



CONSOLIDATED COMMISSION ON UTILITIES

Guam Power Authority • Guam Waterworks Authority
P.O. BOX 2977 • Agana, Guam 96932

**GUAM POWER AUTHORITY
REGULAR BOARD MEETING
GPA Board Conference Room
5:00 p.m., November 24, 2008**

MINUTES

I. CALL TO ORDER

The Chairman called the regular meeting of the Consolidated Commission on Utilities to order at 5:15 p.m. He announced that 4 Commissioners were present; Comm. Hara was enroute. He welcomed Comm.-elect Joey Duenas to his first GPA meeting.

Commissioners:

Simon Sanchez	Chairman
Benigno Palomo	Vice Chair, GPA
Eloy Hara	Vice Chair, GWA (Tardy)
Gloria Nelson	Secretary
J. Margaret Blas	Member
Joseph (Joey) Duenas	Comm.-Elect

Executive Mgmt:

John Benavente	GMCUS
Kin Flores	GPAGM
Danny Santos	AGMCA
Randy Wiegand	GPA-CFO
Atty. Anthony Camacho	Staff Atty., GPA
Andy Balajadia	AGMO. GPA

Management & Staff:

Art Perez	Communication Manager / Public Information Office
Tom Borja	Facilities Manager / Facilities
Julie Quinata	Personnel Services Administrator / Human Resources
Herb Pinuala	Manager of Fleet Services / Transportation
Ron Okada	T&D Manager / GPA
Jamie Pangelinan	Supply Mgmt. Administrator / Procurement
M. Angela Quinto	Internal Auditor / Internal Audit
Joseph Manibusan	Manager of Generation (A) / GPA
Simon Camacho	Asst. Mgr., T&D / GPA
Lenora Sanz	Controller / Finance
Cora Montellano	Asst. Chief Financial Officer / Finance
John Cruz, Jr.	SPORD Mgr. / GPA
Melinda Camacho	Manager of Engineering / GPA

Guests:

II. **APPROVAL OF MINUTES**

The Minutes of August 26, 2008 was presented for approval.

Comm. Palomo motioned to approve the Minutes subject to verification and written correction; Comm. Nelson seconded. There was no discussion or objection and the motion carried.

The meeting moved to New Business section of the Agenda.

III. **GM (CUS) REPORT- None**

IV. **GM (GPA) REPORT – This section was not discussed.**

1. **System Update**
2. **Government Receivables**
3. **Operations Dept. Reports**
4. **System Losses**
5. **Fuel Inventory Update**

V. **COMMUNICATIONS**

1. **Public Comments (2 min. per person)**

VI. **LEGAL COUNSEL- None**

VII. **NEW BUSINESS**

1. **Resolution 2008-31: Authorizing 3rd Extension of Cabras 1&2 PMC Contract**

Management asked the Commission to approve Resolution 2008-31. It authorizes the 3rd extension for the Performance Mgmt. Contract (PMC) for Cabras 1&2 with Taiwan Electrical & Mechanical Engineering Services (TEMES). GPA and TEMES already exercised (2) 6-month extensions by mutual agreement under the provisions of the existing contract ending June 30, 2008 and December 31, 2008 respectively. TEMES participated in a bid and was issued the Intent to Award by GPA but based on the findings and recommendations issued by the OPA GPA had to cancel the Intent to Award. The Bid was protested by another bidder.

Meanwhile, Cabras 1&2 is undergoing a major overhaul and rather than take it over GPA management would like TEMES to continue the work until it is completed. TEMES has had the PMC for Cabras 1&2 for the last 6 years. This resolution authorizes the 3rd extension in the original TEMES / GPA PMC contract. It requests that the PMC continue until June 2009. The new extension PMC extension is estimated to cost about \$1Million in management fees and \$700k in plant operations / maintenance costs and exceeded the GM's obligatory cap – thus the request for CCU approval. Legal Counsel opined that management can extend the existing contract despite the ongoing protest.

Comm. Palomo motioned to approve Resolution 2008-31; Comm. Nelson seconded.

In discussion it was mentioned that O&M, an organization from Spain, protested because they felt that the net present value of their bid was lower. GPA felt that the lump sum payment arrangement specified in their bid was not fixed. TEMES's offer was higher but fixed; the other bid was less but subject to change and GPA didn't agree. The OPA did not agree with GPA's findings and ruled that GPA issue a re-bid. The latter is expected to be completed in March 2009. Comm. Palomo recommended that the total contract amount of \$1.7Million be inserted in the resolved section, line 12, page 2 after the word "plants". It was also mentioned that it took OPA a year to rule on the procurement protest.

On the motion, there was no further discussion or objection and the resolution was approved as amended.

2. **Resolution 2008-32: Relative to Amending Procurement Law Concerning Automatic Stays**

Management presented Resolution 2008-32 for CCU approval. It involves amending the procurement law concerning automatic stays. Legal Counsel Camacho explained that the way the procurement law and regulation is structured when an automatic stay is filed the procurement cannot move forward. There is a procedure that allows proceeding with the procurement despite a protest if the Chief Procurement Officer or the Director of Public Works (for construction contracts) with the concurrence of the agency and the Attorney General agree that proceeding with the procurement despite the protest is in Guam's best interest. This would add a section to that procedure that states that the CCU would make that determination instead of the Chief Procurement Officer and the Attorney General. The protestor would have a 2-day period to appeal.

Legal Counsel states that where automatic stays hurt GPA the most is when a project has specific timelines or when federal funds or regulatory requirements are jeopardized by the lengthy resolution of the procurement process. A draft bill was presented for review. It was mentioned that it would be good to get a Senator to sponsor the bill.

Comm. Nelson motioned to approve Resolution 2008-32; Comm. Blas seconded. There was no further discussion or objection and the motion passed unanimously.

At this time, the Chairman asked for a break to recognize Comm. Blas who lost her seat in the November General Election. The CCU presented Resolution 2008-30 commemorating Comm. Blas for her dedication and service to the Commission and to the people of Guam.

Comm. Nelson read the resolution in its entirety; Along with the resolution, Comm. Blas was also presented a plaque. She thanked the Commission and everyone present for such an honor. Photos were taken and the regular meeting continued thereafter.

Comm. Nelson motioned to approve Resolution 2008-30 as presented and read; Comm. Palomo seconded. There was no objection and the resolution passed unanimously.

3. Resolution 2008-33: Authorizing Short-term Financing for Cabras 3&4

AGMO Andy Balajadia presented Resolution 2008-33 for approval. The resolution allows Doosan to fund projects at Cabras 3&4 for FY2009. If approved, Doosan will perform various maintenance repairs and upgrade projects (PIP's & CIP's) which will improve efficiencies at the plant. The repayment will come from GPA's approved / budgeted CIP funds.

In discussion it was mentioned to amend resolved section #1 – adding the amount of \$1.658Million plus 5.5% interest for 18 months after the phrase “Deferred Payment Arrangement with Doosan” and a second amendment adding a resolved section #2 listing the various projects found on the attachment.

Comm. Blas motioned to approve Resolution 2008-33 as amended; Comm. Nelson seconded. There was no further discussion or objection and the motion carried.

4. Resolution 2008-34: Authorizing Short-term Financing for Cabras 1&2

The AGMO also presented Resolution 2008-34 for CCU approval. He named the 3 projects that TEMES will fund. The project amount is \$3.234Million and exceeds the GM's obligatory cap.

In discussion it was mentioned to amend the resolved section #1 by adding the amount of \$3.234Million at 5% for 18-months and a second amendment adding a section #2 listing the 3 specific projects listed on the attachment. A further amendment to the 3rd Whereas, line 19 relative to the dates January 1, 2008 and December 31, 2008

Comm. Blas motioned to approve Resolution 2008-34 as amended; Comm. Nelson seconded. There was no further discussion or objection and the motion carried.

There was discussion on other generator units around the island that are in derelict condition. Management said due to lack of funds these generators are semi-moth balled or placed on reserve status. All resources are focused on the baseloads and as soon as funds become available, these smaller units will be maintained and put on reserve status. Mr. Palomo expressed his concern that if they continue to be neglected the way they have been, they will further deteriorate

5. Resolution 2008-36: Investment Agreement for 1999 Series A Bond Construction Fund

The CFO explained that under GPA's hedge agreements, GPA is required to put up cash or a stand by letter of credit in the event that the market price of fuel drops below the floor price of GPA's hedge programs. The oil markets have collapsed GPA is 50%\$ hedged meaning that 50% of the benefit of the reduction in fuel costs would be passed on to ratepayers the other 50% GPA is obligated to pay at the higher hedge prices. GPA receives default notices daily from one of GPA's hedger provider noting great concern that GPA ability to pay this obligation in the future. GPA is not concerned because in 2000 PUC agreed to include any differentials / losses into the LEAC recovery system. However British Petroleum has been demanding cash every week to build up towards the amount owed – almost \$30Million at this time. This has impacted GPA's ability to meet its ongoing obligations.

To help alleviate this issue, the CFO thought about an investment agreement where money is taken from the construction fund where he believes \$14Million can safely be removed without hindering operations and it would be invested in the hedge provider's escrow account. It would still be GPA's funds but it would be available for them to draw in the event that GPA is not able to settle a hedge contract when it comes due. There are still some details that need to be resolved with GPA's bond counsel before this matter can be resolved in this way.

The hedge provider has the authority to break their contracts and can immediately make a demand for the total amount due which is a cause for alarm for GPA because it cannot afford to pay everything at once. GPA needs to take some action to satisfy their rights under the hedge contract. Management is proposing to enter into an investment agreement to take \$14Million from the Construction Fund for 11 months and afterward the funds are paid back to the Construction Fund with interest that has accumulated on the account.

As GPA bills customers for fuel under the LEAC through Sept. 30th, there will be funds built into the LEAC to enable GPA to recover at the hedge floor price. GPA will be able to recapture the money thru the LEAC over time. The Chairman asked if LEAC will still be able to be lowered with this scenario and the CFO confirmed yes he thinks it can still be lowered. The CFO reiterated that there are still some issues to work out re Bond Indenture requires that GPA get something in writing from Standard & Poors stating that this would not affect / impair GPA's credit rating. He also needs to go over some details with AMBAC. The GM assured the Commissioners that just by the nature of the transaction LEAC is structured to pay these hedge differentials.

The GM said that management has several scenarios that may help alleviate this issue 1) the construction investment that the CFO described as the cheapest route 2) the stand-by LC but banks are not interested 3) GPA will continue to work with British Petroleum to solve the issue by taking the hedge contract and changing it to a physical contract. Management will keep the balls juggling until a settlement is reached.

Comm. Nelson was concerned about the Investment Agreement and asked Legal Counsel if the document is legal as to content. Legal Council Camacho confirmed that the document is a draft; the CCU could require that management come back to the Commission for review and final approval. Without the document, Legal Counsel said management cannot act.

Comm. Palomo motioned to approve Resolution 2008-36. Comm. Nelson seconded. There was no further discussion or objection and the motion passed.

The Commissioners told management to update the Commission on this matter once negotiations are complete especially if there was any material difference relative to the investment agreement document.

6. Financial Statements / Year End Summary

The CFO reported year end highlights. Sales remained flat – very little change. Growth in receivables was slow; cash is tight and inventories are low. Less than 60% of the CIP budget was spent as a result of cash issues. The carry cost of inventory has put pressure on cash flow. He said the most significant thing that took place this year is that PUC has moved the carrying cost of inventory into the LEAC and considered it fuel related cost. The past 4 years, this growth has been causing a dent in cash flow and now this will improve this year and next. GPA's net income is \$13.31Million due to GovGuam's payment of the streetlight bill. As of 9/30, the LEAC shows an over recovery.

VIII. OLD BUSINESS

1. Resolution 2008-35: Commercial Paper Loan to AMBAC

The GM explained that GPA has a working capital line of credit with Cathay Bank that is insured by AMBAC. In that indenture with Cathay Bank, AMBAC was required to maintain an AA investment rating by S&P and Moody's. They have recently lost their credit rating and are no longer AA. This has caused a technical default in GPA's indenture. Cathay has issued GPA a technical notice of default and GPA must respond immediately otherwise they will exercise their right to draw on the insurance policy that AMBAC has guaranteed. There are 2 problems: GPA's credit rating may be at jeopardy with the credit rating agencies 2) AMBAC must be paid back immediately. The bottom line is that \$20Million will become due immediately if GPA does not act immediately. This resolution will allow GPA to borrow \$15Million for 5 years. Cathay already has \$5Million of GPA's money to begin pay down of this loan.

AMBAC has offered GPA a short term loan to pay off Cathay (to get them out of the agreement) and then deal directly with AMBAC. Cathay gave GPA 3 weeks to finalize the deal with AMBAC. It was discussed that the repayment of this proposed loan would be from base rates.

There was discussion about using the payments from GPSS and GWA to repay this loan. The GM said that management needs latitude to manage the funds that come into GPA and does not want to have to start putting money into separate restricted accounts.

Comm. Blas motioned to approve Resolution 2008-35. Comm. Palomo seconded. There was no further discussion or objection and the motion passed.

2. Fuel Contract Amendments

This item was not discussed.

IX. **ANNOUNCEMENTS**

1. **Next CCU Meeting**

The Chairman announced that the next CCU meeting will be on 12/9/08 for both GPA and GWA.

X. **ADJOURNMENT**


There was no further business to bring before the Commission and the meeting adjourned at 7:50 p.m.

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Attested:


SIMON A. SANCHEZ II, Chairman


GLORIA B. NELSON, Secretary