

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF GUAM

GUAM POWER AUTHORITY  
CABRAS 1 & 2 PERFORMANCE  
MANAGEMENT CONTRACT  
REVIEW

DOCKET 02-04



ORDER

This Order considers proceedings, which were commenced in February 2000 to require Guam Power Authority to retain qualified performance management to efficiently operate its Cabras baseload plants. The Commission has found that GPA's failure to prudently manage these plants has caused tens of millions of dollars in unreasonable fuel expenses, which GPA ratepayers have been required to cover.<sup>1</sup> As GPA is a public utility, the Commission is unable to redirect the economic risk of these unreasonable expenses to shareholders. Accordingly, the Commission concluded that it must be proactive in protecting GPA ratepayers from the risk of unreasonable fuel expenses through the employment of outside management for the Cabras baseload plants.

Proceedings in this docket have been unnecessarily protracted, expensive and complicated by multiple GPA procurement exercises and by GPA's defiance of a stipulated regulatory review process, for which it sought no appropriate relief. Notwithstanding repeated warning,<sup>2</sup> GPA has unreasonably refused to pay Commission regulatory fees in this docket, which have been incurred since March 2002. Nevertheless, Commission staff, in the interest of GPA ratepayers, has continued to provide uncompensated regulatory service in this docket toward the goal of retaining qualified performance management for the Cabras baseload plants.

Under a regulatory protocol established by the Commission's administrative law judge's [ALJ] letter dated September 25, 2002, GPA filed for regulatory review in early December a performance management contract [PMC] for Cabras plants 1 & 2. At a public hearing held on December 12, 2002, the Commission considered the PMC and the positions of GPA and Georgetown Consulting Group [GCG]. At ALJ's directive, GPA and GCG met in post-hearing conference on December 13, 2002. As a result of that conference, GPA and GCG have by stipulation [Attachment A] recommended that the Commission approve the contract subject to condition.

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<sup>1</sup> See Commission orders dated February 25, 2000 [Docket 99-12]; November 17, 2000 [Docket 99-12]; March 6, 2001 [Docket 99-12]; December 12, 2001 [Docket 01-01]; and September 23, 2002 [Docket 02-04].

<sup>2</sup> See ALJ letters dated July 11, 2002, August 23, 2002 and September 25, 2002 and Commission Order dated September 23, 2002 [Docket 02-04].

After carefully considering the record in this docket, the positions of GPA and GCG and after consultation with its ALJ at a special meeting, upon emergency certification, held at noon on December 16, 2002 and for good cause shown, the Commission on motion duly made, seconded and carried by four Commissioners

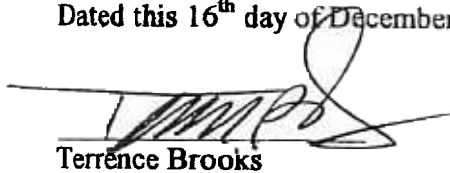
**HEREBY FINDS AND ORDERS THAT:**

The PMC, in form filed with the Commission on December 12, 2002, is approved pursuant to 12 GCA 12004, subject to the fulfillment of the following conditions:

- a. The PMC must be amended by GPA and TEMES, in form satisfactory to ALJ by written certification, as follows:
    1. GPA shall have the right and TEMES shall have the contractual duty to negotiate in good faith amendments to the key performance indicators applicable to the third year of the PMC. Any such negotiations shall commence not later than 180 days in advance of the commencement of the third year. It is understood that any such amendments may include reasonable adjustments to TEMES' compensation under the PMC.
    2. PMC section 14 shall provide that nothing contained therein shall prohibit TEMES, under either subpoena or voluntary appearance at a Commission public hearing, from testifying and providing documents regarding its performance under the PMC.
    3. PMC section 29.3 shall provide that any material amendment to the agreement shall require the Commission's prior approval. Any issue as to the materiality of an amendment shall be adjudged by ALJ.
  - b. GPA must comply with the Commission's December 17, 1999 Administrative Order [*payment of regulatory fees*] by bringing its regulatory account in this docket current through September 2002.
2. Procurements under the PMC shall be subject to the Commission's February 25, 2002 order in Docket 00-04 [*contract review protocol*]. GPA shall not authorize TEMES to proceed with any procurement, which under this Order requires prior Commission review, without first having obtained such regulatory approval. With regard to this subject, the ALJ shall report at the March 2003 regulatory session the status of GPA's compliance with the Commission's February 25, 2002 order, which contains ongoing compliance requirements.

3. ALJ is authorized and directed to conduct regulatory proceedings, which will lead to the proposal of a reporting protocol by which the Commission will be kept appropriately informed of activities and progress under the PMC to normalize the performance of the Cabras baseload plants 1 & 2. This protocol will be submitted for Commission review at the March 2003 regulatory session.

Dated this 16<sup>th</sup> day of December 2002.



Terrence Brooks



Joseph McDonald



Filomena Cantoria



Gerald Woo

  
Edward Crisostomo