

1 **D GRAHAM BOTHA, ESQ.**
2 **Legal Counsel**
3 **Guam Power Authority**
4 **1911 Route 16, Suite 227**
5 **Harmon, Guam 96913**
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8 **BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

9 IN THE MATTER OF:

10 GPA PROPERTY INSURANCE

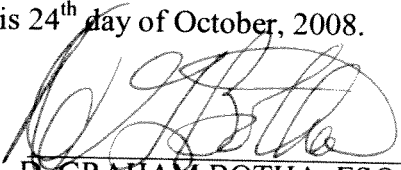
11 PROCUREMENT

)
) **DOCKET NO. 02-04**
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) **FILING OF GPA DOCUMENTS FOR**
) **PROPERTY INSURANCE**
) **PROCUREMENT APPROVAL**
) **PURSUANT TO ALJ ORDER**
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15 **COMES NOW**, the GUAM POWER AUTHORITY (GPA), by and through its counsel
16 of record, D. GRAHAM BOTHA, ESQ., and hereby submits GPA's filing of documents
17 pursuant to the contract review protocol, as set forth in the ALJ Order of May 30, 2008. The
18 GPA multi-step procurement for property insurance was conducted in accordance with 2 GAR
19 §3109 and is in compliance with Guam law. The basis for the use of a multi-step bid was so that
20 GPA could evaluate the sample insurance policies with exclusions, deductibles etc. submitted by
21 the bidders and evaluate these technical proposals with the assistance of the GPA risk
22 management consultant, to insure that GPA had appropriate coverage for insurance risks.

23 **RESPECTFULLY SUBMITTED** this 24th day of October, 2008.

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26 **D. GRAHAM BOTHA, ESQ.**
27 **GPA Legal Counsel**
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COPY



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUAHAN
P.O. BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

Tel: (671) 648-3225; Fax: (671) 648-3290

October 22, 2008

David A. Mair, Esq. ALJ
The Guam Public Utilities Commission
Suite 207, GCIC Building
Hagatna, Guam 96932

Re: Property Insurance Opinion Letter (PUC May 30, 2008 Order, Docket 02-04)

Dear Mr. Mair,

The Public Utilities Commission by order dated May 30, 2008 approved GPA's petition for authorization to procure property and casualty insurance subject to the conditions that GPA shall submit for ALJ review and approval prior to entering into the contract: a) evidence, which establishes the prudence of its evaluation of the overall economic results of the selected and rejected bids; and b) an opinion of counsel that the procurement mode, which GPA has selected for the transaction is in compliance with Guam law.

GPA selected a multi-step bid as the procurement method for the property insurance, instead of a competitive sealed bid. 2 GAR §3109(r)(1) provides that multi-step bids are designed to obtain the benefits of competitive sealed bidding ... and at the same time obtain the benefits of the competitive sealed proposals procedure through the solicitation of technical offers. The GPA multi-step procurement for property insurance was conducted in accordance with 2 GAR §3109 and is in compliance with Guam law. The basis for the use of a multi-step bid was so that GPA could evaluate the sample insurance policies with exclusions, deductibles etc. submitted by the bidders and evaluate these technical proposals with the assistance of the GPA risk management consultant, to insure that GPA had appropriate coverage for insurance risks.

The property insurance procurement was conducted as a multi-step procurement in accordance with the procedures provided for in 2 GAR §3109(r) and is in compliance with Guam procurement law.

Sincerely,

D. GRAHAM BOTHA, Esq.
Legal Counsel, Guam Power Authority

Cc: Bill Blair, Esq.
Fred Horecky, Esq.



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUAHAN
P.O. BOX 2977 HAGATNA, GUAM U.S.A. 96932-2977

October 22, 2008

Mr. David Mair, Esq.
Administrative Law Judge
Guam Public Utilities Commission
Suite 207, GCIC Building
414 West Soledad Avenue
Hagatna, Guam 96910

Subject: Docket 94-04 Contract Review Protocol
RE: Request for Property Insurance Approval

Dear Mr. Mair:

In the Order issued by the Public Utilities Commission (PUC) under docket No. 02-04 dated May 30, 2008, the Guam Power Authority (GPA) was required to obtain final approval from the Administrative Law Judge (ALJ) prior to entering into a contract for property insurance.

When GPA submitted its petition and draft bid documents for its procurement of property insurance, the documents indicated there were a number of factors that would be considered in the determination of the winning bidder including of which price was one factor.

Because price was not the sole factor, the ALJ wanted to review the final evaluation methodology to ensure that ratepayer interests were protected and that GPA did not enter into a bid that was substantially higher than the low bid.

After receiving approval from the PUC to initiate the procurement, GPA modified the selection method from a competitive sealed bid to a multi-step bid. GPA issued the Multi-step Bid Solicitation July 15, 2008. GPA held a pre-bid conference in which two vendors were in attendance. This was an improvement over the prior bid for property insurance in which only a single bid was received. GPA has not been able to broaden its base of interest bidders for property insurance due to the legal restrictions that the winning bidder be licensed to conduct insurance business on Guam.

One of the bidders requested the due date be extended to August 22, 2008. In order to maximize competition, GPA accommodated the request. GPA received Phase I bid materials on September 26, 2008. GPA extended the Phase II bid deadline multiple times

in order to ensure that one bidder who had been deemed to be potentially acceptable submitted sufficient additional information to be deemed acceptable. The final due date for the Phase II final bid submission was set at October 6, 2008 at 2:00 pm.

Unfortunately, one of the vendors arrived at GPA offices after 2:00 pm. In accordance with the strict prohibition of acceptance of late bids under Guam Procurement Regulations 2 GAR Division 4 Section 3109(k), GPA was unable to accept the late bid. Therefore, GPA was left with a single bidder and issued a conditional notice of award to that single bidder.

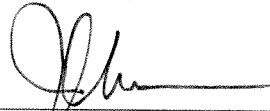
GPA took all steps necessary in order to attract the maximum number of bids for this procurement. However, despite the efforts made by the Authority to maximize competition, GPA believes the fact that the Authority was left with a single viable bidder, the requirement for the final review of the ALJ has been made essentially moot. Also attached is an opinion of counsel that the method of procurement was legal.

One of GPA's bond indenture requirements is to keep adequate insurance in effect at all times. Therefore, GPA does not believe there is any other viable option other than to accept the bid that was submitted on a timely basis.

Therefore, GPA is requesting your authorization to proceed with the award of the property insurance contract to A.M Insurance.

Thank you for your consideration of this matter.

Yours truly,



JOAQUIN C. FLORES, P.E.
General Manager

Guam Power Authority

Insurance Coverage Analysis

Exhibit A

Coverage Type	FY06-07	FY07-08	FY08-09
Property, Boiler & Machinery, Terrorism	6,414,520	5,553,600	5,237,363
General Liability, Auto Liability, Auto Physical Damage	453,900	453,900	197,992
Excess Workers Compensation	24,581	24,581	22,000
Crime	75,790	71,240	50,000
Directors and Officers Liability	50,752	49,920	85,000
Excess Liability	519,792	493,151	306,000

Note 1 - D&O Increased from 10 mill to 25 mill in FY08

Note 2 - Excess Liability is broken into two layers for FY08-09

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CONSOLIDATED COMMISSION ON UTILITIES

RESOLUTION NO. 27-2008

AUTHORIZING THE MANAGEMENT OF THE GUAM POWER

AUTHORITY TO ENTER INTO A CONTRACT FOR PROPERTY INSURANCE

WHEREAS, in order to assure adequate protection of Guam Power Authority assets, GPA has initiated a risk management program within which insurance policies have been purchased from time to time; and

WHEREAS, Section 6.13 of the Guam Power Authority's bond indenture agreement requires that GPA maintain appropriate insurance coverage in order to protect bondholder interests; and

WHEREAS, GPA property insurance coverage is due to expire on November 1, 2008; and

WHEREAS, GPA has issued a bid solicitation for property insurance in order to attract the lowest cost coverage for the utility; and

WHEREAS, the insurance coverage sought in the bid was for Property, Terrorism, and Boiler & Machinery coverage; and

WHEREAS, the insurance coverage was sought for a three year term plus two (2) one year options to extend at the mutual agreement of both parties; and

WHEREAS, the bid included a condition that the insurance rate bid could not increase by more than 10% over the life of the policy; and

WHEREAS, GPA received one timely bid for insurance coverage from GPA's incumbent insurance provider; and

WHEREAS, the bid was submitted by A.M. Insurance using policies underwritten by Dongbu Insurance Corporation with Moylan's Insurance Company at the General Agent and by Lloyds of London; and

WHEREAS, the price of the insurance policy provided is \$5.3 million which is a decrease from \$5.5 million for the year ending November 1, 2008 and \$6.3 million for the year ending November 1, 2007.

NOW THEREFORE BE IT RESOLVED, by the Consolidated Commission on Utilities, as follows:

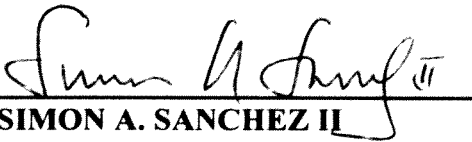
- 1 1. The General Manager is authorized to enter into a contract for property insurance
2 coverage at an approximate cost of \$5.3 million per annum for a period of three years
3 subject to annual renewals.
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5 2. The General Manager of the Guam Power Authority is hereby authorized to enter into
6 a short term financing agreement in order to pay the premium amounts in installment
7 payments.
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10 **RESOLVED**, that the Chairman certifies and the Secretary attests to the adoption of this
11 Resolution.
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15 **DULY AND REGULARLY ADOPTED** this 21st day of October, 2008.
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17 **Certified by:**

Attested by:

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23 **SIMON A. SANCHEZ II**
24 Chairperson

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29 **GLORIA B. NELSON**
30 Secretary

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SECRETARY'S CERTIFICATE

I, **GLORIA B. NELSON**, Secretary, Consolidated Commission on Utilities hereby
certify as follows:

The foregoing is a full, true and correct copy of a resolution duly adopted via a regular
meeting of the members of Guam's Consolidated Commission on Utilities, for which all
members were notified of the time and place of the meeting.

Via said resolution was adopted by the following vote:

Ayes: 5

Noes: 0

Absent: 0

Said original resolution has not been amended, modified, or rescinded since the date of its
adoption, and the same is now in full force and effect.

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SO CERTIFIED this 21st day of October, 2008.



Gloria B. Nelson
GLORIA B. NELSON
Secretary, Consolidated Commission on Utilities

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

GUAM POWER AUTHORITY
REGULATORY REVIEW

DOCKET 02-4



ORDER

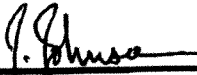
The Guam Public Utilities Commission [PUC] having reviewed the report of its administrative law judge [ALJ] dated May 27, 2008, including the reports and documents referenced therein, for good cause shown and on motion duly made, seconded and carried by the unanimous vote of the undersigned commissioners **HEREBY ORDERS THAT:**

1. The joint petition of Guam Power Authority [GPA] and Guam Waterworks Authority for approval of the scope and focus of a focused management audit of their operations is granted subject to the following conditions: a) ALJ is authorized to consider and rule on Georgetown's recommendation that the audit examine issues related to GPA's compensation program under Public Laws 28-159 and 29-113; and b) the detailed work-scope, which the auditor is expected to propose, shall be subject to ALJ's approval prior to the execution of the audit contract.
2. GPA's May 19, 2008 emergency petition under its LEAC tariff Z for an emergency increase in the LEAC factor due to surging fuel costs is granted provided that the new factor shall be \$0.17044/kWh. A new LEAC factor for the period September 2008 – January 2009 will be established during the September regulatory session.
3. GPA's May 27, 2008 letter request that PUC authorize it to increase its statutory credit facility ceiling by \$15 million dollars to cover fuel expenses [12 GCA § 8122(b)] is granted.
4. GPA's May 27, 2008 letter request for authority to use \$400,000 for work related to an integrated resource planning wind study is granted. GPA may in its June 2008 LEAC filing petition PUC for authorization to reimburse its excess bond funds reserve for this amount as an authorized LEAC expense.
5. GPA's petitions for authorization to proceed with its Shell storage contract and the Agana-Tamuning underground project are approved. GPA's petition for authorization to procure property and casualty insurance is approved subject to the conditions that GPA shall submit for ALJ review and approval prior to entering into the contract: a) evidence, which

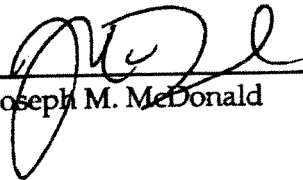
establishes the prudence of its evaluation of the overall economic results of the selected and rejected bids; and b) an opinion of counsel that the procurement mode, which GPA has selected for the transaction is in compliance with Guam law.

6. ALJ is authorized and directed to commence regulatory proceedings, which will lead to PUC's establishment of net metering rates pursuant to 5 GCA § 8506 during the September 2008 regulatory session and to PUC's consideration of GPA's alternative energy plan, as required by 12 GCA § 12028. PUC shall initiate the rate proceedings on net metering on its own initiative, given the urgency expressed in Public Law 29-62.

Dated this 30th day of May 2008.



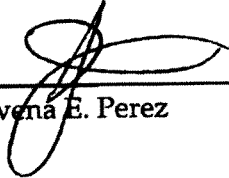
Jeffrey C. Johnson



Joseph M. McDonald



Filomena M. Cantoria



Rowena E. Perez