who may be regularly retained to make annual or other audits of the books of or reports to the Authority.

Maintenance and Operation Costs

"Maintenance and operation costs" means, when used with respect to the System, the reasonable costs of maintaining and operating the System incurred, or charges made therefor, by the Authority in any particular Fiscal Year or period to which said term is applicable, including refunds of rates and charges that are collected in error, as authorized by Section 21553 of the Code, and all reasonable repairs, renewals, replacements, System insurance costs and costs of insurance or other provision for retirement of officers and employees of the Authority (all of which said charges are to be made in conformity with generally accepted accounting principles) exclusive in all cases of depreciation or obsolescence charges or reserves therefor, amortization of intangibles or other bookkeeping entries of a similar nature, and also exclusive of all interest charges and charges for the payment of principal or amortization of bonded or other indebtedness of the Authority, and also exclusive of all in-lieu tax payments required to be made by the Authority to the government of Guam pursuant to Section 21509 of the Code.

Such maintenance and operation costs of the System include, generally, fuel, purchased power, salaries and wages, fees for services, materials and supplies, rents, office supplies, and all other costs that are incurred directly or apportioned to the operation and maintenance of the generation, transmission and distribution facilities of the System, customer accounts, sales and administrative functions, or to the general operation of the Authority.

Said term also includes all Revenues required by any Supplemental Resolution and by the Act to be deposited in any one or more reserve funds or accounts in lieu of insurance or in any working capital fund or account or contingency fund or account relating to the System.

Said term does not include costs, or charges made therefor, for capital additions, betterments, extensions or improvements to or retirements from the System, which under generally accepted accounting principles are properly chargeable to the capital account or the reserve for depreciation, and does not include losses from the sale, abandonment, reclassification, revaluation or other disposition of any properties of the Authority.

In the event of any dispute arising hereunder, the phrase "generally accepted accounting principles," and all other accounting methods and terminology contained or referred to in this Resolution, shall be construed, as nearly as practicable, in conformity with the Uniform System of Accounts, and accounting rules and regulations thereunder, prescribed for Public Utilities and Licensees (Class A and B) issued by the Federal Power Commission of the United States of America, as amended from time to time.

Maximum Annual Debt Service; Annual Debt Service

"Maximum Annual Debt Service" means the sum of (1) the interest falling due on the outstanding Bonds, assuming that all the outstanding Serial Bonds are retired as scheduled and that all the outstanding Term Bonds are redeemed from sinking fund accounts as scheduled, (2) the principal amount of the outstanding Serial Bonds falling due by their terms, and (3) the minimum amount of the outstanding Term Bonds required by any Supplemental Resolution to be paid or called and redeemed, together with the premiums, if any, thereon; all as computed for the Fiscal Year in which such sum is largest. The term "annual debt service" means the sum of said items (1), (2) and (3) as computed for the then immediately ensuing twelve-month period.

Opinion of Counsel

"Opinion of counsel" means a written opinion of counsel who is selected by the Authority (who may be counsel for the Authority) and

who is acceptable to and approved by the Trustee. Any opinion of counsel may be based, insofar as it relates to factual matters information with respect to which is in the possession of the Authority, upon a certificate or opinion of, or representation by, an officer or officers of the Authority, unless such counsel knows, or in the exercise of reasonable care should have known, that the certificate or opinion or representation with respect to the matters upon which his opinion may be based, as aforesaid, is erroneous.

Outstanding

"Outstanding," when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 8.04) all Bonds theretofore executed, issued and delivered by the Authority and authenticated by the Trustee under this Resolution except—

- (1) Bonds theretofore cancelled by the Trustee or surrendered to the Trustee for cancellation;
- (2) Bonds for the payment or redemption of which funds in the necessary amount shall have theretofore been deposited with the Trustee (whether upon or prior to the maturity or redemption date of such Bonds), provided that, if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as in Section 3.03 provided; and
- (3) Bonds in lieu of or in substitution for which other Bonds shall have been executed, issued and delivered by the Authority and authenticated by the Trustee pursuant to Section 2.08.

Paying Agents

"Paying Agents" means the agents appointed by the Authority pursuant to Section 9.01, the successors and assigns of any of them, and any other corporations or associations which may at any time be substituted in the place of any of them, as provided herein.

Person

"Person" means any individual, firm, corporation, association, co-partnership, trust, business trust or receiver or trustee or conservator for any thereof, and also includes the United States of America, the

Territory of Guam or any public corporation, political subdivision, city, county or district or any agency or instrumentality of the United States of America or of the Territory of Guam.

Project

"Project" means electric production, transmission and distribution systems and facilities and improvements thereto and general plant facilities for the System, including all administration buildings, furniture, facilities, machinery and equipment of the Authority, together with necessary lands, easements and rights of way, and all other works, property or structures of the Authority acquired by lease, contract, purchase or otherwise or constructed from the proceeds of sale of any series of the Bonds.

Qualified Independent Engineer

"Qualified independent engineer" means any engineer or firm of engineers generally recognized to be well qualified in engineering matters relating to electric power systems, selected by the Authority and satisfactory to and approved by the Trustee (who shall be under no liability by reason of such approval).

Resolution

"Resolution" means this Resolution, adopted as recited and determined in Section 1.01 and approved by the Governor of Guam and by the Director.

Revenues

"Revenues" means "Gross Revenues," comprising (i) any and all rates and charges received or receivable in connection with, and any and all other income and receipts of whatever kind and character derived by the Authority from, the operation of the System, or arising from the System, including all income derived from the sale or use of electric energy produced, transmitted or distributed by any facilities of the System, together with any receipts derived from the sale of any property pertaining to the System or incidental to the operation of the System or from any services performed by the Authority in connection

with or incidental to the System, or from any other source whatsoever directly or indirectly derived from the System, excepting refundable deposits made to establish credit, (ii) any such Revenues or any proceeds of sale of Bonds or any other moneys of the Authority that may have been or may be impounded or deposited in any Fund or account created by the Act or by this Resolution for the security of any Bonds, or for the purpose of providing for the payment thereof or the interest thereon, (iii) any moneys received or receivable by the Authority pursuant to any contract between the Authority and any person, which moneys are designated as Revenues (as herein defined) in such contract, and (iv) all earnings, interest, profits or other income derived from the investment of any Revenues.

"Net Revenues" means the Revenues less all maintenance and operation costs.

Supplemental Resolution

"Supplemental Resolution" means any resolution then in full force and effect which has been duly adopted by the Board under the Act, or any law of the Territory of Guam amendatory thereof or supplemental thereto, at a meeting of the Board duly convened and held, at which a quorum was present and acted thereon, amendatory of or supplemental to this Resolution, and which has been approved by the Governor of Guam and (if required by law) by the Director, but only if and to the extent that such Supplemental Resolution is specifically authorized hereunder.

System

"System" means the entire electric power system of the Authority, including the existing transmission and distribution facilities and all of the electric production, transmission, distribution and general plant facilities now or hereafter acquired by lease, contract, purchase or otherwise or constructed by the Authority, including the facilities of the Project, together with all additions, betterments, extensions and improvements to said system or any part thereof now or hereafter made, and including any electric power system facilities acquired by lease, contract, purchase or otherwise from the Department of the Navy of the United States of America, and all administration buildings, furni-

ture, facilities, machinery and equipment of the Authority, and lands, easements and rights of way, and all other works, property or structures of the Authority used or useful in connection with or related to said electric power system.

Treasurer

"Treasurer" means the Treasurer of the Authority.

Trustee

"Trustee" means Bank of America National Trust and Savings Association, San Francisco, California, appointed as provided in Section 9.01, its successors and assigns, and any other corporation or association which may at any time be substituted in its place as herein provided.

GUAM POWER AUTHORITY 1984 PROMISSORY NOTE

1. For value received, the GUAM POWER AUTHORITY ("Authority"), a public corporation and autonomous instrumentality of the Government of Guam, hereby promises to pay \$36,000,000 (the "Principal") to the Federal Financing Bank ("FFB"), which term includes successors and assigns) by September 15, 2004. Interest shall be paid on March 15 and September 15 of each year, adjusted for Business Days pursuant to paragraph 7 hereof, as long as any part of the Principal remains outstanding (the "Payment Dates") on the daily unpaid Principal balance calculated on a 365-day year and the actual number of days elapsed from the date hereof until the date of payment at a rate of seven (7) percent per annum (the "Note Rate") in accordance with Section 11 of the Organic Act of Guam, as amended, (the Organic Act of Guam, as amended, herein referred to as the "Act").

2. The Principal hereof shall be repayable in forty Principal installments on the Payment Dates beginning with March 15, 1985, and ending on September 15, 2004. Prior to the FFB's acceptance of this Note, the Authority shall provide the FFB with a schedule of Principal installments sufficient to repay the Principal amount in 40 installments. As soon as practicable after the date hereof, the FFB shall provide the Authority with a schedule of Principal and interest payments due under this Note, and such schedule shall thereafter be considered a part of this Note.

3. Principal and interest shall be paid in Federal funds by wire transfer to the Federal Reserve Bank of New York on each Payment Date and the wire shall include the following credit information:

United States Treasury
New York, New York
021030004
TREAS NYC (120180006)
For credit to the Federal Financing Bank
Treasury Annex No. 1
Washington, D.C. 20226

4. All payments on this Note shall be first applied to Late Charges (if any), then to interest and next to Principal. All payments due under this Note are subject to the Comptroller of the Treasury of the Interior ("Secretary") attached hereto, and to timely payment when and as due.

5. In the event any payment of Principal or interest under this Note is not made when and as due, the amount payable shall be such payment, plus interest thereon from the due date to the date of payment (herein the "Late Charges") at a current rate established by the FFB pursuant to Section 6 of the Federal Financing Bank Act of 1973, as amended (12 U.S.C. 2285) and based on the rate prevailing in the market for the most recently-auctioned 13-week United States Treasury bills. Upon the expiration of each successive 91-day period following the scheduled Payment Date for any outstanding payment, the FFB shall establish a new rate pursuant to this paragraph and such rate shall be applied to the outstanding payment and all Late Charges accrued thereon to date. During any period when Late Charges are accruing on an overdue payment, additional interest at the Note Rate shall not accrue on the overdue payment. Nothing in this paragraph 5 shall be construed as permitting or implying that the Authority may, without the written consent of the FFB, modify, extend, alter or affect in any manner whatsoever (except as explicitly provided herein) the right of the FFB to receive any and all payments of Principal and interest on the dates specified in this Note.

6. Upon acceptance of this Note, the FFB shall apply the proceeds of this Note to payment of the outstanding Principal balance of the obligation of the Authority to the FFB guaranteed by the Secretary pursuant to Public Law 94-395, 90 Stat. 1199 (1976) as amended, evidenced by the Note dated December 31, 1980 as amended by Amendment No. 1 effective June 30, 1982.

7. If a payment of the Principal or interest is due on a day on which either the FFB or the Federal Reserve Bank of New York (the "FRB") is not open for business, such payment shall be made on the first day thereafter on which both the FFB and the FRB are open for business (a "Business Day"). Such payment shall include interest accrued to and including the Business Day on which payment is made and the subsequent payment shall include interest accrued from the Business Day on which payment is made.

8. The Authority may, upon five (5) Business Days written notice to the FFB with the written approval of the Secretary on any Payment Date repurchase all or part of the outstanding Principal of this Note at a repurchase price equal to the Principal amount so to be repurchased plus accrued interest thereon to the date fixed for repurchase.

Partial repurchases of the outstanding Principal shall be applied to the schedule described in paragraph 2 hereof, in the inverse order in which such installments are due. Following any such partial repurchase, the FFB shall provide the Authority with a revised schedule of Principal and interest payments and such schedule shall thereafter be considered a part of this Note.

9. The following shall be "Events of Default" under this Note and the term "Event of Default" shall mean, whenever used in this Note, any one of the following events:

a) Failure by the Authority to make any payment of Principal of or interest or Late Charges (if any) on this Note when and as the same shall become due and payable, and said failure to pay shall continue for a period of two hundred (200) days from the date of scheduled payment; or

b) the FFB, or its successors or assigns as holder hereof, shall have received a Notice of Acceleration (as said term is defined in the Second Refinancing Agreement dated December 3, 1984 by and between the Authority and the Secretary) from the Secretary.

10. Upon the occurrence of an Event of Default under this Note, the entire outstanding Principal amount, together with all accrued interest thereon and Late Charges, if any, shall be immediately due and payable.

11. The holder of this Note may sell, assign or otherwise transfer all or any part of this Note, and the Guaranty of the Secretary attached hereto, shall continue in full force and effect.

12. This Note is issued, executed and delivered on behalf of the Authority pursuant to the Guam Power Authority Revenue Bond Act of 1968 and Section 21552(e) (12 GCA Section 8203(e)) thereof, and pursuant to Resolution No. 79 (the "Resolution") adopted by the Board of Directors of the Authority on October 11, 1984, and both Principal hereof and interest hereon are payable solely from funds derived (a) from revenues derived from the Authority's system (defined and referred to in the Resolution), or (b) from the proceeds of sale of the first additional revenue bonds hereafter issued by the Board of Directors of the Authority (as referred in the Resolution); or, (c) from such other funds as may be available to the Authority, and the Authority is not obligated to pay the same except from such funds. This

Note is a special obligation of the Authority, secured as aforesaid, and is issued subject to and subordinate to all outstanding revenue bonds heretofore issued by the Authority and the Holder of this Note cannot compel the forfeiture of any property of the Authority. The Note is not a lien or charge against the Territory of Guam, or against the Governor of Guam, or against any property or funds of said Territory, (except such funds as may be made available to the Territory of Guam pursuant to Section 30 of the Act), said Governor, the Authority or said Board of Directors except as provided in the Resolution. Neither the payment of the Principal hereof nor any part hereof, nor any interest thereon constitutes a debt, liability or obligation of the Territory of Guam or the Governor of Guam.

13. This Note, so long as the FFB is the holder hereof, shall, to the extent permitted by law, be subject to such modification as may be mutually agreed upon in writing by the Authority, the FFB, and the Secretary.

IN WITNESS WHEREOF, the GUAM POWER AUTHORITY has caused this Note to be signed in its name and on its behalf by the manual signature of the Chairman of its Board of Directors.

Dated December 3, 1984

GUAM POWER AUTHORITY

by /s/ Jesus G. Camacho

EXHIBIT 7

GUARANTY

The United States of America acting through the Secretary of the Department of the Interior ("Secretary"), hereby guarantees to the Federal Financing Bank ("FFB"), or assigns, as holder of the Note dated December 3, 1984, (the "Note") to which this Guaranty is attached, upon the demand of such holder, and pledges the full faith and credit of the United States of America for, payment of the full amount of the unpaid interest on, and the unpaid balance of the principal of, the Note, including interest on overdue installments of principal and/or interest accruing pursuant to the Note.

This Guaranty is issued pursuant to the Organic Act of Guam, as amended, and the Financing Agreement, dated December 3, 1984, between the Secretary and the FFB, and is irrevocable, incontestable and unconditional in the hands of the holder hereof, irrespective of the validity, legality or enforceability of the Note, or any other circumstance which might constitute a legal or equitable discharge of a surety or guarantor.

DEPARTMENT OF THE INTERIOR

Dated December 3, 1984

By /s/ William P. Clark
Secretary of the Interior



Financing Agreement
Between the
Federal Financing Bank
and the
Department of the Interior

This Financing Agreement made as of December 3, 1984, by and between the Federal Financing Bank, an instrumentality and wholly-owned corporation of the United States ("FFB") and the Department of the Interior, an agency of the United States ("DOI").

1. FFB Commitment.

Pursuant to Section 6(a) of the Federal Financing Bank Act of 1973, P.L. 93-224 (the "FFB Act"), FFB hereby agrees to purchase, on or before December 31, 1984, an obligation of the Guam Power Authority ("GPA"), guaranteed by DOI in accordance with the Organic Act of Guam (64 Stat. 387, et. seq., 48 U.S.C. 1421, et. seq.), as amended, (the Organic Act of Guam herein referred to as the "Act") under the following terms and conditions:

a. The obligation purchased under this Agreement shall be in the form of a Promissory Note executed by the GPA in the form attached hereto as Exhibit A ("Note"), to which there shall have been attached the Guaranty of DOI, in the form of Guaranty set forth in Exhibit B ("Guaranty").

b. The principal amount of the Note of the GPA purchased by the FFB under this Agreement shall not exceed thirty-six million dollars (\$36,000,000).

c. The proceeds of the Note will be used to refinance a Note dated December 31, 1980, as amended, issued by GPA to the FFB in the amount of \$36 million (the "1980 Note"), as authorized by the Act.

d. All capitalized terms used in this Agreement not otherwise defined herein shall have the respective meanings given them in the Note. Said definitions contained herein and therein shall be applicable to the singular and the plural forms of said terms.

2. Purchase by FFB and Guaranty by DOI.

FFB shall within five (5) days after delivery to it by DOI of a Note, duly executed by the GPA and bearing a Guaranty duly executed by DOI, deliver to DOI a confirmation that such Note and Guaranty are acceptable, or, if either the Note or Guaranty or both are not in the forms specified in this Agreement a notice specifying any objections FFB has to the form or substance of such Note or Guaranty. Upon delivery of a notice accepting any Note or Guaranty, FFB shall be deemed to have accepted such Note or Guaranty.

3. Interest.

The interest rate payable by GPA under the Note shall be fixed at seven (7) percent per annum (the "GPA Rate") in accordance with the Act. The FFB shall determine the interest rate it requires to finance the Note pursuant to Section 6 of the FFB Act (the "FFB Interest Rate"). DOI hereby agrees to pay on each Payment Date under the Note, the difference between interest accrued on the outstanding principal balance at the GPA Rate and interest accrued at the FFB Interest Rate, on the basis of a 365-day year and the actual number of days elapsed from the date of issuance of the Note or, as the case may be, from the previous Payment Date to the current Payment Date (the "DOI Interest Payments"). As soon as practicable after the date hereof, the FFB shall provide DOI with a schedule of DOI Interest Payments and such schedule shall thereafter be considered a part of this Agreement.

4. Repurchase of 1980 Note.

Upon a request from GPA approved by DOI to repurchase the 1980 Note and refinance the principal amount outstanding thereunder through issuance of the Note, the FFB will accept such repurchase: (1) upon the due and valid execution of the Note and Guaranty; (2) upon the payment in full by GPA of interest on the 1980 Note through the date of repurchase; and, (3) subject to DOI agreement herein to pay to the FFB any and all amounts in excess of principal and accrued interest when and as due to the FFB on the date of repurchase, pursuant to the fifth paragraph of the 1980 Note and Section 7 of this Agreement.

5. Repurchase of Note.

If GPA requests, and DOI approves the repurchase of the Note (or any portion thereof) pursuant to the terms stated

FBI

therein, then any amounts due from DOI to the FFB pursuant to this section shall be payable on the Payment Date approved for GPA repurchase. The total amount payable to FFB shall be the price at which the Note (or portion thereof) would be purchased on the date of repurchase so as to yield (assuming full payment according to its terms) a return equal to the interest rate which would be set currently on a loan from the Secretary of the Treasury to the FFB to finance the purchase of a note having a payment schedule identical to the remaining schedule on the Note together with accrued interest at the FFB Interest Rate to the date of repurchase. Such price shall be determined by the Secretary of the Treasury or his representative as of the close of business two (2) Business Days prior to the date of repurchase. For purposes of determining such price, the interest rate on the Note (or portion thereof) shall be the FFB Interest Rate and the schedule of payments on the Note shall be the sum of the schedules of the DOI Interest Payments payable by DOI and the schedule of principal and interest payments at the GPA Rate payable by GPA.

If the price described in this Section 5 is higher than the amount payable by GPA pursuant to paragraph 8 of the Note, then DOI hereby agrees to pay to FFB the difference on the Payment Date approved for repurchase.

If the price described in this Section 5 is lower than the amount payable by GPA pursuant to paragraph 8 of the Note, then the FFB hereby agrees to pay to DOI the difference on the same day payment is received from GPA, provided DOI is able to provide the FFB with instructions for transfer of funds to a DOI account on the books of the U.S. Treasury Department.

Any payment due from DOI to FFB as a result of a GPA repurchase of the 1980 Note (pursuant to the fifth paragraph therein) or the Note shall be referred to herein as a "DOI Repurchase Payment".

6. Late Charges.

In the event any DOI Interest Payment or DOI Repurchase Payment is not made when and as due, the amount payable shall be such payment, plus interest thereon from the missed Payment Date to the date of actual payment at a current rate established by the FFB pursuant to Section 6 of the FFB Act based on the rate prevailing in the market for the most recently-auctioned 13-week United States Treasury bills (hereinafter, the "Late Charges"). Upon the expiration of each successive 91-day period following the missed Payment

Date for any outstanding payment, the FFB shall establish a new rate pursuant to this paragraph and such rate shall be applied to the outstanding payment and all Late Charges accrued thereon to date. Nothing in this paragraph shall be construed as permitting or implying that the DOI may, without the written consent of the FFB, modify, extend, alter or affect in any manner whatsoever (except as explicitly provided herein) the right of the FFB to receive any and all DOI Interest Payments and DOI Repurchase Payments on the Payment Dates specified herein.

7. Payments to FFB.

All payments under the Note shall be made by the GPA to FFB pursuant to the terms of the Note. Payments due hereunder from DOI to FFB shall be made by internal transfer of funds from DOI's account to the FFB's account on the books of the U.S Treasury Department. Payments by DOI shall be applied first to Late charges, next to accrued interest and then to DOI Repurchase Payment(s), if any, and principal payable pursuant to Section 8 hereof, if any. In the event any DOI Interest Payment or DOI Repurchase Payment to be made by the DOI to FFB pursuant to the terms herein and pursuant to the terms of P.L. 98-454, is not made when and as due, said payment shall be subject to the provisions of Section 6 herein until such time as the payment is made.

8. Late Payment and Payment Upon Event of Default.

a. Should GPA fail to make a payment of principal, interest, or Late Charges to the FFB when and as due, FFB shall make written demand for payment upon DOI.

b. Payments shall be made by DOI in accordance with the Act within one hundred ninety-five (195) days of the missed Payment Date. The amount payable shall equal the missed principal payment and past due interest which GPA failed to make together with Late Charges thereon to the date of actual payment.

c. Payment in full by GPA and/or DOI of all overdue principal and interest and Late Charges thereon within one hundred ninety-five (195) days of the missed Payment Date shall be considered to bring the Note current. If any portion of principal, past due interest, or Late Charges

remains outstanding on the one hundred ninety-sixth (196th) day, including any subsequent scheduled payments unpaid by GPA during the one hundred ninety-five (195) day period provided herein, the FFB shall make written demand upon the DOI for payment in full of the entire principal, plus interest and Late Charges accrued to the actual date of payment. Notwithstanding paragraph 10 of the Note, the FFB agrees that in order to meet its obligations under the Guaranty and this Agreement DOI shall first utilize sums collected and not yet paid to the Government of Guam pursuant to Section 30 of the Act. DOI agrees that it will pay to the FFB such sums as they become available under Section 30 of the Act immediately upon their availability and to the maximum extent available until and to the extent that the DOI obligations pursuant to its Guaranty of the Note and this Agreement are fully satisfied. If by the second October 1 following the written demand for payment from FFB pursuant to this Section, DOI has been unable to pay the entire outstanding amounts due under the Note, this Agreement and the Guaranty, DOI shall, without delay, take all actions available to it, including seeking appropriations, to satisfy the DOI's guaranty obligations and its obligations under this Agreement.

d. At the time DOI is able to make any payment to the FFB pursuant to this Section 8, DOI shall notify the FFB in writing of the amount available for payment and shall pay such amount to the FFB. The FFB shall determine the applicable price for such payment pursuant to Section 5 hereof, using for the purposes of this Section 8 only, the schedule of payments provided pursuant to paragraph 2 of the Note and Section 3 of this Agreement and notify DOI in writing as to the application of funds pursuant to Section 7 hereof. Nothing in this Section shall be construed as permitting or implying that DOI may, without the written consent of the FFB, cure the Event of Default or alter or affect the right of the FFB to receive the entire accelerated amount pursuant to the terms of the Note and this Agreement.

e. During the time following an Event of Default and prior to full satisfaction of the DOI guaranty obligations and its obligations under this Agreement, Late Charges shall accrue on those principal, interest and DOI Interest Payments which are past due pursuant to the schedule of payments provided under paragraph 2 of the Note and Section

3 of this Agreement, between the date any such payment is missed and the actual payment in full of all amounts outstanding under the Note, the Guaranty and this Agreement and on accrued Late Charges pursuant to Section 6 hereof.

f. Upon payment in full by DOI to FFB, FFB shall transfer and assign to DOI all rights held by FFB in the Note.

9. Condition to FFB Obligation.

FFB will not be obligated to purchase any Note under this Agreement unless prior to the first purchase hereunder there is delivered to FFB an opinion of the Solicitor of DOI (Exhibit C) to the effect that:

a. This Agreement has been duly executed on behalf of DOI by the appropriate official of DOI pursuant to authority duly delegated by the Secretary of the Interior.

b. Assuming due execution and delivery of this Agreement by FFB, this Agreement and the obligations of DOI hereunder are valid and binding obligations of DOI, enforceable in accordance with their terms, backed by the full faith and credit of the United States of America and incontestable in the hands of holder thereof.

c. The Guaranty endorsed on such Note has been duly executed by the appropriate official of DOI and is a valid and binding Guaranty of payment of the principal of and interest on the Note to which it relates, enforceable in accordance with its terms, backed by the full faith and credit of the United States of America and incontestable in the hands of the holder thereof.

10. Compliance with Applicable Laws.

DOI hereby represents and warrants to the FFB that it has carried out and will carry out all its statutory duties under all applicable laws in connection with any Note to be financed by the FFB pursuant to this Agreement. If, solely because of its financing of any Note under this Agreement, FFB becomes subject to any statutory duties under any such

laws, DOI shall, to the fullest extent permitted under such laws and applicable regulations, serve, on behalf of FFB as its agent in connection with satisfying the requirements of such laws. If any such laws and applicable regulations provide that a single agency may serve as lead agency in connection with complying with such laws, and if DOI shall be serving as such lead agency where other agencies are involved in such project, DOI shall serve as lead agency on behalf of FFB.

11. Participation and Assignment.

If all or any part of the Note or participating shares thereof (if any) are sold by FFB, written notice thereof will be given by FFB to DOI and the GPA.

12. Survival of Rights and Obligations.

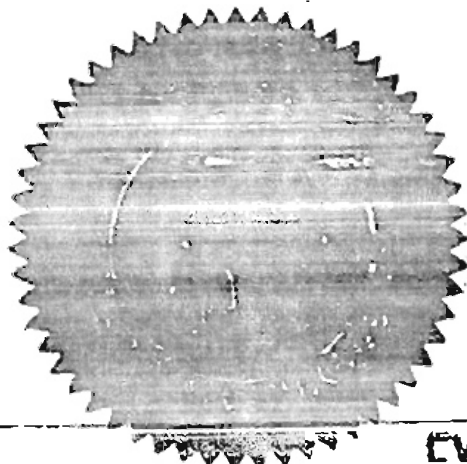
Notwithstanding the expiration of FFB's commitment to purchase the Note under Section 1 hereof, the remainder of this Agreement shall remain in full force and effect until repayment of all amounts due under this Agreement and the Note purchased by FFB hereunder.

FEDERAL FINANCING BANK

BY /s/ John J. Niehenke
Vice President

DEPARTMENT OF THE INTERIOR

BY /s/ William P. Clark
Secretary



GUAM POWER AUTHORITY 1984 PROMISSORY NOTE

1. For value received, the GUAM POWER AUTHORITY ("Authority"), a public corporation and autonomous instrumentality of the Government of Guam, hereby promises to pay \$36,000,000 (the "Principal") to the Federal Financing Bank ("FFB"), which term includes successors and assigns by September 15, 2004. Interest shall be paid on March 15 and September 15 of each year, adjusted for Business Days pursuant to paragraph 7 hereof, as long as any part of the Principal remains outstanding (the "Payment Dates") on the daily unpaid Principal balance calculated on a 365-day year and the actual number of days elapsed from the date hereof until the date of payment at a rate of seven (7) percent per annum (the "Note Rate") in accordance with Section 11 of the Organic Act of Guam, as amended, (the Organic Act of Guam, as amended, herein referred to as the "Act").

2. The Principal hereof shall be repayable in forty Principal installments on the Payment Dates beginning with March 15, 1985, and ending on September 15, 2004. Prior to the FFB's acceptance of this Note, the Authority shall provide the FFB with a schedule of Principal installments sufficient to repay the Principal amount in 40 installments. As soon as practicable after the date hereof, the FFB shall provide the Authority with a schedule of Principal and interest payments due under this Note, and such schedule shall thereafter be considered a part of this Note.

3. Principal and interest shall be paid in Federal funds by wire transfer to the Federal Reserve Bank of New York on each Payment Date and the wire shall include the following credit information:

United States Treasury
 New York, New York
 021030004
 TREAS NYC/(20180006)
 For credit to the Federal Financing Bank
 Treasury Annex No. 1
 Washington, D.C. 20226

4. All payments on this Note shall be first applied to late charges (if any), then to interest and next to Principal. All payments due under this Note are subject to the Guaranty of the Secretary of the Interior ("Secretary") attached hereto, as to timely payment when and as due.

5. In the event any payment of Principal or interest under this Note is not made when and as due, the amount payable shall be such payment, plus interest thereon from the due date to the date of payment (herein the "Late Charges") at a current rate established by the FFB pursuant to Section 6 of the Federal Financing Bank Act of 1973, as amended (12 U.S.C. 2285) and based on the rate prevailing in the market for the most recently-auctioned 13-week United States Treasury bills. Upon the expiration of each successive 91-day period following the scheduled Payment Date for any outstanding payment, the FFB shall establish a new rate pursuant to this paragraph and such rate shall be applied to the outstanding payment and all Late Charges accrued thereon to date. During any period when Late Charges are accruing on an overdue payment, additional interest at the Note Rate shall not accrue on the overdue payment. Nothing in this paragraph 5 shall be construed as permitting or implying that the Authority may, without the written consent of the FFB, modify, extend, alter or affect in any manner whatsoever (except as explicitly provided herein) the right of the FFB to receive any and all payments of Principal and interest on the dates specified in this Note.

6. Upon acceptance of this Note, the FFB shall apply the proceeds of this Note to payment of the outstanding Principal balance of the obligation of the Authority to the FFB guaranteed by the Secretary pursuant to Public Law 94-395 90 Stat. 1199 (1976) as amended, evidenced by the Note dated December 31, 1980 as amended by Amendment No. 1 effective June 30, 1982.

7. If a payment of the Principal or interest is due on a day on which either the FFB or the Federal Reserve Bank of New York (the "FRB") is not open for business, such payment shall be made on the first day thereafter on which both the FFB and the FRB are open for business (a "Business Day"). Such payment shall include interest accrued to and including the Business Day on which payment is made and the subsequent payment shall include interest accrued from the Business Day on which payment is made.

8. The Authority may, upon five (5) Business Days written notice to the FFB with the written approval of the Secretary on any Payment Date, repurchase all or part of the outstanding Principal of this Note at a repurchase price equal to the Principal amount so to be repurchased plus accrued interest thereon to the date fixed for repurchase.

Partial repurchases of the outstanding Principal shall be applied to the schedule described in paragraph 2 hereof, in the inverse order in which such installments are due. Following any such partial repurchase, the FFB shall provide the Authority with a revised schedule of Principal and interest payments and such schedule shall thereafter be considered a part of this Note.

9. The following shall be "Events of Default" under this Note and the term "Event of Default" shall mean, whenever used in this Note, any one of the following events:

a) Failure by the Authority to make any payment of Principal or of interest or Late Charges (if any) on this Note when and as the same shall become due and payable, and said failure to pay shall continue for a period of two hundred (200) days from the date of scheduled payment; or

b) the FFB, or its successors or assigns as holder hereof, shall have received a Notice of Acceleration (as said term is defined in the Second Refinancing Agreement dated December 3, 1984 by and between the Authority and the Secretary) from the Secretary.

10. Upon the occurrence of an Event of Default under this Note, the entire outstanding Principal amount, together with all accrued interest thereon and Late Charges, if any, shall be immediately due and payable.

11. The holder of this Note may sell, assign or otherwise transfer all or any part of this Note, and the Guaranty of the Secretary attached hereto, shall continue in full force and effect.

12. This Note is issued, executed and delivered on behalf of the Authority pursuant to the Guam Power Authority Revenue Bond Act of 1968 and Section 21552(e) (12 GCA Section 8203(a)) thereof, and pursuant to Resolution No. 79 (the "Resolution") adopted by the Board of Directors of the Authority on October 11, 1984, and both Principal hereof and interest hereof are payable solely from funds derived (a) from revenues derived from the Authority's system (defined and referred to in the Resolution), or (b) from the proceeds of sale of the first additional revenue bonds hereafter issued by the Board of Directors of the Authority (as referred to in the Resolution); or, (c) from such other funds as may be available to the Authority, and the Authority is not obligated to pay the same except from such funds. This

Note is a special obligation of the Authority, secured as aforesaid, and is issued subject to and subordinate to all outstanding revenue bonds heretofore issued by the Authority and the Holder of this Note cannot compel the forfeiture of any property of the Authority. The Note is not a lien or charge against the Territory of Guam, or against the Governor of Guam, or against any property or funds of said Territory, (except such funds as may be made available to the Territory of Guam pursuant to Section 30 of the Act), said Governor, the Authority or said Board of Directors except as provided in the Resolution. Neither the payment of the Principal hereof nor any part hereof, nor any interest thereon constitutes a debt, liability or obligation of the Territory of Guam or the Governor of Guam.

13. This Note, so long as the FFB is the holder hereof, shall, to the extent permitted by law, be subject to such modification as may be mutually agreed upon in writing by the Authority, the FFB, and the Secretary.

IN WITNESS WHEREOF, the GUAM POWER AUTHORITY has caused this Note to be signed in its name and on its behalf by the manual signature of the Chairman of its Board of Directors.

Dated _____

GUAM POWER AUTHORITY

by _____

GUARANTY

The United States of America acting through the Secretary of the Department of the Interior ("Secretary"), hereby guarantees to the Federal Financing Bank ("FFB"), or assigns, as holder of the Note dated December 3, 1984, (the "Note") to which this Guaranty is attached, upon the demand of such holder, and pledges the full faith and credit of the United States of America for, payment of the full amount of the unpaid interest on, and the unpaid balance of the principal of, the Note, including interest on overdue installments of principal and/or interest accruing pursuant to the Note.

This Guaranty is issued pursuant to the Organic Act of Guam, as amended, and the Financing Agreement, dated December 3, 1984, between the Secretary and the FFB, and is irrevocable, incontestable and unconditional in the hands of the holder hereof, irrespective of the validity, legality or enforceability of the Note, or any other circumstance which might constitute a legal or equitable discharge of a surety or guarantor.

DEPARTMENT OF THE INTERIOR

Dated _____

By _____
Secretary of the Interior



United States Department of the Interior

OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

EXHIBIT C

Federal Financing Bank
U.S. Department of Treasury
Washington, D.C. 20220

Gentlemen:

This opinion is provided pursuant to clause 9 of the enclosed Financing Agreement ("Agreement") between the Department of Interior ("DOI") and the Federal Financing Bank ("FFB").

The Agreement has been executed on behalf of the DOI by a duly authorized official.

Assuming due execution and delivery of the Agreement by the FFB, the Agreement and all the obligations of the DOI thereunder are valid and binding obligations of the DOI, enforceable in accordance with its terms, backed by the full faith and credit of the United States of America and incontestable in the hands of the holder thereof.

The Guaranty endorsed on the Guam Power Authority 1984 Promissory Note ("Note") has been executed by a duly authorized official of DOI and is a valid and binding guaranty of payment of the principal of, interest and Late Charges, if any, on the Note to which it relates, enforceable in accordance with its terms, backed by the full faith and credit of the United States of America and incontestable in the hands of the holder thereof.

Sincerely,

Frank S. Richardson
Solicitor

Enclosure

cc. Docket
Subject
Reading
Sol. R. File (DSL)
Secy R. File (2)
Patterson

UNITED STATES OF AMERICA
TERRITORY OF GUAM

GUAM POWER AUTHORITY
1980 NOTE

For value received, the GUAM POWER AUTHORITY ("Authority"), a public corporation and autonomous instrumentality of the Government of Guam, hereby promises to pay \$35,000,000 or such amount as may be then outstanding (the "principal") to the Federal Financing Bank ("Bank", which term includes successors and assigns) on December 31, 1981. Interest shall be paid on June 30 and December 31 of each year on the daily unpaid principal balance calculated on a 365-day year and the actual number of days elapsed from December 31, 1980 until payment at a rate determined by the Bank in accordance with Section 6 of the Federal Financing Bank Act, (12 U.S.C. § 2285).

At the option of the Authority, to be exercised by giving ten (10) business days written notice to the Bank, the maturity date of this Note will be extended so that the outstanding principal balance is payable in full on December 31, 1990. The exercise of such option by the Authority will not be effective unless and until the Secretary of Interior shall have given written notice to the Bank prior to December 31, 1981, approving such extension of maturity. In the event the maturity date of this Note is extended, the Bank shall compute a new interest rate based on the period from December 31, 1981 to and including December 31, 1990. Such rate shall be established in accordance with Section 6 of the Federal Financing Bank Act as if the outstanding principal was advanced by the Bank to the Authority on December 31, 1981.

If any payment of principal or interest is not paid when and as due, the amount payable shall be the amount of such payment plus interest thereon at the rate specified herein, from the date due to the date of payment. Principal and interest shall be paid in federal funds by wire transfer to the Federal Reserve Bank of New York on the payment date and the wire shall include the following credit information:

United States Treasury
New York, New York
021030004
TREAS NYC/(20180006)
For credit to the Federal Financing Bank
Treasury Annex No. 1
Washington, D. C. 20226

Upon acceptance of this Note, the Bank shall apply the proceeds of this Note to payment of the outstanding principal balance of the obligation of the Authority to the Bank guaranteed by the Secretary of the Interior pursuant to Public Law 94-395, 90 Stat. 1199 (1976) evidenced by the note dated March 31, 1977 as amended by the agreement dated February 14, 1979.

All payments on this Note shall be first applied to interest and then to principal. At its option, the Authority may repurchase this Note, in whole or in part, at any time prior to December 31, 1981 (or, if the maturity date of this Note is extended, at any time prior to December 31, 1990), upon (1) payment to the Bank of interest on the amount of principal to be repurchased, accrued to the date of repurchase from the date when interest was last paid prior to such date of repurchase, and (2) payment of a price on the amount repurchased which will result in a yield for the period from the date of repurchase to maturity equal to the U.S. Treasury new issue rate for a security with a maturity and payment schedule comparable to the remaining maturity and payment schedule of this Note, computed by the Secretary of the Treasury as of the close of business two days prior to the date of such repurchase.

If a payment of principal or interest is due on a Saturday, Sunday, or a public holiday under the laws of the United States, or a day on which either the Bank or the Federal Reserve Bank of New York is not open for business, such payment shall be made either: (1) on the business day immediately preceding the day payment is due, and a payment so made shall not be considered a repurchase under the preceding paragraph, or (2) on the next business day after the date payment is due. Such payment shall include interest accrued to and including

the business day on which payment is made and the subsequent payment shall include interest accrued from the business day on which payment is made.

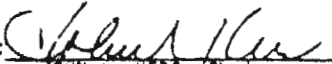
This Note, so long as the Bank is the holder hereof, shall, to the extent permitted by law, be subject to such modification as may be mutually agreed upon in writing by the Authority, the Bank, and the Secretary of the Interior.

This Note is issued, executed and delivered on behalf of the Authority pursuant to the Guam Power Authority Revenue Bond Act of 1968 and Section 21552(e) thereof, and pursuant to Resolution No. 66 (the "Resolution") adopted by the Board of Directors of the Authority on December 17, 1980, and both principal hereof and interest hereon are payable solely from funds derived (A) from revenues derived from the Authority's system (defined and referred to in the Resolution), or (B) from the proceeds of sale of the first additional revenue bonds hereafter issued by the Board of Directors of the Authority (as referred to in the Resolution); or, (C) from such other funds as may be available to the Authority, and the Authority is not obligated to pay the same except from such funds. This Note is a special obligation of the Authority, secured as aforesaid, and is issued subject to and subordinate to all outstanding revenue bonds heretofore issued by the Authority and the owner of this Note cannot compel the forfeiture of any property of the Authority. The Note is not a lien or charge against the Territory of Guam, or against the Governor of Guam, or against the Authority, or against the Board of Directors of the Authority, or against any property or funds of said Territory, said Governor, the Authority or said Board of Directors except as provided in the Resolution. Neither the payment of the principal hereof nor any part thereof, nor of any interest thereon, constitutes a debt, liability or obligation of the Territory of Guam or the Governor of Guam; provided, however, that should the Authority fail to pay in full any installment of interest or principal when due on this Note, the Secretary of the Treasury, upon notice from the Secretary of the Interior, shall deduct and pay to the Federal Financing Bank or the Secretary of the Interior, according to their respective interests, such unpaid amounts from sums collected and payable pursuant to Section 30 of the Organic Act of Guam, 48 U.S.C. § 1421(h) (1970).

IN WITNESS WHEREOF, the Guam Power Authority has caused this Note to be signed in its name and on its behalf by the manual signature of the Chairman of its Board of Directors and countersigned by the manual signature of the Secretary of its Board of Directors and the seal of the Authority to be impressed hereon and this Note to be endorsed by manual signature of the Director of Administration of the Government of Guam.

Dated December 31, 1980

GUAM POWER AUTHORITY

By: 
JOHN L. KERR, Chairman
Board of Directors

(S E A L)


COUNTERSIGNED:


T. G. WILLIAMS, Secretary
Board of Directors

PAID 12/31/84
Peter B. Macey
Federal Financing Bank

EXHIBIT T

This Note is the Note described in the within-mentioned Resolution, and is valid and entitled to the security and benefit thereof.


GEORGE SANTOS, Director of
Administration of the
Government of Guam

GUARANTEE CERTIFICATE

The United States of America, acting by and through the Secretary of the Interior of the Department of the Interior of the United States, in accordance with Section 11 of the Organic Act of Guam as amended, hereby unconditionally guarantees to the Federal Financing Bank, its successors and assignees, the timely payment of principal and interest when and as due on the foregoing Note dated December 31, 1980 in accordance with the terms thereof.


CECIL B. ANDRUS
Secretary of the Interior

PAID 12/3/84
Peter B. Mackay
Federal Financing Bank

RP police arrest leftists; Rebels attack military post

- Page 2

Pacific D

(1947 Guam Publications, Inc.)

VOL. 18 NO. 37 AGANA, GUAM, MARCH 30, 1987

PHOTO BY AP/WIDE WORLD

Gov Guam gets waiver on bills

By Ken Ola
Daily News Staff

The government of Guam won't have to pay \$1 million in disputed penalties it owes the Government of the Northern Mariana Islands for overdue bills.

Gov. Joseph F. Ada told yesterday that an agreement was reached with GPA officials to waive part of the penalties and pay the due bills within four years.

Earlier this year, GPA threatened to shut off Gov. Guam's electricity if it did not pay over \$5 million in accrued overdue bills and the \$1 million in penalties for non-payment.

The government then questioned the legitimacy of the penalties.

Gov. Ada's spokesman Mark Forbes said the agreement was reached last week.

Bos Amba

MANTILA (U.S. ambassador) for reform... posting this... has deve... the country's... Bosworth a... months after... Benigno Aquino... U.S. policy to... east Asia as... naval bases... Marcos w... class opposit... ist rebellion... collapse, a... widow, Cora... Bosworth... for Michael... voice and we... fundamental

RECEIVED
CHAS. W. WILSON
DATE 3/30/87 TIME 4:45

Island Einsteins set for challenge

By REN OLA
Daily News Staff

They all watch the television game show Jeopardy, and their minds are six to ten times sharper than the average person's.

From now on, they may be known as the Island Einsteins in at least four states.

Next week, Guam's all-star Academic Challenge Bowl team leaves for... maintain to compete against the... champions. This is only the second year... Guam will be... team on a... team.

Last year, the team came home with 10 wins and no losses.

This year, and the fact that there are more games this year, has posed a challenge to the members of the Academic Bowl team. This is a completely new challenge.

Parents' support makes the grade

Power

Continued from Page 1

Utilities, and Consumer Protection chairman, also called on GPA to withdraw a notice for a rate increase it gave the Public Utilities Commission.

"Now that GovGuam has agreed to pay its arrearages, the immediate needs of GPA have been met and I see no need for an immediate rate increase," Parkinson said in the release.

Ada noted that the waiver has saved the deficit-plagued general fund a substantial amount of money.

Youth

Continued from Page 1

Agana Pool, April 3

- An islandwide parade on Marine Drive, April 4

- A Saturday night bonfire at the Paseo, April 4

- A student-sponsored charity drive, April 5-25

- Oratorical contests, April 18 in the legislative session hall

- Student exchange between local schools, April 21-24

- Island Leadership Day, April 24

- An islandwide dance from 7 p.m. until midnight, JApril 25

- The month's awards banquet, May 2 at Government House.

Whiz kids

Continued from Page 1

scheduled to participate in the Colorado state championships and then play the state champions of Georgia.

They also have matches set up in Hawaii. Bothmer said the team will play a total of 18 matches, "almost twice as many as last year's," he said.

This year's tour appears to be tougher, too, he said since Guam's reputation as the team to beat apparently has spread after last year's success.

Not winning all the matches isn't worrying, Bothmer said. "How these kids react will define the team's success," he said.

The team will be accompanied by Bothmer, Ed Dochrow of St. John's, Gail Muller of the University of Guam, and Sister Marie David of Santa Barbara.

The team will be leaving every Monday at the Department of Educa-

Aquino's

MANILA, Philippines (AP) — An intensifying Communist insurgency and the specter of new attacks by Moslem rebels pose a twin threat to President Corazon Aquino's efforts to rebuild democracy in the Philippines.

Military sources say nearly 400 people have died in stepped-up attacks on the 24,000-member Communist New People's Army, or NPA, since a 60-day cease-fire with the Communists expired on Feb. 8.

The armed forces were placed on "full combat alert" nationwide Saturday to guard against any attacks marking the 18th anniversary Sunday of the NPA's founding.

Gen. Alexander Aguirre, commander of the Manila region, said Thursday that special police teams were being formed to hunt down guerrillas believed to be infiltrating the capital.

Government talks with Moslem rebels on ending their separatist rebellion are in trouble because of differences over the extent of territory to be included in a proposed autonomous Islamic region in the south.

The Moslem rebellion now is in its 15th year.

The Philippine Daily Inquirer quoted Nur Misuari, leader of the Moro National Liberation Front, as saying his group will break off talks unless the government meets his demands.

Mrs. Aquino, 54, has vowed to crush extremists. Last Sunday she called on the 250,000-strong armed forces to deliver "a string of honorable victories."

But the violence shows no sign of abating, and the president admitted Friday she sometimes gets

Bosworth

Continued from Page 1

patience and sensitivity on both sides. But I think that, by and large, our two countries have handled it pretty well."

Bosworth said last week that he believes Washington should now adopt a more "simple" policy toward Manila and urge it to reach beyond its historical ties with the United States to other

nations able to help speed economic recovery through trade and investment

Tribune

Mid-week Edition

AGANA, GUAM

MARCH 31, 1987 35¢

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Subsequent enactment of P.L. 17-75 appropriated another \$30,000 bringing up the total fund available for loans to qualified land claimants to \$500,000.

In his letter, Santos further wrote: "Under both funds, landowners or their attorneys involved in the land claims cases were able to apply for loans, provided they assigned future proceeds to which they were entitled from the settlement fund to GEDA. In many cases, the attorneys signed personal guarantees of payment. With the untimely death of John Bohn, there is a question of whether the attorneys or law firms which have assumed Mr. Bohn's clients are aware of the assignment of proceeds made by Mr. Bohn on behalf of his clients."

"I urge you to look into this matter and to ensure that the attorneys who have assumed Mr. Bohn's caseload are made aware of loans already received by Mr. Bohn's law firm on behalf of clients and of the terms of repayment. I further urge you to communicate with the attorneys to check on a repayment schedule with the land claimants' attorneys. I am sure you recognize the urgency not only because the land claims hearings presently being held are drawing to a close but also because promissory notes are being issued for settlement of

Won't raise power rates, formula found

By ROBERT TEODOSIO
Guam Tribune Staff

The Guam Power Authority will withdraw its proposed rate increase upon the signing of two promissory notes today by Governor Joseph F. Ada.

In a special board of directors meeting last night, GPA board members approved the conditional motion to withdraw its 120-day notice for a proposed rate increase because the government's arrearages would have been solved.

According to a settlement plan drawn up by the government and GPA, GovGuam will pay off its \$6.25 million debt by the end of fiscal year 1990.

The first promissory note consisted of: paying FY 88 metered billings amounting to \$4.06 million and accumulated penalties of \$1.99 million totaling \$6.05 million.

The entire FY 88 GovGuam penalty amounted to \$7.97 million but \$5.83 million was "written off" according to the agreement reached.

The settlement plan also consisted of paying FY 87 GovGuam penalties totaling \$2.20 million.

Although the government had been threatened with disconnections earlier this year, the departments have managed to remain current on their billings.

It was noted, however, that the Guam Memorial Hospital was a separate case and as of February still owed \$143,000 in metered billings and penalties.

GPA controller Bruce Pecon said that the notes should be signed by April 1, 1987 to avoid at a rate of \$130,000 per month of penalties.

Pecon said that with the settlement plan, he will present to the board new figures addressing GPA's debt service coverage and cash situation on Wednesday's regular meeting.

Pecon had earlier warned that GPA was in potential default through the Trust and Federal Financing Agree-

Turn to page 4

Income tax refunds

SMITH BARTY ATT. IN

IM

Continued from page 1

the Government of n in this time of financial s. Santos also wrote to Judge ate urging him to direct Public Defender Service oration to seek reim- sement from the settle- it fund for representation ences incurred in the land ms proceedings.

this is the proper time to request that you direct the Public Defender Service Corporation to submit an application for reimbursement of fees, costs and expenses from the settlement fund before the April 20, 1987 deadline, as established by Judge Peckham's March 9, 1987 Order.

"In order to assist landowners/claimants who met one of three criteria, the Guam legislature appropriated, by means of P.L. 14-98, the sum of \$150,000 for the period Jan. 10, 1978 through Dec. 31, 1979 and by means of P.L. 15-108, the sum of \$250,000 for the period of Sept. 30, 1980."

Yesterday, Santos said that the Public Defender Service Corporation's office is filing a claim against the federal government for \$431,173. He also said that GovGuam should recuperate \$43,598 (\$502,100 in loans plus \$41,498 in interest) for a combined fund recovery of \$1,025,271 to be applied to the deficit reduction.

Land recovery fund status follows:

He pointed out that P.L. 14- prohibits charging claimants for general costs or ices or requiring repay- ment of court filing fees. He id however that since the nnibus Territories Act of 77 allows payments of at- rneys fees up to 5 percent, it seems proper for the Public efender Service Corporation to submit an application to the istrict Court for reim- urement of fees, costs and xpenses incurred in repres- ing landowners in the land laime cases.

In his letter to Abbate, Santos wrote: "In view of the fact that the land claims hearings are now in progress, perhaps

LAND RECOVERY FUND Fund Status as of June 30, 1987

A. Revenue

- 1. Appropriation \$500,000.00
- 2. Interest on TCD's 2,109.92

B. Disbursements

- 1. Approved Loans
- Balance Available

LOAN STATUS June 30, 1985

Name	Amount	Interest
1. Bohn, John A.	\$274,500.00	\$28,271.54
2. Cadwladler	\$4216,000.00	\$12,407.00
3. Keogh	\$ 11,600.00	\$ 819.40
	<u>\$502,100.00</u>	<u>\$41,497.94</u>

Won't raise

Continued from page 1
ment because GPA would not be meeting their debt service coverage ratio.

He also warned of critical cash flow problems if GovGuam did not pay its delinquent accounts.

Pecon noted that according to the Power Pool Agreement, the Navy would have to be immediately refunded millions of dollars due to its reduction of revenues.

Board member Luis Hernandez pointed out that only

the penalties and not GPA's metered sales were forgiven.

"What was being written off was the unreasonable amount demanded by PUC for the five percent per month penalty," he said. "We decided to forgive it."

Pecon said, however, that the penalties were not imposed by the PUC but were part of the government's rate tariffs.

GPA's legal counsel Don Williams, stated that should the government default on its promissory note, there was a provision that the government would start paying interest of 12 percent annually.

Philippine economy now recovering

MANILA (UPI) — Finance Secretary Jaime Ongpin signed a \$310 million loan with the World Bank Monday, hailed a critical debt agreement negotiated with foreign banks last week and declared the once ailing Philippine economy "well on the way to recovery."

Giving a personal example of the economic upturn, Ongpin told a management association luncheon that when he was appointed and forced by public service law to divest his stock in the Benguet Mining Corp., he bought a unit of Manila's luxurious Ritz

up 25 percent and industrial oil consumption up by 13 percent. Domestic steel makers have requested import clearance to keep up with demand for galvanized iron sheeting and cement is in short supply.

"If you look at all those things, there's no question in my mind the economy is well on the way to recovery," Ongpin said.

Signs of economic recovery are critical for President Corason Aquino, whose administration is saddled with a \$28 billion foreign debt and a growing communist insurgency that feeds on widespread poverty in the countryside.

Just a few weeks ago, the economy was in a

The government is



Ada signs IOU for GPA to reduce power debt

Gov. Joseph F. Ada signed a promissory note yesterday that guarantees the payment of about \$9 million in accrued billings and penalties to the Guam Power Authority.

"What is truly significant is the fact that through this one action, we have been able to reduce the government deficit by \$8 million, maintain the fiscal integrity of GPA, and avert for the people of Guam the possibility of a rate increase," Ada said after signing the note.

The promissory note was needed to address \$5 million in unpaid metered billings and millions more in penalties for late payments the government of Guam owed GPA.

The GPA board of directors officially reviewed and approved the promissory note Monday night at a special meeting.

Annette Donner, special as-

sistant to the GPA general manager, said yesterday that the promissory note is "a compromise that everybody's happy with." She said GPA worked closely with the Bureau of Budget and Management Research to solve the problem.

GovGuam was charged \$8 million in accrued penalties on the \$5 million in metered billings at 5 percent per month (a law was enacted earlier this year changing the penalty from 5 percent to 1 percent per month). The GPA board called the accrued penalties "an excessive charge against the government."

The promissory note will allow GPA to absorb about \$6 million of the \$8 million in penalties. However, Donner said there is an additional \$2.2 million in penalties that have accrued since Oct. 1, 1986 that has to be paid off.

The \$5 million in unpaid

metered billings will be off in 12 monthly installments of \$338,000. There will be percent per annum penalty any late payments. Donner said.

The \$4.1 million in penalty will be paid off on a moratorium basis over a three-year period beginning at the start of next fiscal year (Oct. 1, 1987).

As a result of the governor's action, the GPA board will be meeting today to vote upon a withdrawal of a proposed rate increase.

Donner said the proposed rate increase will be withdrawn, but that "GPA always has to face rate increases."

Some of the factors that merit a future rate increase are: island construction growth; military growth; new \$25 million power plant that is to go on line in 1988 and regular inflation, Donner said.



Local Briefs

GovGuam pays part of power bill

The government of Guam yesterday paid the Guam Power Authority \$337,556 as the first payment on an approximately \$9 million promissory note.

The payment was made as part of an agreement between Gov. Joseph F. Ada and GPA to resolve a debt of almost \$14 million in backpayments and penalties.

Ada's spokesman Mark Forbes said the governor was able to persuade GPA officials to forgo \$6 million of the debt and allow GovGuam to pay off the debt in monthly installments.

Yesterday's payment was the first of 12 monthly installments of approximately \$338,000 on \$5 million in unpaid meter billings. Beginning in October, GovGuam will begin making monthly payments on \$4.1 million in penalties.

Those payments will be made over three years.

It is somewhat surprising to know that collections of past due accounts of patients have improved over the last couple of months, if recently released figures are to be believed. Whether collections will continue to improve is a matter of speculation.

One thing seems certain: the public will not tolerate any new move to increase hospital rates especially now that they know gross mismanagement has always been at the root of GMH's financial problems.

The hospital's problems have been identified and proposed solutions are being discussed. For the sake of the people of Guam, we hope hospital services will not deteriorate further considering that it is almost hopeless to expect any marked improvement in the immediate future.

HAPPY, UNEXPECTED SOLUTION

The fight between GovGuam and Guam Power Authority (GPA) over the government's long overdue settlement of its power bills is headed for a happy and unexpected ending. Thanks to the patience and tenacity of Governor Ada and his policy of searching for a compromise solution, a formula acceptable to both GPA and GovGuam has been found.

GovGuam owed GPA a total of \$14.142 million of which \$7.875 million represented penalties up to FY 1986 and another \$2.204 million also in penalties in FY 1987. The principal totalled only \$4.063 million.

Under the settlement formula, penalties totalling \$5.885 million will be written off and GovGuam will sign a new note for \$8.257 million. The settlement terms were reported acceptable to the auditors, who had to approve writing off the penalties, to the lenders, and to the Navy Pool.

The new note of \$8.257 million will be paid by FY 1990 and the unpaid metered sales in FY 1986 must be paid over a 12-month period, according to the terms of the settlement formula.

While some may claim that this is all "paper transaction," nonetheless the net effect is to reduce GovGuam's liability and give it time to settle its power bills. At least one pressure is being removed albeit temporarily. Now the public need not be treated to the repeated comedy of GPA threatening to cut off GovGuam's power.

...offer...
...draw a caricature of President Reagan and some of his top advisors, dressed as gangsters, holding...
George P. Shultz...
Today, all that is changed. Shultz...
...wreckage of his former loss. The president has admitted publicly that an...
Iran, Shultz and Secretary of Defense Casper W. Weinberger, who...
arms sales, "were right and I was wrong."

The saga of George Pratt Shultz, 67, a stolid and seemingly colorless economist, is a remarkable story of political survival. He has not only withstood weeks of unrelenting attacks from White House aides as the Iran-contra matter unfolded but he has survived off years of outright hostility from the politically potent right wing of the Republican Party.

Now foreign policy experts, Shultz's admirers and detractors alike, are virtually unanimous in saying that he will shape the diplomacy of the final 22 months of the Reagan administration. That probably will mean an emphasis on U.S.-Soviet relations and arms control, perhaps to the exclusion of almost everything else.

"He is working hard to get an (arms control) agreement with the Soviet Union," an administration official said. "Some people at the Pentagon may think he is working too hard. But if he could now pull a U.S.-Soviet agreement out of the hat, he would have something to show for his tenure."

The official conceded that there are many other areas of foreign policy that contain similar opportunities for dramatic achievement by the scandal-weakened Reagan administration.

Robert G. Neumann, Reagan's chief foreign policy adviser between his election in 1980 and his inauguration in 1981, said Shultz has identified arms control as the most important issue on which the administration still has hopes of achieving results.

"He may have come to the conclusion that if he were to leave, there would be no one to lead the fight for arms control," said Neumann, now with the Center for Strategic and International Studies in Washington.

Administration officials say that Shultz now is more firmly in control of the administration's foreign agenda than at any time during his 57-month tenure. His new stature grew out of what might have been his greatest humiliation — the sale of arms to Iran, which proceeded despite his objections and, he maintains, largely without his knowledge.

Although Shultz seldom missed an opportunity to advise Reagan against the arms sales, the presidentially appointed commission that reported on the scandal Feb. 25 said that he did not press his views forcefully enough. Once the operation became public last November, however, Shultz pursued a high-profile strategy intended to establish his credentials as the leading opponent of a policy that the president continued to defend.



Office of the Attorney General
Territory of Guam

Elizabeth Barrett-Anderson
Attorney General
Donald L. Paillette
Chief Deputy Attorney General

Phone: (671) 472-6841-4
Telefax: (671) 472-2493
Telex: (650) 697-5352

September 9, 1988

Mr. Donald C. Williams, Esq.
Carlsmith, Wichman, Case,
Mukai and Ichiki
Suite 401, Bank of Hawaii Bldg.
134 West Soledad Avenue
Agana, Guam 96910

Re: Guam Power Authority/
Govt. of Guam Power Bills

Dear Mr. Williams:

In response to your inquiry regarding the government of Guam's position concerning Guam Power Authority's efforts to collect a five percent penalty charge on the past due government accounts, prior to the compromise of the penalties by the Authority, it was this office's position that such penalty was discriminatory, of questionable legality and, as a practical matter, uncollectible. I hope this answers the question you presented.

Very truly yours,

DONALD L. PAILLETTE
Chief Deputy Attorney General

DLP:slc

EXHIBIT W

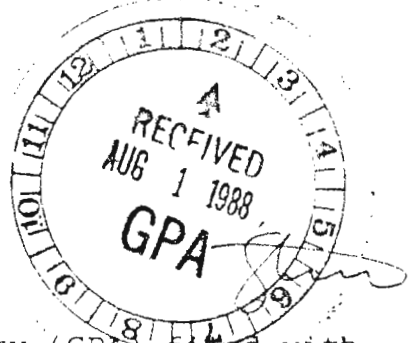
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE TERRITORY OF GUAM

Amended Application of Guam Power Authority)
to increase rates)
_____)

Docket No. 88-901

DECISION AND ORDER

I
PROCEDURAL BACKGROUND



On September 16, 1987, Guam Power Authority (GPA) filed with the Commission its notice of intent to apply for an increase in rates pursuant to PUC Regulation §20005. On February 23, 1988, GPA filed its rate application together with prepared testimony and supporting exhibits. On May 2, 1988 the Commission retained the independent expert services of Georgetown Consulting Group, Inc. (Georgetown) to advise the Commission concerning the GPA application.

On June 17, 1988, the Commission retained the services of Harry M. Boertzel to serve as Administrative Law Judge (ALJ) in the proceeding. Pursuant to 12 GCA §12016, a hearing on the rate increase was noticed to commence on June 15, 1988. On June 14, GPA requested a continuance of the hearing on the grounds that it intended to file an amended application which would constitute a final filing under 12 GCA §12018. On June 22, 1988, GPA filed its amended application. On July 1, 7 and 14, 1988, the Commission provided public notice in the Pacific Daily News that a hearing on the GPA application would commence July 19, 1988.

ALJ conducted two (2) prehearing conferences which resulted in a first and second prehearing order. By virtue of his first prehearing order, ALJ granted Parkinson and Georgetown's motions to intervene in the proceeding as parties pursuant to PUC Reg. 20008.1. As a result of this first hearing, a procedural schedule was adopted which established deadlines for data requests, responses to same and a deadline for requests for subpoenas. The parties were also required to establish a prehearing stipulation to narrow the issues. A second prehearing conference was scheduled for July 15.

On July 12, Parkinson filed a motion to dismiss alleging that GPA consultant Touche Ross and GPA comptroller Bruce Pecon should be disqualified as participants in the proceeding. On July 14, Parkinson moved to dismiss the proceeding on the grounds that GPA had failed to comply with the Open Government Law and with 12 GCA §12017. On July 14, Parkinson also moved to strike GPA testimony on the ground that GPA had wrongfully objected to his data requests. These motions were heard and considered at the July 15, 1988 second prehearing conference. ALJ denied each

EXHIBIT "B"

of the three parties for the reasons stated in his second prehearing order. As a result of that order, the proposed testimony Messrs. Tarasak, Benavente, Sabian, Bacon and Madan as amended was admitted into evidence, as well as, GPA Exhibits A through G-2, GPA's responses to Georgetown's data request numbers 1 through 60 and AA, GPA's responses to Georgetown's request for information 1 through 7, GPA's responses to Parkinson's first and second data requests, the statement of Doris Brooks, the GPA rate summary, and Tarasak's testimony dated December 6, 1985. The second prehearing order also established that no party requested subpoenas in this proceeding.

The Commission conducted hearings on the evenings of July 19, 20 and 22, 1988. At the commencement of the hearing, GPA filed with the Commission a stipulation which had been entered into between GPA and Georgetown which reflected that, to a substantial extent, GPA agreed with Georgetown's evaluation of its application. Pursuant to the stipulation, GPA's request for amendment of its fuel adjustment clause (Schedule Z) was withdrawn. Parkinson did not join in the stipulation. At the beginning of the hearing, ALJ ruled that Parkinson would have the right to cross-examine all witnesses and further that, the issue of the GPA penalty forgiveness would not be considered in this proceeding, but rather would be examined by an independent Commission investigation to be scheduled after the instant hearing. As a result of prehearing deliberations it was also understood that the impact of GPA's future generating requirements and its potential customer service agreement with the Navy would not be considered in this hearing, but rather by separate proceeding. Evidentiary submissions by the parties and cross-examination was concluded at the end of the hearing session of July 20. On July 22, the Commission received the public testimony of nine rate payers. The proceeding was concluded with final arguments by the three parties.

The Commission conducted meetings on July 26, 28, and 29, 1988 to consider and act upon the ALJ's report as finalized and dated July 28, 1988. As part of our review of the ALJ report, the Commissioners examined and reviewed the Hearing Exhibits and such Docket entries, which are catalogued in Attachment A to the ALJ report, as we have considered necessary to understand the evidence and the positions of the parties. After such examination and review, and in the exercise of our judgment, we have made the determinations set forth below.

II DETERMINATIONS

1. The procedural rights of the parties were carefully preserved in the process of permitting factual materials into the record as evidence and by allowing the arguments, reasoning, and statement of position of the parties to be brought before us.

2. ALJ was correct in ruling that the validity of GPA's forgiveness in March, 1987 of \$5,885,037.00 in penalties (the "penalty forgiveness"), which was assessed upon the Government pursuant to GPA Tariff Schedule C, and the consequent \$3,000,000.00 negative adjustment required under the power pool agreement (a \$9,000,000.00 ± negative impact on GPA's financial position), would not be adjudicated in this hearing but rather by separate investigative hearing.

3. Stipulation No. 2 by Georgetown and GPA regarding the penalty forgiveness is appropriate. [Hearing Exhibit 1, the "Stipulation"].

4. With specific reference to Stipulation No. 2, a substantial question exists as to the legality of GPA's penalty forgiveness without prior PUC approval in accordance with 12 GCA §12004 and §12015. PUC will, therefore, on its own motion, investigate the matter in accordance with PUC Reg. §20003.

5. ALJ was correct in ruling that the financial impact of the proposed GPA-Navy customer service agreement and GPA's future generating requirements would not be considered in this hearing, but rather by separate application, except to the extent that the Commission might want to require GPA to establish a generating expansion reserve fund.

6. GPA's rate increase application should be evaluated against its proposed revised revenue requirements for FY88 and FY89.

7. GPA's projected FY89 \$1,000,000.00 current cash shortfall revenue requirement is reasonable and just.

8. Stipulation No. 1 by Georgetown and GPA concerning the PCB spill is reasonable.

9. Consistent with GPA's capital improvement needs, its CIP projects, as set forth in Hearing Exhibit 11, are just and reasonable.

10. A ceiling should be placed on GPA's FY89 capital improvement expenditures at \$10,500,000.00 and any excess revenues should be deposited into a restricted account which is dedicated for further generating requirements. GPA should annually report on the status of this account pursuant to 12 GCA §12007.

11. GPA's proposed revised FY89 revenue requirements for operation and maintenance, which include increased employee expenses, are just and reasonable.

12. Standard accounting principles and GPA's debt financing obligations mandate that GPA book its unfunded pension fund liability as a revenue requirement.

13. The inclusion of an FY89 \$669,996.00 liability as a revenue requirement is just and reasonable.

14. The FY89 unfunded pension liability requirement should be funded into a restricted account. GPA should annually report on the status of this account pursuant to 12 GCA §12007.

15. GPA should be ordered to develop, within 120 days of this decision, a comprehensive plan for addressing: a) its total unfunded pension liability; and b) the collection of Navy contributions for that liability under the power pool agreement.

16. GPA will not be in default of its debt service covenants in FY88 and FY89 in the event no rate increase is granted.

17. Stipulation Nos. 3-8 are reasonable and should be incorporated into the rate order.

18. GPA's FY88 projected revenue requirements as set forth in paragraph 8(a) on page 23 and in Scenario A, page one of Schedule 3 of the Georgetown testimony [Docket No. 34] are just and reasonable.

19. GPA's FY89 projected revenue requirements as set forth in Scenario B, Schedule 2 of the Georgetown testimony [Docket No. 34] are just and reasonable.

20. A rate increase in FY89 is necessary in order for GPA to meet its financial obligations, operational expenses, debt service requirements and its capital improvements. The rates should be increased for the first billing through a percentage factor of 3.670% of the revenue adjusted for rate rollback of 4.8% as shown in lines 7 and 8 of Hearing Exhibit 4 [Exhibit GGT, Schedule 5 (Revised 7-19-86)] and for all subsequent billings through a melding of the two rate rollbacks and the above percentage factor to a net rate adjustment of 5.4434% as is shown on Hearing Exhibit 18.

21. No rate increase in FY89 would be necessary had there been no penalty forgiveness.

22. The rate increase should be made effective for meters read on and after October 1, 1988.

23. The Commission has determined that: a) a GPA rate increase in FY89 is just and reasonable; b) a rate increase would not have been necessary had there been no penalty forgiveness; and c) a substantial question exists as to the legality of the

penalty forgiveness which merits an immediate Commission investigation. In the event the Commission should find as a result of its investigation that the penalty forgiveness was in violation of law or GPA's bond covenants, and in the event the Government of Guam, pursuant to legislation or otherwise, executes a promissory note by which it promises to repay to GPA the \$5,885,037.00 in forgiven penalties under repayment terms which require monthly payments of at least \$250,000.00, then upon the occurrence of said events, the rate increase should automatically abate. However, any such abatement should not affect in any manner the other orders made herein.

III ORDERS

In furtherance of our 23 determinations as set forth above, and in the exercise of our judgment after considering the record and the arguments, reasoning and statement of position of the parties, and for good cause shown, the Public Utilities Commission of Guam hereby orders that:

1. All rulings and orders of ALJ during the course of this proceeding are confirmed and ratified. All motions not heretofore granted or denied are denied. No other matters require discussion.

2. GPA shall make no payments to the U.S. Navy and will vigorously contest, in all available forums, the Navy's claim against GPA for power pool charges related to the PCB spill which occurred at the Navy operated Piti power plant in May, 1987. GPA shall keep the Commission regularly informed as to its actions pursuant to this order. GPA's FY88 financial statement shall defer any potential income statement impact of the PCB issue. In the event that GPA is ultimately found liable for some portion of the PCB expenses, the Commission will recognize any such resulting expense in determining GPA's revenue requirements and shall order an amortization of any such determined liability over a five year period.

3. GPA shall publicly brief the Commission on operations and future plans on a quarterly basis beginning with the quarter ended June 30, 1988.

4. GPA shall publicly brief the Commission at its request on GPA's FY89 budget no later than 30 days after the budget is approved by the GPA board of directors.

5. On or before April 1, 1989, GPA shall file with the Commission: a) the financial results for the six months ended February 28, 1989; b) a projection of operating results for the twelve months ending September 30, 1989 and February 28, 1990; and c) information concerning the fuel adjustment clause

including but not limited to the following: (i) the magnitude of any over/under recovery; (ii) discussion of potential changes in the clause for the purposes of achieving a levelized cost recovery and discussion of a "true up" procedure; (iii) recommended accounting procedures; and (iv) suggested variance limits on estimated fuel costs.

6. GPA shall within 120 days of this decision prepare and present to the Commission a comprehensive plan for addressing its total unfunded pension liability and the collection of Navy contributions for that liability under the power pool agreement.

7. GPA shall, commencing in FY89 and until further order from this Commission, deposit revenues sufficient to cover its unfunded pension liability into a restricted interest bearing escrow account with a Federally insured depository. GPA shall annually report on the status of this account pursuant to 12 GCA §12007.

8. GPA shall neither expend nor incur an obligation to expend in excess of \$10,500,000.00 for capital improvement projects in FY89. Any excess revenues in FY89 shall be deposited into an interest bearing restricted account with a Federally insured depository which shall be reserved for GPA's future generating requirements. GPA shall annually report on the status of this account pursuant to 12 GCA §12007.

9. The briefings and reports required by paragraphs 3, 4, 5 and 6 of this order are for the Commission's information and shall not bind the Commission to take any course of action. The fact that the Commission does not take any action with regard to the subject matter of any such briefing or report shall not be construed as an approval of the matters presented.

10. GPA shall not implement any non-fuel base rate increase prior to August 1, 1989 except as any such increase may be approved by the Commission in accordance with P.L. 17-74 and warranted due to:

- a) meeting any commitments required by GPA financing agreements;
- b) emergency or extraordinary circumstances;
- c) implementation of the GPA-Navy customer-service agreement;
- d) financial requirements, if any, for additional generation after required GPC approval; and
- e) legislative action affecting GPA's operating costs.

11. A rate increase shall be effective for meters read on and after October 1, 1988 and shall be implemented for the first billing through the following billing format:

COMPONENT

- 1) Non fuel revenue at tariff rate
- 2) Base fuel charge
- 3) Total revenue before rollbacks
- 4) Less rate rollback of 4.2% (Line 3 x 4.2%)
- 5) Revenue adjusted for rate rollback of 4.2%
- 6) Less rate rollback at 4.8% (Line 5 x 4.8%)
- 7) Revenue adjusted for rate rollback of 4.8%
- 8) Plus rate increase of 3.670% (Line 7 x 3.670%)
- 9) Revenue adjusted for rate increase
- 10) Plus/minus fuel adjustment
- 11) Net revenue

For all subsequent billings the rate increase shall be implemented through the following billing format:

COMPONENT

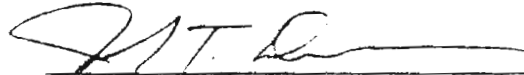
- 1) Non fuel revenue
- 2) Fuel revenue (at 6.95¢ per KWH)
- 3) Total (sum of Lines 1 and 2)
- 4) Less rate adjustment of 5.4434% (5.4434% x Line 3)
- 5) Less fuel adjustment
- 6) Net revenue

12. The Commission shall forthwith, on its own motion, investigate GPA's forgiveness in March, 1987 of \$5,885,037.00 in penalties which were assessed upon the Government pursuant to GPA Tariff Schedule C. In the event the Commission shall find as a result of its investigation that the penalty forgiveness was in violation of law or of its bond covenants, and in the event the Government of Guam, pursuant to legislation or otherwise, executes a promissory note by which it promises to repay to GPA

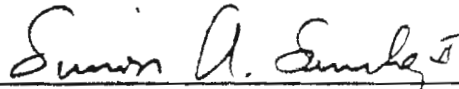
the \$5,885,037.00 in forgiven penalties under repayment terms which require monthly payments of at least \$250,000.00, then upon the occurrence of said events, the rate increase ordered herein shall automatically abate. However, any such abatement shall not affect in any manner the other orders made herein.

13. GPA shall pay for the Commission's expenses including, without limitation, consulting and counsel fees and expenses and the expenses of conducting and transcribing hearing proceedings.

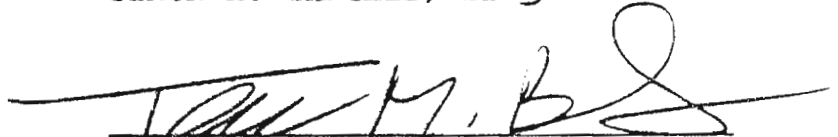
Entered this 1st day of August, 1988.



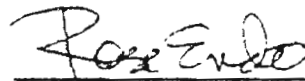
JOSEPH T. DUENAS



SIMON A. SANCHEZ, II



TERRENCE M. BROOKS



ROSE ENDO

COMMENTS ON BILL NO. 985 (LS)

This is an Act to appropriate the sum of \$5,876,227.00 from the General Fund to the Guam Power Authority for the purpose of paying-off the penalties resulting from the unpaid power bills owed by the Government of Guam.

The original amount owed by the Government of Guam to GPA was \$13,124,342, which represents penalties and unpaid power bills incurred by government agencies, including the autonomous ones.

Public Law 18-48, Section 21 appropriated the above amount from the General Fund for the purpose of liquidating the above amount.

Public Law 19-10, Section 16, amended the above public law reducing the amount of appropriation to \$8,257,115 or a reduction of \$4,867,227. This implies, therefore, that this was the amount forgiven.

This bill (985) which appropriates the sum of \$5,867,227 to pay GPA is \$1,000,000 more than what was previously forgiven.

Attached are copies of the above mentioned public laws.

PBFLORES:ctm

EXHIBIT

Bill No. _____

Introduced by:

D. Parkinson

RECEIVED
18 SEP 89
DEPT. OF
ADMINISTRATION

AN ACT TO APPROPRIATE THE SUM OF FIVE MILLION EIGHT HUNDRED SIXTY-SEVEN THOUSAND TWO HUNDRED TWENTY-SEVEN DOLLARS (\$5,867,227.00) FROM THE GENERAL FUND TO THE GUAM POWER AUTHORITY FOR THE PURPOSES OF PAYING OFF THE PENALTIES RESULTING FROM UNPAID POWER BILLS OWED BY THE GOVERNMENT OF GUAM.

WHEREAS, the Government of Guam owed the Guam Power Authority the amount of THIRTEEN MILLION, ONE HUNDRED TWENTY FOUR THOUSAND, THREE HUNDRED FORTY TWO DOLLARS (\$13,124,342) of which EIGHT MILLION TWO HUNDRED FIFTY SEVEN THOUSAND DOLLARS were for metered electric services and FIVE MILLION EIGHT HUNDRED SIXTY SEVEN THOUSAND ONE HUNDRED FIFTEEN DOLLARS (\$5,867,115) were for penalties, and

WHEREAS, the Board of Directors of the Guam Power Authority elected to forgive the penalty debt of \$8,867,115 with the promise that by doing so, they will not request for a rate increase, and

WHEREAS, the Guam Power Authority on February 23, 1988 filed a rate increase of about 12.9 percent with the Guam Public Utilities Commission, and

WHEREAS, the Guam Power Authority have indicated that the need for the rate increase is to perform capital improvement projects necessary to maintain reliable power, and

Whereas, the Guam Power Authority has indicated that any waiving of penalties by Guam Power Authority is now controlled by Guam Power Authority.

WHEREAS, by collecting the penalties owed by the Government of Guam, the Guam Power Authority will have sufficient capital to fund the needed capital improvement projects making the rate increase unnecessary; now, therefore

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

Section 1. The Guam Legislature recognizes the debt by the Government of Guam as a legitimate debt of the government.

Section 2. The sum of FIVE MILLION EIGHT HUNDRED SIXTY SEVEN THOUSAND TWO HUNDRED TWENTY SEVEN DOLLARS (\$5,867,227) is hereby appropriated from the General Fund to the Guam Power Authority to pay the outstanding penalty debt.

Section 3. The payment shall be made to the Guam Power Authority in the amount of TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) per month until the total debt has been liquidated.

Section 4. This Act shall become effective upon enactment.

EIGHTEENTH GUAM LEGISLATURE
1986 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 426 (LS), "AN ACT TO ADD A NEW CHAPTER VII TO TITLE XXVII OF THE GOVERNMENT CODE RELATIVE TO ESTABLISHING A TOURIST INDUSTRY JOB CORPS AND FOR OTHER PURPOSES," was on the 30th day of December, 1986, duly and regularly passed.

Dec. 5 - Mangroves Development Fund.

Dec. 15 - 595,130 - 5100A74200AT007-AT - *H. Pignatelli*

CARL T. C. GUTIERREZ
Speaker

Dec. 17 - 10,000 - 5100A72510YF011 - *Mr. Youth Force*

Attested:

Dec. 21 - 13,124,542 - 5100A79967CT005 - *Power Billings*

Elizabeth P. Arriola
ELIZABETH P. ARRIOLA
Senator and Legislative Secretary

Dec 22 - 20,000 - 5100A71911AV008 - *Annual visit WRC*

Dec 23 - 40,000 - 5100D72520CI019 - *Resurf. for road*

This Act was received by the Governor this 31st day of December, 1986, at 3:15 o'clock P.m.

Dec 25 - 191,000 - 5100C70820LP002 - *License Plate Proc*

Dec 26 - 25,000 - 5100A79967CT005 - *Power Extn - Sub*

Francis Oquendo Palomo
Assistant Staff Officer
Governor's Office

APPROVED:

RICARDO J. BORDALLO
Governor of Guam

Date: January 1, 1987, 10:30 AM

Public Law No. 18-48

1.7 TO THE

1 (d) The parcel of lands identified in Subsections (a) and (b) of this
2 Section shall, following acquisition, be placed under the administration of
3 the Commissioner of Agaña Heights.

4 Section 19. A new 10 GCA §12231 is added to read:

5 "§12231. Good Faith Immunity. No member of the Commission on
6 Licensure to practice the healing arts, the Guam Board of Medical
7 Examiners, the Guam Board of Nurse Examiners, the Guam Board of
8 Examiners for Optometry or the Guam Board of Examiners for Pharmacy
9 shall be liable in any civil action for damages for any act done or
10 omitted in good faith in performing the functions of his office."

11 Section 20. The Governor of Guam is authorized to convey: Lot No.
12 2417-1-5, Mangilao, Municipality of Barrigada, Guam, containing an area of
13 7,687 Square Feet to George Q. Acfalle and Jeonalina Acfalle for fair market
14 value.

15 Section 21. (a) ^{5120A79967CT004-290} The sum of Thirteen Million One Hundred
16 Twenty-four Thousand Three Hundred Forty-two Dollars () is
17 appropriated from the General Fund to the for the
18 purpose of liquidating metered and incurred by
19 government of Guam line agencies and autonomous agencies, for the periods
20 ending up through September 30, 1990. /

21 (b) The Guam Power Authority is prohibited from charging penalties
22 and interest in excess of twelve percent (~~12%~~ per annum.

23 (c) No money authorized to be spent pursuant to this Section shall be
24 encumbered or spent until after January ~~1991~~ ^{AFTER}

25 (d) The Bureau of Budget and Management Research and the
26 Committee of the Nineteenth Guam Legislature with oversight of the Guam
27 Power Authority shall jointly conduct an investigation to determine the
28 manner in which the necessity for making the appropriation contained in
29 Subsection (a) of this Section occurred.

30 Section 22. ^{5120A71211AV008 - Annual visitation WASC} The sum of Twenty Thousand Dollars () is
31 appropriated from the General Fund to the for the
32 expenses of the
33 Team for the annual visitation and review of John F. Kennedy High School.

1 taxes. The Director may expend such sums as are necessary to
2 recruit officers, revenue agents, revenue officers or other related
3 support staff, to purchase not more than two (2) personal computers
4 and related software, to purchase necessary office furniture and to
5 reimburse local travel.

6 Section 13. ^{5100A89972CT007.} The sum of Six Million Four Hundred Eighteen
7 Thousand Five Hundred Dollars (\$6,418,500) is appropriated from the
8 General Fund to the Government of Guam Retirement Fund to provide
9 for the continued implementation of the One Hundred Dollar (\$100)
10 annuity benefits, the Seven Hundred Dollar (\$700) supplemental
11 annuity benefits, the Eight Hundred Thirty Eight Dollar (\$838) annuity
12 benefits, the Governor's and Lt. Governor's pensions, and retirees'
13 group insurance premiums.

14 Section 14. ^{5100A89972CT004} The sum of One Million One Hundred Fifty Nine
15 Thousand Three Hundred Seventy Three Dollars (\$1,159,373) is
16 appropriated from the General Fund to the Government of Guam
17 Retirement Fund for the purpose of funding in a lump sum a Four
18 Hundred Nineteen Dollar (\$419) Cost of Living Allowance for
19 government of Guam retirees or their survivors for Fiscal Year 1988.

20 Section 15. ^{5100A80600CL008 - COLA} The sum of Fifty Thousand Dollars (\$50,000) is
21 appropriated from the General Fund to pay Four Hundred Nineteen
22 Dollars (\$419) Cost of Living Allowance to each eligible classified
23 government of Guam employee, other than those classified employees
24 already covered in the Territorial agency budgets of this Act. The
25 appropriation for this section shall include applicable benefits in
26 addition to the Four Hundred Nineteen Dollars (\$419) COLA paid to
27 each employee. Payments shall be made pro rata in the bi-weekly
28 compensation of the employees.

29 Section 16. Subsection (a) of Section 21 of P.L. 8-48-----


SEVENTEENTH GUAM LEGISLATURE
1987 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

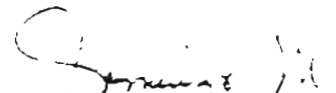
This is to certify that Substitute Bill No. 611 (L.S.), "AN ACT MAKING APPROPRIATIONS FOR THE OPERATIONS OF THE EXECUTIVE AND JUDICIAL BRANCHES OF THE GOVERNMENT OF GUAM AND THE GUAM VISITORS BUREAU FOR FISCAL YEAR ENDING SEPTEMBER 30, 1988 AND FOR OTHER PURPOSES," was on the 10th day of November, 1987, duly regularly passed.


FRANKLIN J. A. QUITUC
Speaker

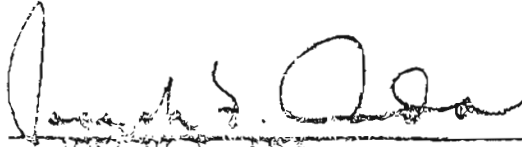
Attested:


PILAR C. LUJAN
Senator and Legislative Secretary

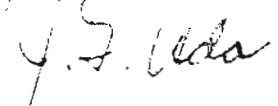
This Act was received by the Governor this 10th day of November at 5:20 o'clock p.m.


Assistant Staff
Governor's Office

APPROVED:


JOSEPH F. ADA
Governor of Guam

with the exceptions noted in the accompanying letter as transmitted



Date: November 10, 1987

Public Law No. 19-10

1 is amended to read: *5100C70600 AD 003*

2 "(a) The sum of Eight Million Two Hundred Fifty-seven
3 Thousand One Hundred Fifteen Dollars (\$8,257,115) is appropriated
4 from the General Fund to the Guam Power Authority for the
5 purpose of liquidating meter billings and penalties incurred by
6 government of Guam line agencies and autonomous agencies, for
7 the periods end up through September 30, 1986; except, of this
8 appropriation, Two Million Two Hundred Four Thousand Three
9 Hundred Fifteen Dollars (\$2,204,315) may be used for the purpose
10 of liquidating penalties incurred by the government of Guam up
11 until March 31, 1987."

12 Section 17. *5100A82320GM006 Fifty Six Page*
13 Four Hundred Thirty Eight Dollars (~~\$171,438~~) as appropriated from the
14 General Fund to the Department of Mental Health and Substance Abuse
15 to fund the operation of the Guma Manhoben Program for Fiscal Year
16 1988.

17 Section 18. *5100A89966 CTO17 NINE HUNDRED NINETY TWO THOUSAND SEVEN HUNDRED*
18 appropriated from the General Fund to the Hospital Operations Fund to
19 fund the Guam Memorial Hospital Authority's Fiscal Year 1988 operating
20 budget.

21 Section 19. The sum of Two Hundred Thirty Thousand Dollars
22 (~~\$230,000~~) is appropriated from the General Fund to the Department of
23 Land Management for the purpose of microfilming land records,
24 registration, mapping, and surveying of unsurveyed government land.

Files
GUAM POWER AUTHORITY

P. O. BOX 2077, AGANA, GUAM, USA 96910-2077



TELEX 5121

April 21, 1987

Mr. Richard Montoya
Assistant Secretary
U.S. Department of Interior
C St. Between 18th and 19th Sts.
Washington, D.C. 20240

RE: COMPLIANCE WITH SRA COLLECTION COVENANT (PARA 4(d))

Dear Mr. Montoya:

In response to your April 20, 1987 letter regarding compliance with the collection covenants of the Second Refinancing Agreement, GPA's collection ratio of 95% will not be adversely affected by GOVQUAM's repayment terms. This is based on sales revenues of the current period divided into the current period collections. Therefore, future monthly collection ratios will not be affected.

Thank you for your assistance.

Sincerely,

Handwritten signature of John M. Benavente in cursive.
JOHN M. BENAVENTE
ACTING GENERAL MANAGER



Nineteenth Guam Legislature

P.O. Box CB-1
Agaña, Guam U.S.A. 96910

FRANCISCO R. SANTOS
SENATOR

CHAIRMAN
Committee on Federal, Foreign
& Legal Affairs

VICE-CHAIRMAN
Committee on Health, Welfare
& Ecology
Committee on Justice, Judiciary
& Criminal Justice

September 14, 1988

The Honorable Elizabeth Barrett Anderson
Attorney General of Guam
Government of Guam
Agaña, Guam

Dear Liz,

Recent media releases on a subject of controversy between the Public Utilities commission and GPA prompts me to seek your legal opinion on a matter that is 17 months old but which is of vital importance to this community in that the matter will determine whether power rates are increased on October 1, 1988. In summarized form the following will serve as historical background:

1. Between 1985 and December 1986 the Government of Guam accumulated overdue power billings and penalties totalling in excess of \$13 Million.
2. In December of 1986, through the urgings of the GPA Board Chairman, the Guam Legislature passed a bill appropriating the total amount of billings and penalty, thus creating the fund for the liquidation of such debts of the government. That legislation eventually became Public Law 13-48.
3. Between Jan. 1987 and March 1987, the new Administration, in an effort to straighten out its financial posture, negotiated an agreement with GPA for the payment, through promissory note of a portion of that debt while GPA agreed to forgive the remainder of the debt consisting of penalties on unpaid power billings.
4. Between Jan. 1987 and March 1987, GPA and Governor Joseph Ada negotiated an agreement through and by which the Government of Guam would pay a portion of the billings and penalties while GPA would forego and forgive a substantial portion of the penalties. All totalled, GPA forgave approximately \$5.8 Million in penalties while Governor Ada agreed to pay on a monthly basis the difference between the forgiven amount and the total billings plus penalties. These agreements and subsequent promissory notes signed by Governor Ada were consummated despite the existence and enactment of Public Law 18-48 containing the appropriations for the total debt.

My questions and request, then, and in consideration of the aforementioned, are:

1. Does the Governor of Guam have the authority to procure a "loan" and execute a promissory note in behalf of the Government of Guam, absent specific statutory authorization and absent a debt service which specifically authorized for the liquidation of such promissory note?

Francisco R. Santos

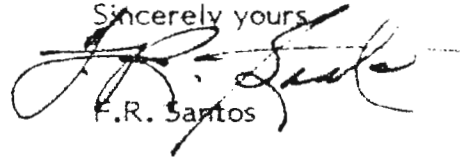
2. Does the Guam Power Authority have the legal authority to grant a "loan" from its revenue sources and funds absent specific statutory authorization for the granting and acceptance of such note and absent any debt service funding source specifically identified by statute?

3. Does the Governor of Guam have the legal authority to bind the Guam Legislature, through a promissory note, to future appropriations absent specific statutory authorization to such effect?

4. Does the Guam Power Authority have the legal authority to grant and accept a promissory note or loan absent any specific security or collateral which would act as protection for such promissory note? If the Guam Legislature cannot be bound to appropriate for the promissory note than such note must be considered as unsecured.

Because your answers to these questions will be crucial in deliberations on a bill which calls for the appropriation of funds to pay to GPA those penalties which the Authority unilaterally elected to forgive, the legal opinion herein requested is of vital importance. Your expeditious handling of this matter would be greatly appreciated as the issue of the \$5.8 Million in penalties will be discussed at the next session of the Guam Legislature.

Sincerely yours



F.R. Santos

cc: Governor of Guam
Public Utilities Commission
Guam Power Authority

LESLIE A. LUMMIS
PO Box 7661, Tamuning,
Guam, USA, 96911
Ph:(671) 646-8632

Public Hearing,
Re: GPA 5% Rate Rollback,
Appropriating \$5.7 million,
to offset GovGuam penalties.

Sep 19, 1988

This is to advise that your respondent is Leslie A. Lummis; that he is a senior citizen who resides at Guma Trankilidat, a CHURA subdivision located on San Vitorres Rd in Tamon.

THE BASIC ISSUE

The issue is simple but the implications are pervasive and can effect many of Guam's population. As a general rule personal and corporate financial statements are required to arrive at logical conclusions on any subject. This is true whether the subject concerns rate increases, rate roll-backs, assessment of penalties, or roll-back of penalties.

One very important item in such statements is "CASH ON HAND", or "CASH BALANCE FORWARD". Usually such an important entry is included in a break-down of "CURRENT ASSETS", but its always there. As evidence I hold aloft the latest PUAG financial statement. The very first item under Current Assets is "CASH ON HAND AND IN BANKS". The GTA have shown me their statement and it too shows "CASH ON HAND" as the very first item, under current assets.

This informations is required of those applying for public housing under section 8, and those applying for foodstamps. Photocopy proof and independent verification are also required. How else can public agencies determine the level of eligibility?

Why should the GPA be given favorable treatment on any subject when they operate with sub-standard accounting procedures? Why should the rules be different for GPA than for other utility companies?

I have in past months challenged the Inspector General, the Guam Chamber of Commerce, the Public Utility Commission, and the GPA Board of Directors on this subject to no avail. The PUC holds its hearings, they just sit there, they listen, but they don't ask my questions. The members of the PUC, with access to private information simply ignore those who testify before it.

When I showed Sen Parkinson that "Cash on Hand" was non-existent, and was apparently buried under "Cash Funds Identified for special purposes", he declared "I DON'T CARE ABOUT THAT LIES". Current GPA statements produced by Sen Parkinson show that "Cash on Hand" is still buried in GPA statements!

EXHIBIT F

and respondent therefore represents the interests of those who are dependent on subsidized housing and food stamps, and government agencies, which in one way or another subsidize those who can't help themselves.

It is likewise expected that public agencies will include such an important entry in their financial statements, whether applying for an increase in rates or not.

You will note that this important entry has been omitted from GPA financial statements, as audited by Touche Ross, for at least two years past. Your respondent has never seen or heard of financial statements which omit this important entry. In fact when challenged on this issue by your respondent at the last meeting of the Chamber of Commerce, no-one volunteered, absolutely no-one raised his hand to confirm the omission of "Cash on Hand" from their financial statements.

Your respondent stated then, and declares again today, that "Financial Balance Sheets" or annual statements which omit "Cash on Hand" are basically defective, that such statements should not be used in an application for credit or increase in rates. Would your banker approve loans on such a statement. Absolutely not! You don't believe it, ask him!

When such an important item is omitted from a financial statement one begins to wonder, "What are they hiding? if there is nothing to hide, why was it omitted?"

When this issue was first raised several weeks ago your respondent went to the Inspector General's office and spoke to the director, Mr. Gilenty. When asked if he had ever heard of a financial statement which omitted "Cash on Hand", or "Cash Balance Forward", he replied "Never". He had never heard of such a statement. When asked if he knew of any federal regulation, which would permit the omission of such an entry, he replied "No". He had never heard of any.

Those whose utility bills for power and light are subject to an increase in rates may be subject to proportionate cuts in their food stamp allowance. The same may also be true with section 8 subsidized housing. The possibility of such repercussions from any increase in rates, while vague, could be substantial for many of Guam's less fortunate families, to say nothing of government agencies themselves.

If we as individuals are required to furnish government agencies with "Cash on Hand" information to determine eligibility, then I would surely wish that government agencies should do likewise, when they are applying for increased rates.

Now, as for this current proposed bill. We feel that the 5% roll-back in power rates should be made on the basis that the GPA Annual Statement is sub-standard, defective, in that it omits "CASH ON HAND" or "Cash Balance forward"; that the subject should not be further discussed until GPA issues its annual statement, as of Sep 30, 1988, just two weeks hence; that at that time it may be reconsidered provided that GPA corrects the accounting deficiencies referred to above.

As for the proposed appropriation of \$5.7 million from the General Fund to compensate GPA for penalties previously forgiven, I suggest we "Let sleeping dogs lie". Let's not compound the problem. It's already complicated enough. If the Navy owes \$3 million for past power bills and refuses to pay, "Cut them off"! However, let's be fair about it. Charge interest, as with GovGuam, but don't expect them to pay penalties. After all, this is but a small island and we must live together in peace.

I would like to see GPA accumulate capital for a new power plant, so that we may eventually free ourselves from the Navy Power Pool Agreement. From personal experience I know that where power is concerned you should have a 100% backup facility. But raising the capital for such a "back-up" facility should be done in public view, legally through an approved plan, approved by the Board of Directors, not through deceptive accounting procedures.

I believe that GPA Accounting is perhaps hopelessly muddled; that a separate Holding Company should be created for holding Plant and Transmission Lines; and leased to GPA for Maintenance & Operations! The Holding Company would be more creditworthy, its accounting simpler permitting additional Plant & Transmission Lines to be funded in the future.

Thank you for listening to our testimony.

Leslie A. Lammis



Introduced

FEB 11 '88

NINETEENTH GUAM LEGISLATURE
1988 (SECOND) Regular Session

Bill No. 139 (COR)

Introduced by:

D. Parkinson

① Joe Sa Ah
 ② [Signature]
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AN ACT TO APPROPRIATE ONE MILLION ONE HUNDRED SIXTEEN THOUSAND, SIX HUNDRED THIRTY-FIVE DOLLARS (\$1,116,635.00) FROM THE GENERAL FUND FOR THE PURPOSE OF FUNDING A FOUR HUNDRED NINETEEN DOLLARS (\$419.00) LUMP SUM COST OF LIVING ALLOWANCE FOR GOVERNMENT OF GUAM RETIREES OR THEIR SURVIVORS FOR FISCAL YEAR 1989 ONLY.

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

Section 1. The sum of One Million One Hundred Sixteen Thousand, Six Hundred Thirty-Five Dollars (\$1,116,635.00) is appropriated from the General Fund to the Government of Guam Retirement Fund for the purpose of funding a Four Hundred Nineteen Dollars (\$419.00) lump sum Cost of Living Allowance for Government of Guam Retirees or their Survivors for Fiscal Year 1989 only.