



Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932
TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu

Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

DEC 01 2009

2009 DEC -2 PM 2:31 PM

The Honorable Judith T. Won Pat, Ed.D.
Speaker
Mina' Trenta Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Speaker Won Pat:

Transmitted herewith is Bill No. 175-30(COR) "AN ACT TO ADD NEW SUBSECTIONS (14) AND (15) TO §8104 OF CHAPTER 8; TO ADD SUBSECTIONS (n) AND (o) TO §14104 OF CHAPTER 14; AND TO AMEND §14104.1, AND §14404 OF CHAPTER 14, ALL OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO PERMITTING THE GUAM POWER AUTHORITY, AND THE GUAM WATERWORKS AUTHORITY TO ENTER INTO LONG TERM CONTRACTS" which I signed into law on November 27, 2009 as Public Law 30-66.

Sins eru yan Magåhet,

[Handwritten signature of Felix P. Camacho]

FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: copy of Bill

30-09-1417 20

[Handwritten signature and date 12/02/09]

6

# I MINA' TRENTA NA LIHESLATURAN GUÅHAN

2009 (FIRST) Regular Session

Date: Nov. 13, 2009

## VOTING SHEET

Bill No. 175-30 (COR)

Resolution No. \_\_\_\_\_

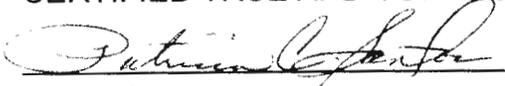
Question: \_\_\_\_\_

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.					EA
BLAS, Frank F., Jr.	✓				
CALVO, Edward J.B.	✓				
CRUZ, Benjamin J. F. /		✓			
ESPALDON, James V. //	✓				
GUTHERTZ, Judith Paulette		✓			
MUNA-BARNES, Tina Rose	✓				
PALACIOS, Adolpho Borja, Sr.	✓				
PANGELINAN, vicente (ben) cabrera		✓			
RECTOR, Matthew		✓			
RESPICIO, Rory J.	✓				
TAITAGUE, Telo	✓				
TENORIO, Ray	✓				
WON PAT, Judith T.	✓				

TOTAL

10    4    \_\_\_\_\_    \_\_\_\_\_    1

CERTIFIED TRUE AND CORRECT:

  
Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence



# Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
30<sup>th</sup> Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan

August 4, 2009

**The Honorable Judith T. Won Pat, Ed.D.**

Speaker

I Mina' Trenta Na Liheslaturan Guåhan

155 Hesler Place

Hagåtña, Guam 96910

**VIA: The Honorable Rory J. Respicio**

Chairperson, Committee on Rules

**RE: Committee Report – Substitute Bill No. 30-175 (COR)**

2009 AUG 10 AM 11:48 MSC

The Committee on Utilities, Transportation, Public Works, and Veterans Affairs, to which was referred **Bill No. 30-175 (COR)** – “An act to add subsections (14) and (15) to section 8104 of Chapter 8 of Title 12 of the Guam Code Annotated and to add subsections (n) and (o) to section 14104 of Chapter 14 of Title 12 of the Guam Code Annotated, and to amend subsection (c) of section 14104.1, and section 14404 of Chapter 12 of Title 12 of the Guam Code Annotated, relative to permitting the Guam Power Authority, and the Guam Waterworks Authority to enter into long term contracts,” hereby reports out with the recommendation **TO PASS** the bill as substituted.

Transmitted herewith for your consideration and action is our committee report on the above subject matter.

The voting record is as follows:

- 4   To Pass
- Not to Pass
- 3   To Report Out Only
- Abstain
- Inactive File

Copies of the Committee Report and other pertinent documents are attached. Thank you for your attention on this matter.

Si Yu'us Ma'ase

Thomas C. Ada

COR  
**RECEIVED**  
RJC 2/2009  
4:29 PM CAN



## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
30<sup>th</sup> Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan

August 3, 2009

### MEMORANDUM

To: Members, Committee on Utilities, Transportation, Public Works and Veterans Affairs

From: Chairperson, Committee on Utilities, Transportation, Public Works and Veterans Affairs

Subject: Voting Sheet for Substitute Bill No. 30-175 (LS)

Attached herewith for your information and voting is the Committee Report on:

**Substitute Bill No. 30-175** <sup>COR</sup> ~~(LS)~~ – T.C. Ada / F.B. Aguon, Jr. / F.F. Blas, Jr. / T.R. Muña Barnes

An act to add subsections (14) and (15) to section 8104 of Chapter 8 of Title 12, Guam Code Annotated, and to add subsections (n) and (o) to section 14104 of Chapter 14 of Title 12, Guam Code Annotated, and to amend subsection (c) of section 14104.1 and section 14404 of Chapter 14 of Title 12, Guam Code Annotated, relative to permitting ~~the Consolidated Commission on Utilities~~, the Guam Power Authority, and the Guam Waterworks Authority to enter into long term contracts.

Please take the appropriate action on the voting sheet. Should you have questions regarding the report or accompanying documents, please do not hesitate to contact me. Your attention and cooperation on this matter is greatly appreciated.

Si Yu'us Ma'ase,

Thomas C. Ada

Attachments: Committee Voting Sheet  
Committee Report  
Substitute Bill No. 30-175 (LS)  
Public Hearing Sign-In Sheet  
Notices of Public Hearing



## **Senator Thomas C. Ada**

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
30<sup>th</sup> Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan

### **Committee Report**

#### **Bill No. 30-175 (COR)**

As Substituted by the Committee on Utilities, Transportation, Public Works, and Veterans Affairs

T.C. Ada / F.B. Aguon, Jr. / F.F. Blas, Jr. / T.R. Muña-Barnes

An act to add subsections (14) and (15) to section 8104 of Chapter 8 of Title 12, Guam Code Annotated, and to add subsections (n) and (o) to section 14104 of Chapter 14 of Title 12, Guam Code Annotated, and to amend subsection (c) of section 14104.1 and section 14404 of Chapter 14 of Title 12, Guam Code Annotated, relative to permitting the Guam Power Authority and the Guam Waterworks Authority to enter into long term contracts.



# Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
 30<sup>th</sup> Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan

## VOTING RECORD

<sup>COR</sup>  
 Substitute Bill No. 30-175 (LS) – T.C. Ada / F.B. Aguon, Jr. / F.F. Blas, Jr. / T.R. Muña-Barnes

An act to add subsections (14) and (15) to section 8104 of Chapter 8 of Title 12, Guam Code Annotated, and to add subsections (n) and (o) to section 14104 of Chapter 14 of Title 12, Guam Code Annotated, and to amend subsection (c) of section 14104.1 and section 14404 of Chapter 14 of Title 12, Guam Code <sup>see</sup> Annotated, relative to permitting ~~the Consolidated Commission on Utilities~~, the Guam Power Authority, and the Guam Waterworks Authority to enter into long term contracts.

Committee Members	SIGNATURE	TO PASS	NOT TO PASS	TO REPORT OUT ONLY	ABSTAIN	INACTIVE FILE
Senator Thomas C. Ada, Chairman		✓				
Senator Adolpho B. Palacios, Sr., Vice Chairman		✓				
Senator Frank B. Aguon, Jr.		✓				
Vice Speaker Benjamin J. F. Cruz				8/8/09		
Senator Tina Rose Muña-Barnes						
Senator Rory J. Respicio		8/4/09				
Senator James V. Espaldon				8/03/09		
Senator Telo Taitague						
Senator Ray Tenorio				✓		

## Committee Report

**Substitute Bill No. 30-175 (COR)** – T.C. Ada / F.B. Aguon, Jr. / F.F. Blas, Jr. / T.R. Muña-Barnes

An act to add subsections (14) and (15) to section 8104 of Chapter 8 of Title 12, Guam Code Annotated, and to add subsections (n) and (o) to section 14104 of Chapter 14 of Title 12, Guam Code Annotated, and to amend subsection (c) of section 14104.1 and section 14404 of Chapter 14 of Title 12, Guam Code Annotated, relative to permitting the Guam Power Authority and the Guam Waterworks Authority to enter into long term contracts.

### I. Findings and Recommendation

Guam's Public Utilities (Guam Waterworks Authority and Guam Power Authority) respective master plans call for the expansion of capacities for power generation, water production, and wastewater treatment, or the major overhaul of these assets. The accomplishment of these expansion and overhaul requirements can be achieved through public-private partnerships (PPP).

In a PPP arrangement, a private investor would use their capital to "finance-design-build/overhaul-operate-transfer" the required capital investment. The private investor subsequently recoups his investment through an agreed upon payback over a period of time. Bill 30-175 proposes to authorize GPA and GWA to enter into appropriate long term contracts of up to 30-years on major capital improvements which would equal or exceed \$30M.

The GPA was given this authority on a one-time basis in 1996 to address the inadequacies of the power system at that time, better known then as the "Load Shedding Blues" era. Examples of the PPP arrangements that were effectuated under the authority that was granted include the construction three power plants - the Marianas Energy Corporation (88 MW), Taiwan Electrical & Mechanical Engineering Services (40 MW), and Pruvient Energy (53 MW). At the end of their 20-year contract term, GPA receives ownership of the plants.

In a recent study performed by GPA, it was concluded that a PPP was not the "least cost option." However, a PPP arrangement has inherent advantages that enable a higher rate of operational reliability. More specifically, in a PPP, the private partner has greater access to a pool of technical expertise and supply system that can be readily tapped to provide the necessary support. This aspect of system operations has been, and will continue to be a challenge to the Utilities.

The Committee on Utilities, Transportation, Public Works and Veterans Affairs finds that testimony from the CCU, GPA and GWA provides good information and insight into the current use and limitations of long-term contracts. The Committee finds that long-term PPP contracts would be an effective option to use to attain the system expansions needed to service the island's growing demand for utility services.

In response to concerns raised by Committee members during the public hearing, Bill 30-175 was amended to provide more specificity on the types of activities that is intended for a 30-year contract arrangement. More specifically, it was concluded that the long term arrangement would be intended for services directly required for the major ( $\geq$  \$30M) improvement or construction and operation of infrastructure, e.g. “renewable energy power plants, power purchase agreements, refurbish-operate-maintain contracts, and build-operate-transfer contracts.”

Additionally, the original bill’s limit of 15 years for Performance Management Contracts (PMCs) was clarified to be one base period up to five (5) years with options to renew for two additional 5-year periods. Bill 30-175 intends to provide the Public Utilities the authorization to enter into PMCs for the “operation-maintenance-capital improvements” of appropriate operations infrastructure.

The Committee finds support for the bill and hereby submits its findings and recommendation to *I Mina’ Trenta Na Liheslaturan Guåhan* **TO PASS** the Substitute Bill 30-175.

## **II. Overview**

The Committee on Utilities, Transportation, Public Works and Veterans Affairs (the Committee) convened on July 22, 2009 at 9:00 a.m. to hold a public hearing that included the subject of Bill No. 30-175 (COR). Notice of the hearing was disseminated to all local media outlets via facsimile on July 14, 16, and 17 of 2009, thus meeting the requirements of the Open Government Law. Notice of the hearing was also posted on the Guam Legislature’s website.

### Committee Members and Senator present:

Senator Thomas C. Ada	Chairman
Senator Adolpho B. Palacios, Sr.	Vice Chairman
Senator James V. Espaldon	Member

### Testimony submitted by:

John M. Benavente	General Manager, Consolidated Utility Services
Simon Sanchez	Chairman, Consolidated Commission on Utilities
Joaquin Flores	General Manager, Guam Power Authority
Leonard Olive	General Manager, Guam Waterworks Authority

## **III. Summary of Testimonies**

John M. Benavente General Manager, Consolidated Utility Services

*Provided oral and written testimony (written testimony attached)*

Mr. Benavente is in support of Bill 30-175; he read his written testimony as oral testimony. Mr. Benavente states that the intent of the bill – to allow GPA and GWA to enter into appropriate long term contracts – will allow cost recoupment to be spread over

a longer period of time, allowing for better financing options, and ultimately, lead to lower costs, improved management, and increased reliability. Mr. Benavente continues by noting some specific examples in which GPA has achieved improved financing and cost distribution by entering into such contracts, even noting that the PUC has accepted GPA statistics demonstrating that a benefit-cost ratio of seven-to-one (i.e. for every dollar spent on fixed management fees to a PMC, ratepayers realize a seven dollar reduction in fuel costs) can be achieved in such a manner. He continues by noting that safeguards are included into contracts, and that if a PMC contractor does not meet certain performance requirements, then the respective contract is not extended. Mr. Benavente also cites the current GWA PMC with Veolia LLC, in which the ability to leverage the buying power of a large corporation resulted in a savings of up to 30% and additional, specialized services such as equipment training. He explains that PMCs have the ability to tap into international resources in engineering, safety, and procurement as needed to meet peak demands or provide specific expertise not available on-island. Additionally, Mr. Benavente notes that IPPs and PMCs allow for better amortization of large projects over longer periods, leading to improved cash flow management, better financing options, and increased incentives for contractors to provide proper long-term performance value (he included in his written testimony a graph outlining fuel savings relative to base use). Mr. Benavente closes by sharing that IPPs and PMCs have lead to lower costs to ratepayers and improved job training and security for GWA employees, and that the ability to enter into long-term contracts should be made permanent to GWA and GPA in order to better prepare for the future challenges facing the island.

Simon Sanchez, Chairman, Consolidated Commission on Utilities

*Provided oral testimony*

Mr. Sanchez is in support of Bill 30-175. Mr. Sanchez, Chairman of the Consolidated Commission on Utilities, provided oral testimony. He began by noting that current legislation was enacted in the late 1990s, when load shedding was common on Guam, in order to cautiously explore the effectiveness of utilizing public-private partnerships. Mr. Sanchez explained that dire need prompted the allowance of this long-term power deal, but the results have far exceeded expectations, and ratepayers have benefited greatly from the process. He notes that the ability to enter into long-term contracts has attracted investment, increased the hiring of local people into the GWA workforce, and improved efficiencies while lowering ratepayer costs. Such success with IPPs and PMCs has even proven to be an aid in negotiating with the military. But, Mr. Sanchez notes, the ability to utilize this tool (the ability to enter into long-term contracts) is not permanent beyond the aforementioned emergency authorizations. Given the successful ten-year track record, Mr. Sanchez finds long-term contracts to be a useful tool in providing more efficient and cost-effect services to ratepayers, and would like to see such a tool made available to GPA and GWA on a permanent basis.

Joaquin Flores, General Manager, Guam Power Authority

*Provided oral testimony*

Mr. Flores is in support of Bill 30-175. Mr. Flores, General Manager of the Guam Power Authority (GPA), provided oral testimony. He began by sharing his experiences with PMCs and IPPs, explaining that GPA's current integrated resource plan, which has been

adopted by the PUC, promotes 80 megawatts of clean energy. Mr. Flores notes, however, that the cost of these clean energy options are exceedingly difficult to recover under current law, as the restriction on contract length prevents effective long-term realization of return-on-investment. Additionally, he shares, the integrated resource plan seeks to diversify fuel sources, as recent history suggests that oil costs will continue to increase or remain at high levels. The best options for fuel diversification, which will mitigate the risk of over-reliance on oil, are compressed natural gas or liquefied natural gas; however, both require large-scale infrastructure improvements. These significant capital improvements necessitate the ability to enter into long-term contracts, as such contracts would spread initial costs over a longer period of time and provide for better financing terms. Additionally, such long-term contracts demonstrate a commitment to investors, of which there are many, and encourage the development of long-lasting infrastructure improvements that will achieve better, more stable prices for ratepayers. Mr. Flores also states that GPA, in utilizing PMCs, was able to hire specialized individuals to do work that directly lead to significant reductions in overhead costs, such as work completed on achieving boiler certification that lead to a drop in insurance costs.

Leonard Olive, General Manager, Guam Waterworks Authority

*Provided oral testimony*

Mr. Olive is in favor of Bill 30-175. Mr. Olive, General Manager of the Guam Waterworks Authority (GWA), provided oral testimony. He states that the bill takes a good tool with a proven track record and makes it available on a permanent basis, thus allowing GWA to be more competitive in the new global economy. Mr. Olive explains that by permitting longer term contracts, private entities will be more comfortable about conducting business on Guam, more and better qualified private entities will compete for GWA's business, and ratepayers will ultimately benefit from the improved options of business partners. Mr. Olive shares that he agrees with the testimony provided by Mr. Sanchez, Mr. Flores, and Mr. Benavente, and as such, will not repeat their points. However, he is making himself available should Senators have any questions, and wishes to additionally emphasize that the competitiveness envisioned in the bill will lead to flexibility in determining contractual terms, which in turn leads to the optimization of services.

## **Questions and Answers**

Senator Palacios: Stated that he had reviewed the bill, and was concerned about the absence of any legislative involvement in reviewing potential 30-year contracts. The Senator explains that he would personally prefer that the legislature be involved in reviewing such contracts, even if it is not through direct approval. He continues by stating that he trusts the abilities of current GWA, GPA, and CCU leadership, but that he is worried about the potential for mistakes, sans oversight, that may be made by future leadership. Other than this concern, the Senator shares that he views this bill as providing a useful tool for both GWA and GPA.

Mr. Sanchez: Acknowledges Senator Palacios' concern, but notes that legislative involvement will cause bidders to be nervous. Mr. Sanchez cites the experience of

Saipan, where bona fide contractors have chosen not to compete out of the uncertainty of whether their contracts will be approved or changed by the legislature. While this concern may be unwarranted, the perception still exists, and the reality is that highly qualified contractors are less inclined to bid when the additional uncertainty of legislative approval is included into the equation. Mr. Sanchez also notes that numerous government entities are currently permitted to enter into contracts worth millions of dollars (e.g. school lunches, or past long-term contracts entered into by GPA under the emergency provisions) without having to add the uncertainty and extra work of legislative approval. Additionally, Mr. Sanchez notes, an elected body is present in CCU oversight, and the PUC will continue to serve as an additional oversight body with the interests of local ratepayers in mind. He also notes that contracts can be discontinued should the contractor not perform up to standards. Mr. Sanchez lastly notes that the proposed process has been used well over the past decade, much to the benefit of local ratepayers.

Mr. Benavente: In response to Senator Palacios' concerns, adds that the PUC will continue to have oversight of any contracts over 1 million or 1.5 million (dependent on either GWA or GPA), and that procurement laws will continue to apply. Additionally, the legislature will be able to intervene at any point should such oversight be insufficient.

Senator Espaldon: Sought clarification of the currently available length of term available to GPA.

Mr. Benavente: Answers that it is twenty years.

Mr. Sanchez: States that GPA is currently paying, within 20 years, for a generator that will last 40 years. Were the possibility of longer-term contracts available, the costs of assets such as this generator would be reduced because of better amortization over time. Mr. Sanchez notes that this bill would not require either GWA or GPA to exclusively enter into 30-year contracts, but it provides for a tool that may be used in certain situations in order to benefit ratepayers.

Mr. Flores: Notes that the provisions of the bill will allow for continued cost-savings for ratepayers. As an example, Mr. Flores cites the recent need to replace a new plant at a cost of 150-200 million dollars. Instead, GPA was able to turn an existing plant over to an IPP under a refurbish-operate-maintain contract at a cost of 17 million dollars. By making the existing infrastructure last over an extended period of time, GPA was able to save ratepayers from paying significant costs.

Senator Espaldon: Asks specifically what sort of construction by GWA would merit a 30-year contract.

Mr. Olive: Answers by citing the unprecedented growth anticipated with the military buildup. Mr. Olive shares that during a recent JGPO meeting, a member of the military let it slip out that their internal numbers anticipate an overall growth on Guam of 80k people. In terms of water service, GWA will need to serve this growth through the

supply of water, which includes pipelines and storage. Mr. Olive notes that a number of experts have found GWA to be short on storage facilities to meet current demand, and on top of that, these storage facilities have not been well maintained. Given the impending buildup, GWA will need to both refurbish existing infrastructure and build new capital improvements in order to accommodate the anticipated growth. Additionally, in terms of wastewater services, similar refurbishment and new capital construction (to collection, piping, pump stations, and treatment plants) will need to be conducted in order to meet the anticipated growth in demand.

Mr. Sanchez: Adds that it is becoming increasingly clear that the Department of Defense will become a GWA wastewater treatment customer. Given this likelihood, a public-private partnership becomes an attractive tool to achieving lower rates for local customers; in such a manner, a contractor will be contracted to upgrade facilities under a 30 to 40-year agreement, with GWA buying wastewater services from the contractor and in turn selling them to the military and local residents. Thusly, the military would be more willing to pay for the cost of upgrades, as they will be doing so through rates instead of an upfront payment. A similar approach can be taken with the anticipated need to build an additional 20 to 40 water wells.

Senator Espaldon: Notes that there has been a lot of talk about services to the north of the island. The Senator wishes to digress a bit and ask about water services to the south. He asks if this issue is being considered in discussions with the military.

Mr. Sanchez: Answered that the south is indeed being considered heavily, and the entire infrastructure upgrading process is being approached in parts. He notes that with the upcoming bond, 8 million dollars will be spent on upgrading the Ugum treatment plant, which in turn will effectively double the output it has to Inarajan, Malessa, and the region. The DOD has also put an additional 150 million dollars of improvements into its Fena facilities, so when GWA takes over these facilities, the entire region will benefit from this upgrade.

Senator Ada: States that the bill will probably require a markup meeting. He notes that there is an uneasiness regarding how the bill includes procurements as broad as supplies, services and construction; he would prefer language that more definitively specifies contracts as focusing on independent power producers. The Senator asks if the panel is familiar with the port interpretation of PMC laws, in which they believe that contracts can effectively be extended to 20 years instead of 15.

Mr. Flores: Answers that this is a very good point, and it highlights the uncertainty in current law. Mr. Flores explains that Bill No. 30-175 will help to clarify these questions with current law, and eliminate the risk of having contracts nullified in the future due to an argument over legal interpretations.

Senator Ada: Asks if this bill is time sensitive.

Mr. Sanchez: Answers that the DOD is currently asking about contracting, and it would help to have more certainty on these issues. Also, there are currently negotiations underway to renew the Veolia LLC, PMCs, and other contracts, and that it would be useful to have this bill passed in order to have more clear statutes into law.

Senator Ada: Adjourned the Public Hearing at 3:25 pm.

**MINA'TRENTA NA LIHESLATURAN GUÅHAN**  
**2009 (FIRST) REGULAR SESSION**

**Bill No. 30-175 (COR)**

As substituted by the Committee  
On Utilities, Transportation, Public  
Works, and Veterans Affairs

Introduced by:

T.C. Ada  
F.B. Aguon, Jr.  
F.F. Blas, Jr.  
T. Muña-Barnes

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**AN ACT TO ADD SUBSECTIONS (14) AND (15) TO SECTION 8104 OF CHAPTER 8 OF TITLE 12, GUAM CODE ANNOTATED, AND TO ADD SUBSECTIONS (n) AND (o) TO SECTION 14104 OF CHAPTER 14 OF TITLE 12, GUAM CODE ANNOTATED, AND TO AMEND SUBSECTION (c) OF SECTION 14104.1 AND SECTION 14404 OF CHAPTER 14 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO PERMITTING THE GUAM POWER AUTHORITY AND THE GUAM WATERWORKS AUTHORITY TO ENTER INTO LONG TERM CONTRACTS**

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

2       **SECTION 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that it has  
3 previously authorized the Guam Power Authority to enter into Performance Management  
4 Contracts, Contracts with Independent Power Producers, and other Private-Public Partnerships  
5 that enabled private entities to build, rehabilitate, operate, and manage various parts of the  
6 Islandwide Power System to achieve the quality level of services demanded by GPA's rate  
7 payers. Such contracts have proven to be an invaluable tool which enabled the Guam Power  
8 Authority to end load shedding, reducing the expensive use of fast track generators to save  
9 ratepayers over \$110 million in avoided fuel costs since 2003.

1            *I Liheslaturan Guåhan* finds that the Island-wide Power System and Guam’s Drinking  
2 and Wastewater Systems face new challenges in the form of the impending buildup of U.S.  
3 military forces on Guam and the ever-rising cost of fossil fuels used to power Guam’s  
4 infrastructure.

5            *I Liheslaturan Guåhan* finds that an effective tool to enable the GPA and GWA (Public  
6 Utilities) to expand the infrastructure needed, and to operate and maintain their respective  
7 systems, would be to authorize the use of Public-Private Partnerships between private entities  
8 and the Public Utilities. *I Liheslaturan Guåhan* finds that allowing the Public Utilities to enter  
9 into appropriate long-term contracts has proven to serve ratepayers well through lower costs,  
10 effective operations and management, and operations reliability.

11            **SECTION 2. A new subsection (14) of Section 8104 of Chapter 8 of Title 12, Guam**  
12 **Code Annotated, is hereby added to read:**

13            “(14) Notwithstanding any other provision of law or regulation, the Guam Power  
14 Authority may enter into long term contracts for a period up to and not exceeding thirty (30)  
15 years for renewable energy contracts, purchased power agreements, refurbish-operate-maintain  
16 contracts, and build-operate-transfer contracts that cost thirty-million-dollars (\$30,000,000) or  
17 more. Nothing herein shall repeal, limit, or otherwise prohibit any law or regulation authorizing  
18 the Authority to enter into any contract for a longer period.”

19            **SECTION 3. A new subsection (15) of Section 8104 of Chapter 8 of Title 12, Guam**  
20 **Code Annotated, is hereby added to read:**

21            “(15) Notwithstanding any other provision of law or regulation, the Authority may enter  
22 into Performance Management Contracts (PMC) to manage or operate any part of the Island  
23 Wide Power System with a base period up to five (5) years and no more than two five (5) year  
24 renewal option periods, not exceeding a total of fifteen (15) years including the base period and  
25 all option periods. Nothing herein shall repeal, limit, or otherwise prohibit any law or regulation  
26 authorizing the Authority to enter into any contract for a longer period.”

27            **SECTION 4. A new subsection (n) of Section 14104 of Chapter 14 of Title 12, Guam**  
28 **Code Annotated, is hereby added to read:**

29            “(n) Notwithstanding any other provision of law or regulation, the Authority may enter  
30 into long term contracts for a period up to and not exceeding thirty (30) years for refurbish-

1 operate-maintain contracts, and build-operate-transfer contracts that cost thirty-million-dollars  
2 (\$30,000,000) or more. Nothing herein shall repeal, limit, or otherwise prohibit any law or  
3 regulation authorizing the Authority to enter into any contract for a longer period.”

4 **SECTION 5. A new subsection (o) of Section 14104 of Chapter 14 of Title 12, Guam**  
5 **Code Annotated, is hereby added to read:**

6 “(o) Notwithstanding any other provision of law or regulation, the Authority may enter  
7 into Performance Management Contracts to manage or operate any part of Guam’s Drinking  
8 Water or Wastewater Systems with a base period up to five (5) years and no more than two five  
9 (5) year option periods, not exceeding a total of fifteen (15) years including the base period and  
10 all option periods. Nothing herein shall repeal, limit, or otherwise prohibit any law or regulation  
11 authorizing the Authority to enter into any contract for a longer period.”

12 **SECTION 6. Section 14104.1(c) of Chapter 14 of Title 12, Guam Code Annotated, is**  
13 **hereby amended to read:**

14 “(c) ~~no a~~ contract for service awarded shall be for a duration of more than two (2) years,  
15 and must include provisions for periodic and timely inspections of all facilities whose  
16 maintenance is contracted, with provisions for the revocation of contracts, without penalty to the  
17 Authority, for any breach of contract or failure to provide adequate service, as contracted.

18 ~~No other contract, beyond the maintenance contracts specifically detailed in this Section,~~  
19 ~~may be entered into by the Authority for a duration in excess of one (1) year, except as permitted~~  
20 ~~under the terms of the build, operate and transfer program (‘BOT’) specifically authorized in~~  
21 ~~Guam law or as otherwise permitted herein.”~~

22 **SECTION 7. Section 14404 of Chapter 14 of Title 12, Guam Code Annotated, is**  
23 **hereby amended to read:**

24 “§ 14404. **Contract Limits Performance Reviews.** ~~No contract awarded subject to the~~  
25 ~~provisions of this Act may be awarded for a period of greater than five (5) years, except that a~~  
26 ~~contract for the operation and maintenance of water wells may not be awarded for a period of~~  
27 ~~greater than ten (10) years.~~ All contracts awarded subject to the provisions of this Act must  
28 contain performance reviews at least annually, and provisions for contract termination or penalty  
29 based upon such review.”

1           **SECTION 8. Severability.** If any provisions of this Act or its application to any person  
2 or circumstance is found to be invalid or contrary to law, such invalidity shall *not* affect other  
3 provisions or applications of this Act which can be given effect without the invalid provisions or  
4 applications, and to this end the provisions of this Act are severable.

I MINA'TRENTA NA LIHESLATURAN GUÅHAN  
2009 (FIRST) REGULAR SESSION

Bill No. 30- 175(COR)

Introduced by:

T.C. Ada  
F.B. Aguon  
F.F. Blas, Jr.

*TRINIDAD BARRA*

2009 JUL 14 AM 9:10

**AN ACT TO ADD SUBSECTIONS (14) AND (15) TO SECTION 8104 OF CHAPTER 8 OF TITLE 12 OF THE GUAM CODE ANNOTATED AND TO ADD SUBSECTIONS (n) AND (o) TO SECTION 14104 OF CHAPTER 14 OF TITLE 12 OF THE GUAM CODE ANNOTATED, AND TO AMEND SUBSECTION (c) OF SECTION 14104.1, AND SECTION 14404 OF CHAPTER 12 OF TITLE 12 OF THE GUAM CODE ANNOTATED, RELATIVE TO PERMITTING THE GUAM POWER AUTHORITY, AND THE GUAM WATERWORKS AUTHORITY TO ENTER INTO LONG TERM CONTRACTS.**

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

2 **SECTION 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds that it has  
3 previously authorized the Consolidated Commission on Utilities, the Guam Power Authority, and the  
4 Guam Waterworks Authority to enter into Performance Management Contracts, Contracts with  
5 Independent Power Producers, and other Private-Public Partnerships which enabled private entities  
6 to build, rehabilitate, operate, and manage various parts of the Islandwide Power System and  
7 Guam's Drinking Water and Wastewater Systems at significant savings to ratepayers. Such  
8 contracts have proven to be an invaluable tool which enabled the Consolidated Commission on  
9 Utilities, the Guam Power Authority, and the Guam Waterworks Authority to end load shedding,  
10 reduce the expensive use of fast track generators to save ratepayers over \$110 million in avoided fuel  
11 costs since 2003, eliminate boil water notices, end the rationing of drinking water. stop the spillage  
12 of wastewater into Guam's precious environment, and end the threats such conditions imposed on  
13 the health and safety of the People of Guam and Guam's economic growth. The legislation which

1 the health and safety of the People of Guam and Guam's economic growth. The legislation which  
2 enabled such Public-Private Partnership were made under emergency conditions, were for limited  
3 time periods, and were temporary in nature. These Public-Private Partnerships have also helped  
4 GWA avoid federal receivership after being sued in December 2002 by the U.S. Environmental  
5 Protection by ensuring greater compliance with Guam and Federal environmental regulations. And,  
6 these Public-Private Partnerships have helped existing Guam Power Authority and Guam  
7 Waterworks employees by providing better training, focused management and faster procurement in  
8 order to reach higher technical standards to accomplish their jobs in a more efficient and effective  
9 manner.

10 Today, *I Liheslaturan Guahan* finds that the People of Guam are faced with new challenges  
11 to the Islandwide Power System, and Guam's Drinking and Wastewater Systems arising from the  
12 impending buildup of U.S. military forces on Guam and the ever-rising cost of fossil fuels which the  
13 successful operation of Guam's infrastructure heavily depends upon.

14 *I Liheslaturan Guahan* finds that in order to keep costs for certain large infrastructure  
15 projects as low as possible for ratepayers through the use of longer term partnerships, it is prudent to  
16 allow appropriate use of Public-Private Partnerships, and to remove barriers inhibiting such private  
17 entities from forming Public-Private Partnerships with the Guam Power Authority, and the Guam  
18 Waterworks Authority. *I Liheslaturan Guahan* finds that allowing the Guam Power Authority and  
19 the Guam Waterworks Authority to enter into appropriate long term contracts has proven to serve  
20 ratepayers well through lower costs, improved management, and better reliability and because such  
21 long term contracts allow such private entities to recoup their investment costs during the longer  
22 contract period. Spreading the cost over a longer period will lessen the need for higher power,  
23 water, and wastewater rates for the infrastructure upgrades these Public-Private Partnerships will  
24 produce.

25  
26 **SECTION 2. Subsection (14) of Section 8104 of Chapter 8 of Title 12,**  
27 **Guam Code Annotated is hereby added to read:**

28 (14) Notwithstanding any other provision of law or regulation, the Guam  
29 Power Authority may enter into long term contracts for a period up to and not exceeding  
30 thirty (30) years for supplies, services, or construction contracts that cost thirty-million-

1 dollars (\$30,000,000) or more. Nothing herein shall repeal, limit, or otherwise prohibit any  
2 law or regulation authorizing the Authority to enter into any contract for a longer period.  
3

4 **SECTION 3. Subsection (15) of Section 8104 of Chapter 8 of Title 12, Guam**  
5 **Code Annotated is hereby added to read:**

6 “(15) Notwithstanding any other provision of law or regulation, the Authority  
7 may enter into Performance Management Contracts to manage or operate any part of the  
8 Island Wide Power System for a period up to and not exceeding fifteen (15) years. Nothing  
9 herein shall repeal, limit, or otherwise prohibit any law or regulation authorizing the  
10 Authority to enter into any contract for a longer period.”

11 **SECTION 4. Subsection (n) of Section 14104 of Chapter 14 of Title 12, Guam Code**  
12 **Annotated is hereby added to read:**

13 “(n) Notwithstanding any other provision of law or regulation, the Authority  
14 may enter into long term contracts for a period up to and not exceeding thirty (30) years for  
15 supplies, services, or construction contracts that cost thirty-million-dollars (\$30,000,000) or  
16 more. Nothing herein shall repeal, limit, or otherwise prohibit any law or regulation  
17 authorizing the Authority to enter into any contract for a longer period.”

18 **SECTION 5. Subsection (o) of Section 14104 of Chapter 14 of Title 12, Guam**  
19 **Code Annotated is hereby added to read:**

20 “(o) Notwithstanding any other provision of law or regulation, the Authority  
21 may enter into Performance Management Contracts to manage or operate any part of Guam’s  
22 Drinking Water or Wastewater Systems for a period up to and not exceeding fifteen (15)  
23 years. Nothing herein shall repeal, limit, or otherwise prohibit any law or regulation  
24 authorizing the Authority to enter into any contract for a longer period.”

25 **SECTION 6. Subsection (c) of Section 14104.1 of Chapter 14 of Title 12, Guam**  
26 **Code Annotated is hereby amended to read:**

27 “(c) ~~no~~ a contract for service awarded shall be for a duration of more  
28 ~~than two (2) years, and~~ must include provisions for periodic and timely

1 inspections of all facilities whose maintenance is contracted, with provisions for  
2 the revocation of contracts, without penalty to the Authority, for any breach of  
3 contract or failure to provide adequate service, as contracted.

4 ~~No other contract, beyond the maintenance contracts specifically detailed in this Section,  
5 may be entered into by the Authority for a duration in excess of one (1) year, except as  
6 permitted under the terms of the build, operate and transfer program ('BOT') specifically  
7 authorized in Guam law or as otherwise permitted herein.~~”

8 **SECTION 7. Section 14404 of Chapter 14 of Title 12, Guam Code Annotated is**  
9 **hereby amended to read:**

10 **“§ 14404. Contract Limits Performance Reviews.** ~~No contract awarded subject to the~~  
11 ~~provisions of this Act may be awarded for a period of greater than five (5) years, except that a~~  
12 ~~contract for the operation and maintenance of water wells may not be awarded for a period of greater~~  
13 ~~than ten (10) years. All contracts awarded subject to the provisions of this Act must contain~~  
14 ~~performance reviews at least annually, and provisions for contract termination or penalty based upon~~  
15 ~~such review.~~”

16 **SECTION 8. Severability.** If any provisions of this Act or its application to any person or  
17 circumstance is found to be invalid or contrary to law, such invalidity shall *not* affect other  
18 provisions or applications of this Act which can be given effect without the invalid provisions or  
19 applications, and to this end the provisions of this Act are severable.



# **From Independent Power Producers to Performance Management Contracts, Guam Power Authority's Long Road Towards Reliable Power**

---

John J. Cruz, Jr., P.E.  
Manager, Strategic Planning & Operations Research  
Guam Power Authority

Frank S. Blaz  
Manager of Generation  
Guam Power Authority

Jennifer G. Sablan  
Assistant Manager, Generation (Acting)/Special Projects Engineer - Mechanical  
Strategic Planning & Operations Research Division  
Guam Power Authority

Arlene M. Aromin, P.E.  
Special Projects Engineer - Electrical  
GPA Executive Office  
Guam Power Authority

## **1 Introduction**

Guam Power Authority (GPA) is a not-for-profit municipal utility serving the Island of Guam. Currently, GPA serves approximately 45,752 metered customers. The Authority has an installed capacity of 552.4 MW total with a system peak of 281.5 MW.

GPA has pioneered public-private partnerships on Guam. GPA, Performance Management Contractors (PMCs) and Independent Power Producers (IPPs) maintain all of the Authority's base load power plants and a 40 MW reserve unit. GPA has energy conversion agreements wherein, GPA supplies fuel and purchase power from independent power producers (IPP). These IPPs include:

- Marianas Energy Corporation (MEC) – 88 MW slow speed diesel plant in Piti
- Taiwan Electrical & Mechanical Engineering Services (TEMES) – 40 MW combustion turbine plant in Piti, reserve unit
- Pruvient Energy – 53 MW refurbishment of GPA's Tanguisson power plant.

These energy conversion agreements run for twenty years after which GPA receives ownership of the plants.

Furthermore, the Authority has installed Performance Management Contractors for its baseload units at Cabras:

- Doosan Engine (Korea) operates and manages two 40 MW Man-BMW slow speed diesels plant (Cabras 3&4)
- TEMES manages and operates the two (2) 66 megawatt steam turbine generator units (Cabras 1&2).

This paper briefly describes GPA's journey in entering into these public-partnership contracts to provide reliable and efficient power to its customers.

## **2 History**

At one point, GPA operated the Cabras 1&2 Steam Power Plant at over 98% availability. These plants were GPA's flagship units managed and operated by a power plant work force comprised of graduates of the U.S. Navy Apprenticeship Program and other seasoned journeyman with decades of experience took the Authority ably through the seventies and eighties.

However, in the late 1980's, the island economy began to move into overdrive. Increases in tourism as well as increased energy-use by residential customers fueled significant power requirement and energy sales growth for the Authority. In order to meet the increasing growth and energy demand, the Authority began the process of planning for new generation facilities in 1985. This resulted in the filing of a generation expansion plan in 1988. The plan culminated in the commissioning of Dededo CT 1&2 in 1992 and 1994 respectively.

While GPA and its regulators debated about the details of reserve requirements and load forecasts, GPA fell far behind the Load Curve. The magnitude and duration of load growth soon outstripped GPA's efforts. Figure 1 shows the historical growth in peak system demand from GPA's inception to present.

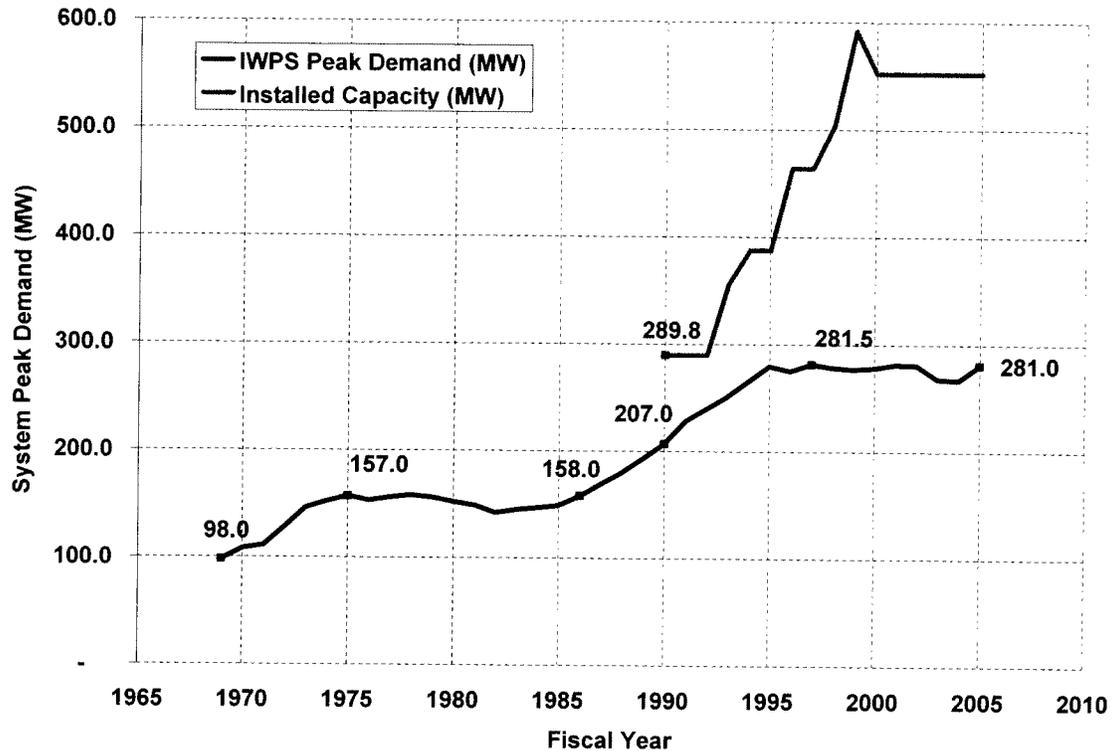


Figure 1 Guam Power Authority Historical System Peak Demand and Installed Capacity

In 1993, GPA commissioned 93.2 MW of “fast track” units. The first part of the 1990's is known as the “Load Shedding Blues” era. It was also during this time when many of GPA's experienced employees retired and like in many small island states, people of this caliber are difficult to recruit and retain. Deferred maintenance driven by external forces pushing to keep the lights on and in addition to a dwindling pool of experienced steam power plant personnel took a toll on GPA's baseload units. Table 1 shows Major Baseload Outages for the period FY90 to FY95.

Still in catch-up mode, GPA did not commission a new baseload unit until 1996 with the startup of the first of two 38.3 MW slow speed diesel units. In 1996, with its latest two units on the immature forced outage side of the life cycle forced outage rate curve (“bath tub” curve) and the remaining baseloads in disrepair, GPA with lawmakers intervention, went on Emergency Generation Procurement for Independent Power Producers (IPP) for an 80 MW slow speed diesel plant, a 40 MW combustion turbine reserve unit and rehabilitation and takeover of the Tanguisson Power Plant.

Table 1 Major Baseload Outages (FY1990 – FY 1995)

Generator Unit	Total Forced Outage Duration By Fiscal Year (hours)					
	90	91	92	93	94	95
Cabras Unit 1	2,101.50	58.70	614.10	110.35	128.54	1,445.80
Cabras Unit 2	38.50	3.50	58.70	462.35	279.27	913.29
Tanguisson Unit 1	55.20	67.50	66.60	150.38	359.70	5,011.85
Tanguisson Unit 2	127.90	66.60	871.60	472.37	734.87	3,959.67
<b>Total</b>	<b>2,323.10</b>	<b>196.30</b>	<b>1,611.00</b>	<b>1,195.45</b>	<b>1,502.38</b>	<b>11,330.61</b>

The energy conversion agreements (ECA) negotiated with each IPP have performance guarantees These performance guarantees include:

- GPA-MEC energy conversion agreements
  - Heat Rate
  - Availability (non-standard calculation)
- GPA-TEMES energy conversion agreements
  - Heat Rate
- GPA-Pruvient energy conversion agreements
  - Heat Rate
  - Availability
  - Equivalent Forced Outage Rate (EFOR).

The IPPs are responsible for operation, maintenance and capital improvement projects for their plants. In the case of Tanguisson, GPA personnel operate the plant under the management of Pruvient. Figures 2 – 7 show the historical performance of GPA’s IPPs.

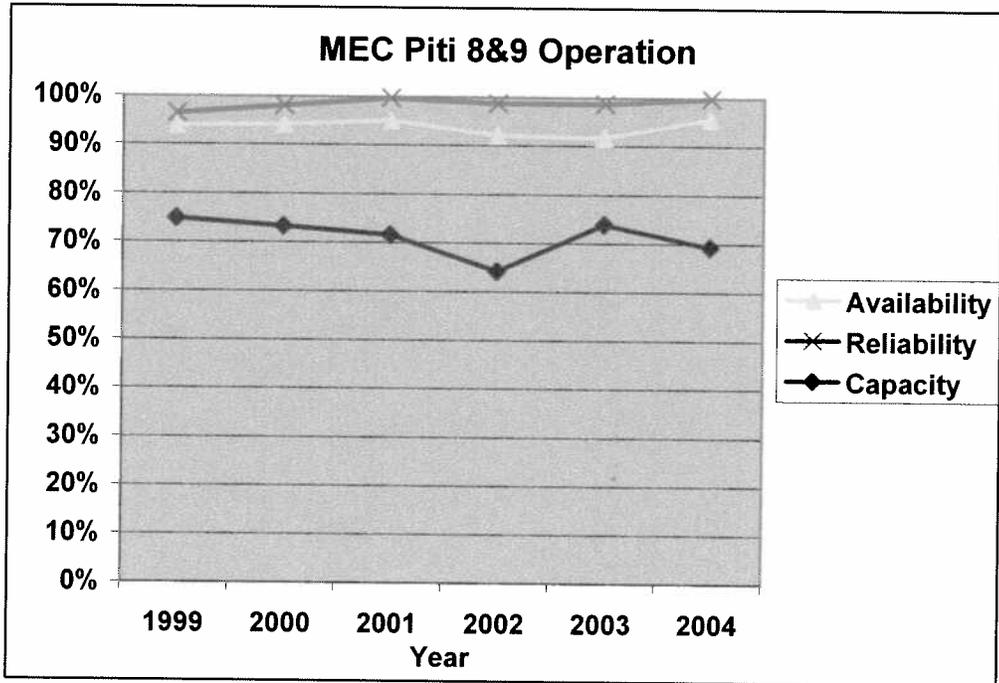


Figure 2

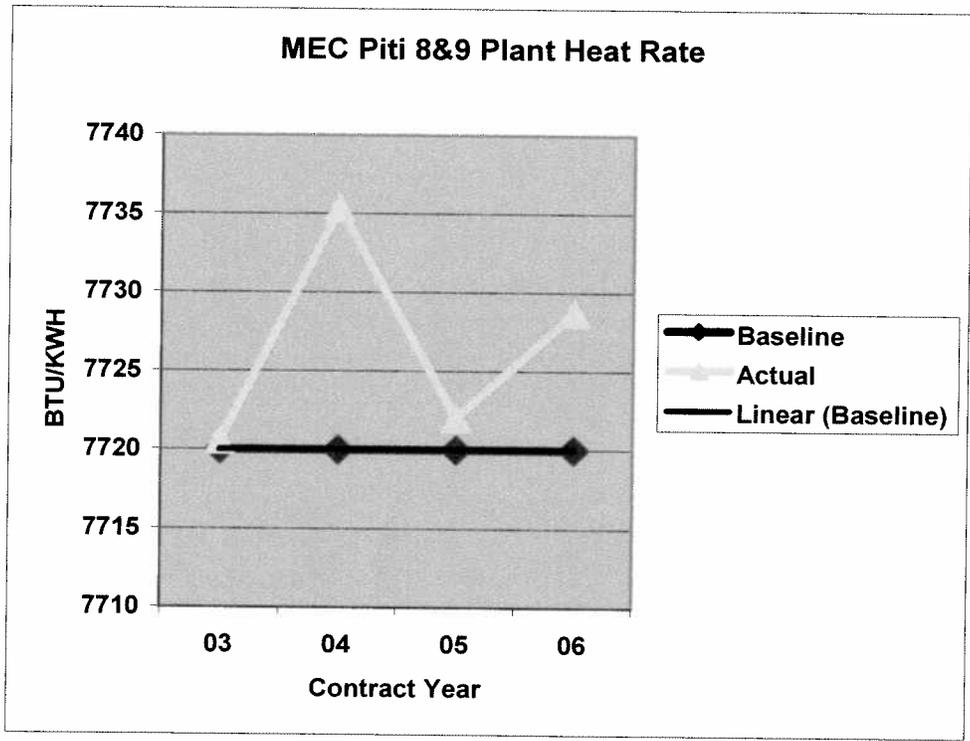


Figure 3

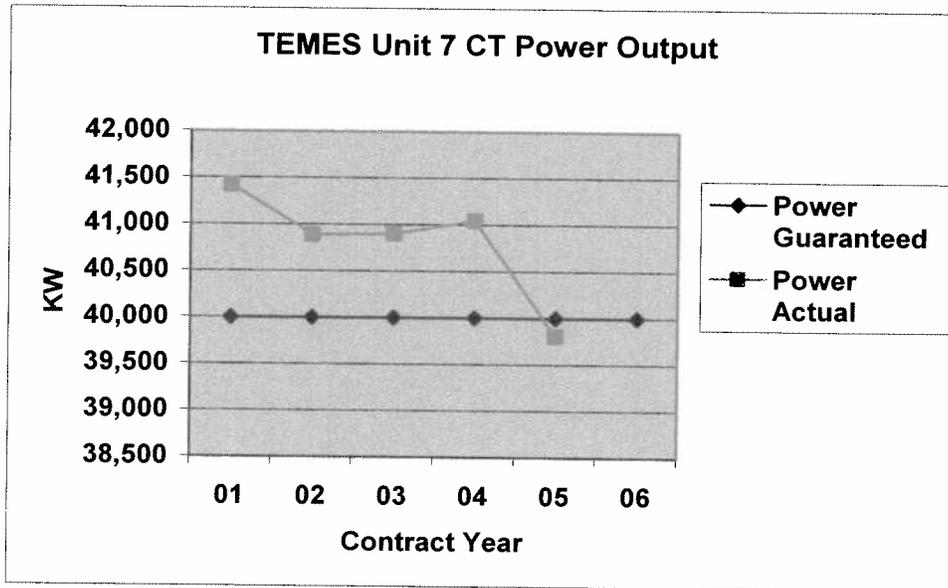


Figure 4

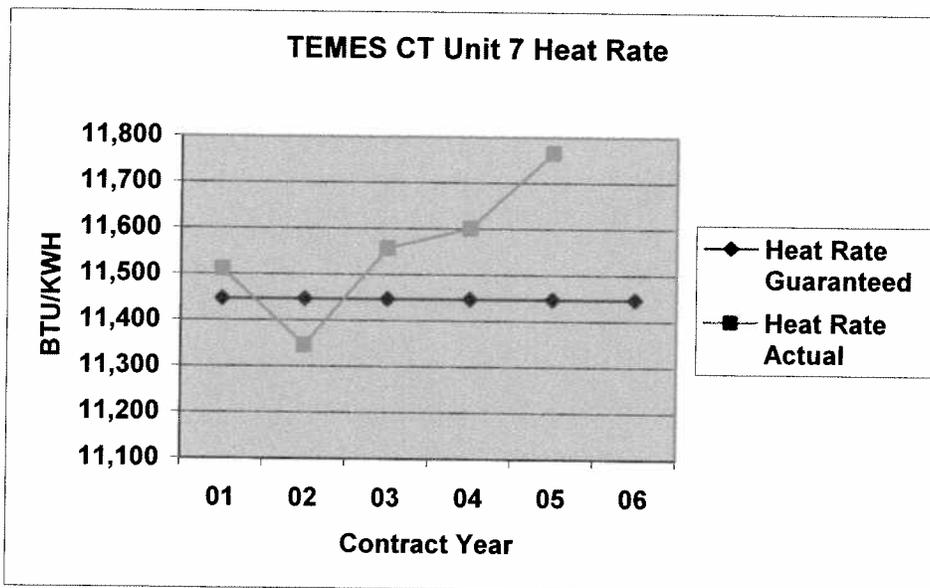


Figure 5

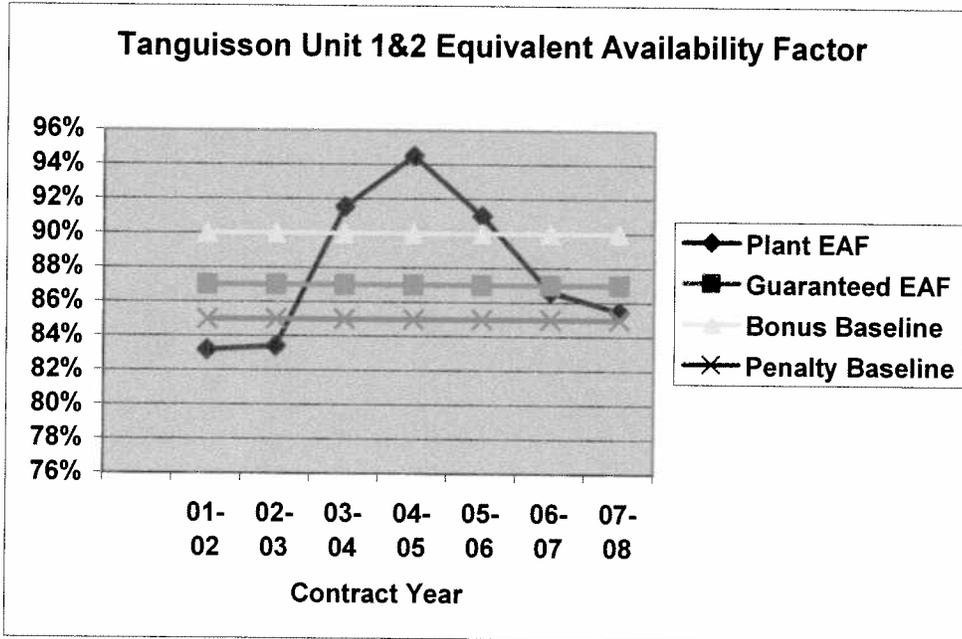


Figure 6

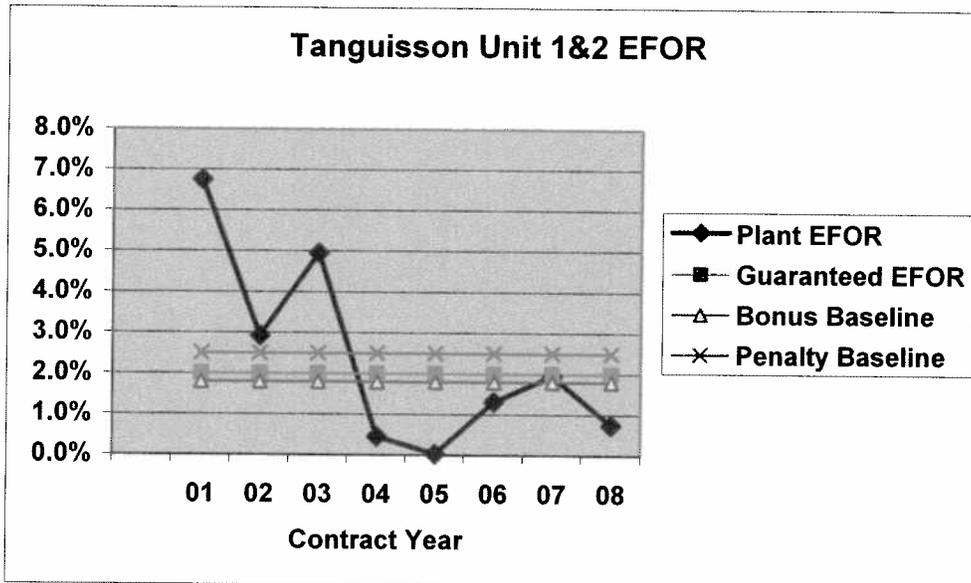


Figure 7

In 1996, GPA did not have the bonding capacity for additional generation while at the same time expanding and improving its transmission and distribution system infrastructure. GPA was not in a position of strength and Independent Power Producers were the best political and financial option available.

The Independent Power Producers have for the most part, delivered on the promise of high reliability and efficiency as shown in Figures 2-7. However, for a well-run utility with access to the municipal triple exempt bond market, independent power producers are not the least cost option.

Studies conducted for GPA have concluded that refinancing the capital portion of these contracts at GPA's bond interest rates would lower GPA's costs by about five to seven million dollars annually. Additionally, some contractual and operational problems exist. GPA, IPPs and PMCs have worked collaboratively on a "System Stability Study" completed this year (FY 2005) to resolve these operational issues.

### **3 Performance Management Contracts: Conceptualization**

From FY 1997 through FY2000, GPA's system planning group began to hothouse the performance management concept. It believed that GPA should right-source processes: GPA should continue to perform what it does well and outsource what it does not. In addition, the planning group moved the existing operations paradigms from optimizing for better heat rates and reliabilities to using minimization of system costs as the objective function. Under the initial paradigm, you optimize the plant. However, you might also increase total system operating costs to the point that these added efficiencies and reliability are not cost effective. Under the new paradigm, which opts for public power system operation, you invest capital when it becomes cost effective to do so.

There are several advantages to public power system operation:

- ***Public Power has no profit incentive:*** It is an obvious fact that private companies exist to make a profit. It drives them to compete and is at the root of their survival. However, a well-run public utility will produce power at lower cost than a similarly operated and sized for-profit utility.
- ***Access to lower interest triple exempt municipal bond financing:*** Since GPA's bonds are exempt from county, state and federal taxes; they are an attractive investment and can command higher yields with lower interest rates.
- ***Access to disaster recovery funding from the Federal Emergency Management Agency (FEMA):*** GPA is a government entity. Since transmission and distribution insurance is no longer available for damage caused by typhoons or other natural disasters, GPA relies on its own revenues and FEMA for disaster recovery expenses. These costs would have to be passed on to rate payers by private for-profit companies.
- ***Access to federal grant and loan programs:*** As a public entity, GPA is eligible for federal grant and loan programs that are not available for private for-profit entities.

- ***GPA is an economic catalyst for Guam:*** Vested interest in improving the local economy and work force.

There are several disadvantages as well:

- ***Arcane, restrictive procurement rules that are ill-suited for an industrial operations environment:*** GPA's Cabras Unit 1&2 Reliability Study<sup>1</sup> cites that adherence to government of Guam procurement laws has added significantly to the length of generation plant outages. This study was commissioned by the Generation Division at the same time as Engineering's study formalizing the Performance Management Contract concepts. This study was redirected and sublimated into the PMC effort.
- **A limited pool of local expertise:** GPA does not have access to experienced and very specialized engineering, technical and operations personnel. GPA would do well to contract a management team with a ready access to a deeply experienced and specialized work force.
- **Guam had no local comprehensive power plant operations education and training program:** During this period, GPA had not yet set up its U.S. Bureau of Labor certified apprenticeship program. The demise of the local U.S. Navy Apprenticeship program had greatly reduced GPA access to a pool of local, highly specialized skilled journeymen. During the military base closures and reductions in force of the nineties, many local journeymen left island for better pay or to complete their federal retirement requirements.
- **Cash flow availability limitations:** The PMC study indicated that contracting to qualified organization capable of providing financing for plant improvement and capital improvement projects would be beneficial in a GPA cash flow crunch.

#### **4 Performance Management Contracts: A Reality**

In the early FY 2000, GPA presented the PMC concept to the Guam Public Utilities Commission (PUC) and the PUC consultant, Georgetown Consulting Group. The Guam Public Utilities Commission came up with the idea of creating a lock box account for GPA for the sole purpose of operations, maintenance and capital improvement projects. However, the PUC abandoned this lock box concept after being presented with the PMC concept. The PUC in subsequent dockets declared that the PMC concept is the implementation best suited and least cost for resolving GPA's generation reliability problems. The PUC directed GPA to begin the RFP process for all baseload plants then under GPA management and operation.

---

<sup>1</sup> GPA contracted the *Cabras Unit 1&2 Reliability Study* out to Information-2-Energy.

GPA engaged the services of New Energy Associates of Atlanta, Georgia and their subcontractor Information-2-Energy to assist in the drafting of the Request For Proposal (RFP) documents for a Performance Management Contract for Cabras 1&2. In addition, GPA and the PUC worked collaboratively in the drafting of this RFP. In preparing the RFP, GPA further refined the PMC concept. The following summarizes the breadth of GPA's Performance Management Contracts:

- Financing: Contract specifies that GPA has the primary funding responsibility for Capital and O&M Improvement Projects and compensate the PMC on a reimbursable structure. However, GPA may request PMC to consider optional participation in placing short term capital funding. Financial integrity was a requirement in the selection for the successful Bidder.
- Budgeting: The O&M Spending limit has been established in the Contract. Incentives and penalties are imposed should the PMC exceed beyond the budget. This structure allows for GPA to have a firm projected O&M Spending budget each fiscal year.
- Compensation Structure:
  1. Fixed Management Fees: Annual management fees specified in the Contract.
  2. O&M Spending Payment: The PMC is reimbursed on actual cost not to exceed the maximum spending lime for each contract year.
  3. Performance Improvement Projects / Capital Improvement Projects Payment
  4. Dynamic Incentive and Penalty Payments: The PMC is awarded incentive payments for measured performance in excess of guaranteed performance improvements. The PMC is also penalized for under achievement of guaranteed performance levels.
- Staffing:
  - PMC Management Responsibility: The PMC manages and directs the GPA Classified Work Force. They participate in employees performance reviews, transfers and reassignments.
  - GPA Management Responsibility: GPA administers salary, benefits, grievance and disciplinary actions of the classified employees and manages hiring and personnel turnover issues with input from PMC.
- Training: The PMC is required to provide the following training programs for GPA Employees:
  - Operational Line of Progression
  - Maintenance Apprenticeship Style Training
  - Leadership Skills
  - Five-year personnel development plan
  - Apprenticeship Program Cooperation

- Operations:
  - Improve existing operational procedures
  - Create additional operation procedures
  - Environmental compliance
  
- Maintenance:
  - Create outage planning process procedures
  - Optimize outage scheduling & planning
  - Create a Quality Improvement & Root Cause Analysis culture
  - Manage maintenance functions using the computerized maintenance management system
  - Maintain spare parts inventory
  - Optimize store inventory
  
- Performance Improvement Projects: The PMC is responsible for the recommendation, scheduling, implementation and management of all GPA approved projects.
  
- Outsourcing: In order to expedite outsourcing, the PMC has full procurement authority. Main goals are to recognize and address the critical path in outage planning, minimize unscheduled/forced outage time during critical system capacity shortages and expedite repairs of critical equipment. GPA has full auditable verification authority of all PMC expenditures.
  
- Communication and Reporting : The PMC is required to provide the following reports for GPA's review and approval:
  - Auditable reporting of performance measures
  - Track the project management of PIP's
  - Supporting documentation for grievance & disciplinary actions and employee recognition
  - Off-specification variance reporting
  - Incentive compensation calculations

## **5 Performance Management Contracts: The Experience**

The incentive structure of GPA's Performance Management Contracts has significantly impacted the value of the PMC Contract. GPA contracted the PMC for performance guarantees on the following:

- Equivalent Availability
- Relative Heat Rate
- Staff Optimization
- Operations and Maintenance Spending
- Personnel Overtime Spending

The above performance guarantees are carefully tracked by GPA and the PMCs to derive to the incentive/penalty compensation calculations agreed by both parties each contract year. Figures 8 and 9 show Cabras 1&2 and Cabras 3&4 Power Plants Historical Vs. Post PMC Equivalent Availability Factor Performance. Figure 10 shows Cabras 1&2 Power Plant Historical Versus Post PMC Plant Relative Heat Rate Performance and Figure 11 shows Cabras 1&2 Power Plant Historical Vs. Post PMC Plant Efficiency Performance.

### Cabras 1&2 Equivalent Availability Factor

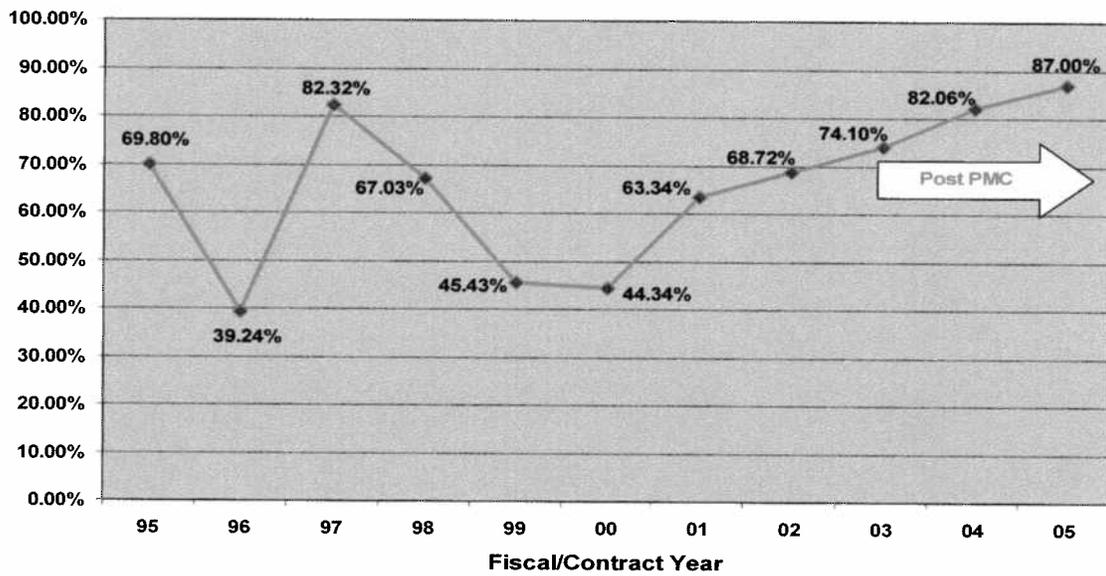


Figure 8 Cabras 1&2 Power Plant: Historical Vs. Post PMC EAF Performance

### Cabras 3&4 Equivalent Availability Factor

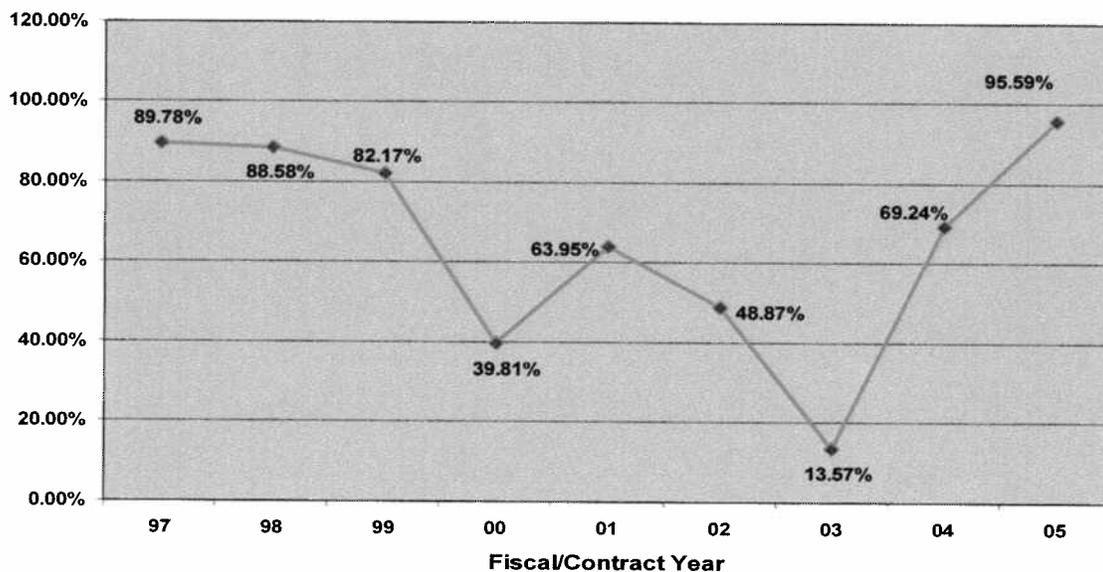


Figure 9 Cabras 3&4 Power Plant: Historical Vs. Post PMC EAF Performance

### Plant Relative Heat Rate

(Based on Design)

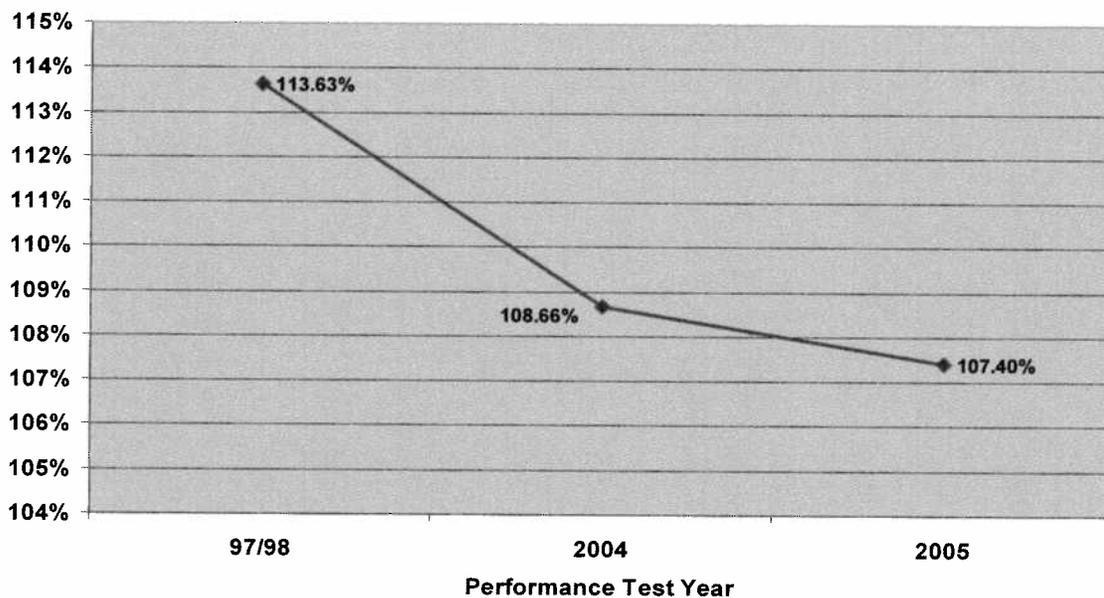


Figure 10 Cabras 1&2 Power Plant: Historical Vs. Post PMC Plant Relative Heat Rate Performance

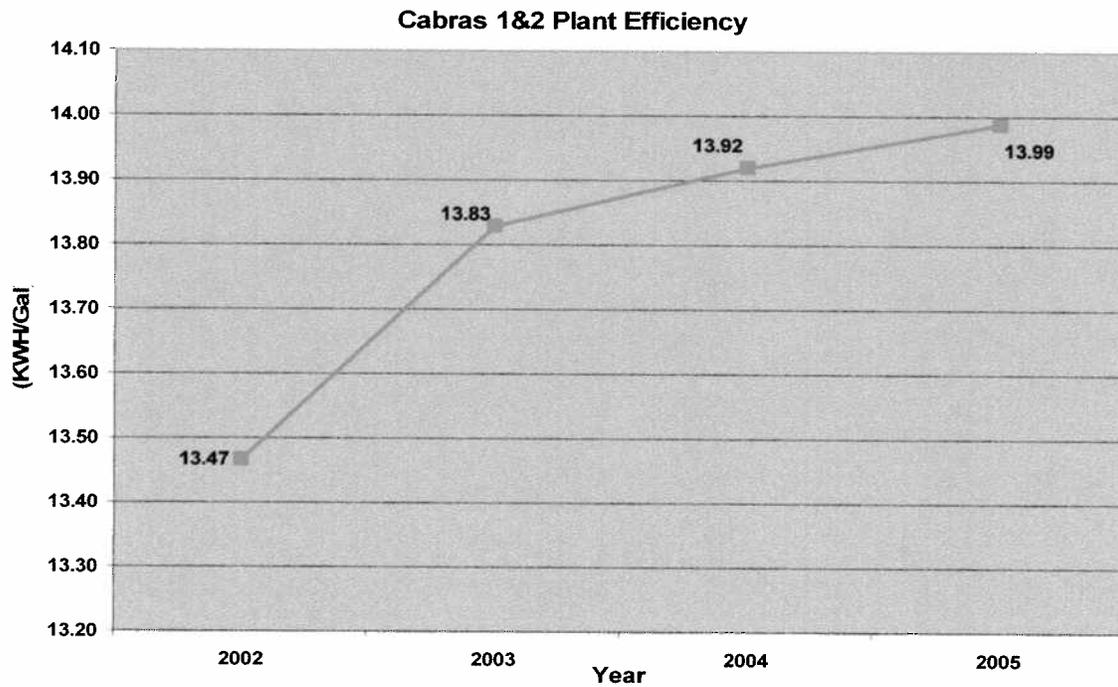


Figure 11 Cabras 1&2 Power Plant: Historical Vs. Post PMC Plant Efficiency Performance

As shown in these graphs, significant improvements in plant availability as well as efficiency immediately resulted after PMC management of both plants. This improvement is mainly due to better outage planning and expedited outsourcing allowed within the PMC contracts. Table 2-4 below show the completed Performance Improvement Projects by GPA, TEMES PMC and Doosan PMC.

<b>Project</b>	<b>Cabras Unit</b>
CWP Piping Replacement***	1&2
Reheater Replacement	2
Condenser Cleaning/NDE/Tube Repairs Sleeving	1
Boiler Drum Levels	1&2
Cables at Boiler Front	1&2
Turbine Lube Oil Purifier	1&2
FWH Level Adjustment	1&2
Cable Trays in Basement	1&2
Safety Valves Refurbishment	1&2
Turbine Roof Exhaust Fans Replacement	1&2
Boiler Performance Test	1&2
Boiler Condition Assessment	1
Scaffolding	2
Vestibule Repairs	1&2
Stack Repair	1
Boiler Feed Pump Motor	1
Service Air Compressor	1&2
Main Transformer Oil Replacement	1
Turbine Minor Inspection	1
Turbine Balancing Unit 1	1
Turbine Balancing Unit 2	2
Instrument Specialists	1&2
Major Steam Pipe NDT Preparation	1
Unit 1 Air Preheater Basket Repair	1
Unit 2 Air Preheater Basket Repair	2
Typhoon Damaged Repairs	1&2

Table 2 - Contract Year 1 Completed Capital and Performance Improvement Projects  
Cabras 1&2

Project	Cabras Unit
Start-Up Transformer and Duct Line Replacement	1&2
Turbine/Generator Overhaul - Unit 1	1
Turbine/Generator Overhaul - Unit 2	2
Reheater Replacement Project	2
Safety Valves Installation	2
Turbine Expansion Joint - Material & Specialist	1&2
Air Preheater Basket Replacement	2
Flue Duct Expansion Joint	2
Spring Hangers & Rod	1&2
Boiler Drum Level Installation	1&2
Fuel Oil System Renovation	1&2
Control Valve Refurbishment	1&2
Arch Tube Replacement	1
MS Piping Hanger & Deaerator Replacement***	1&2
#5 HP Heater Tube Replacement	2
Boiler Condition Assessment	2
Deaerator & Storage Tank	1&2
Sootblower Repair	1&2
FDF Rotor Replacement	1&2
CWP System Renovation	1&2
Condenser Tube Detection System	1&2
Air Preheater Basket Replacement	1
Boiler Chemical Cleaning	1
Boiler Chemical Cleaning	2
Fire Fighting Design/Assessment	1&2
Water Treatment Facility***	1&2
MS Piping & Deaerator Asbestos Abatement	1&2

Table 3 - Contract Year 2 Completed Capital and Performance Improvement Projects  
Cabras 1&2

Project	Unit
Scavenge Air/Drain Mist Catcher Modification	3
Replacement of Fuel Oil and Fuel Oil Return Lines	3&4
Replace Control Panels (Travelling Screen Area)	3&4
Piston Cleaning Ring Modification	3&4
Protective Structure for F.O. Day Tank Heaters	3&4
40' Storage Container	3&4
Exhaust Gas Receiver Modification	3&4
Elevator Repair	4
Turning Gear Housing	4
Turbo Charger Silencer Upgrade	3
Modification of Expansion Joint For Exhaust Valve Cooling Water Outlet	3&4

Table 4 - 2005 Completed Capital and Performance Improvement Projects  
Cabras 3&4

The salient result of Performance Management Contract implementation is savings for GPA and its ratepayers. Figures 12 through 16 illustrate the IPP and PMC contract fees, performance status and savings. Guam's journey towards reliable power has come a

long way. By thinking out of the box, right-sourcing and right-sizing, Guam Power is delivering sustainable reliable power to its rate payers.

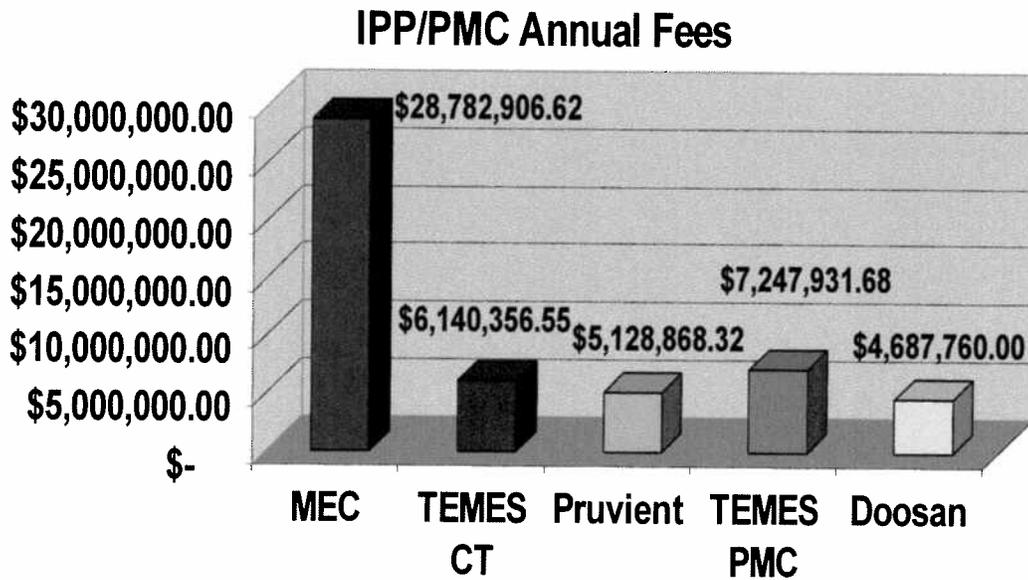


Figure 12 Contract Fees

F

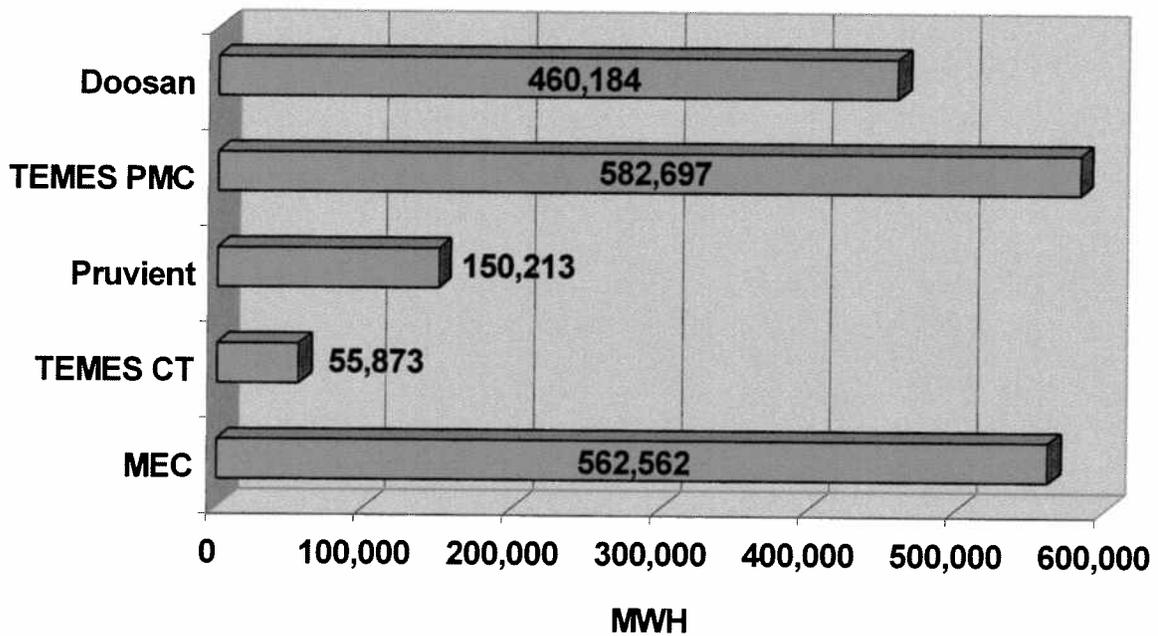


Figure 13 Net Generation

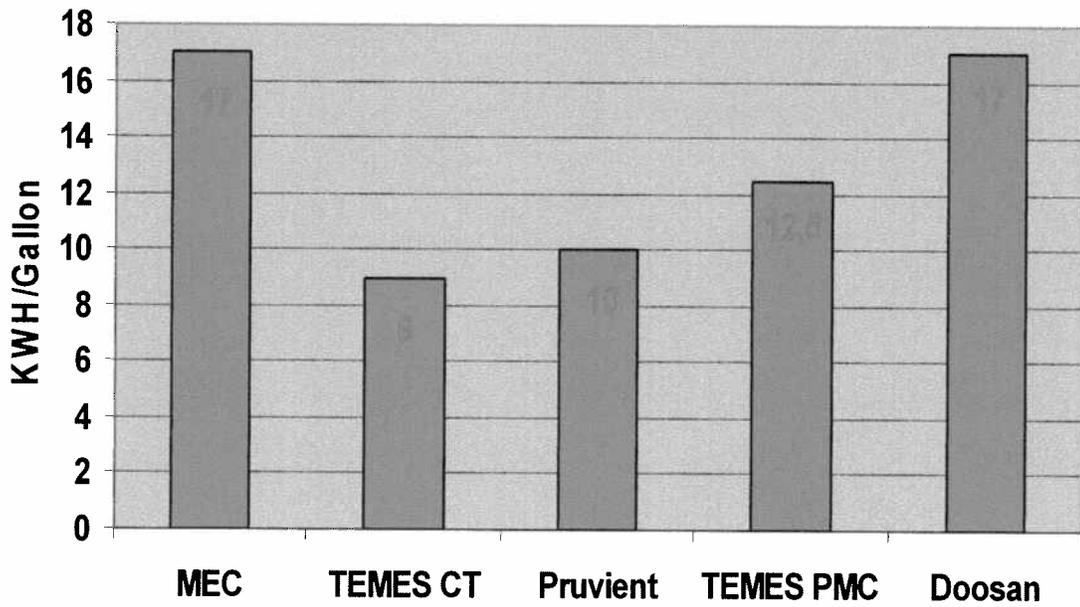


Figure 14 Plant Efficiency

### Cabras 1&2 Annual Savings

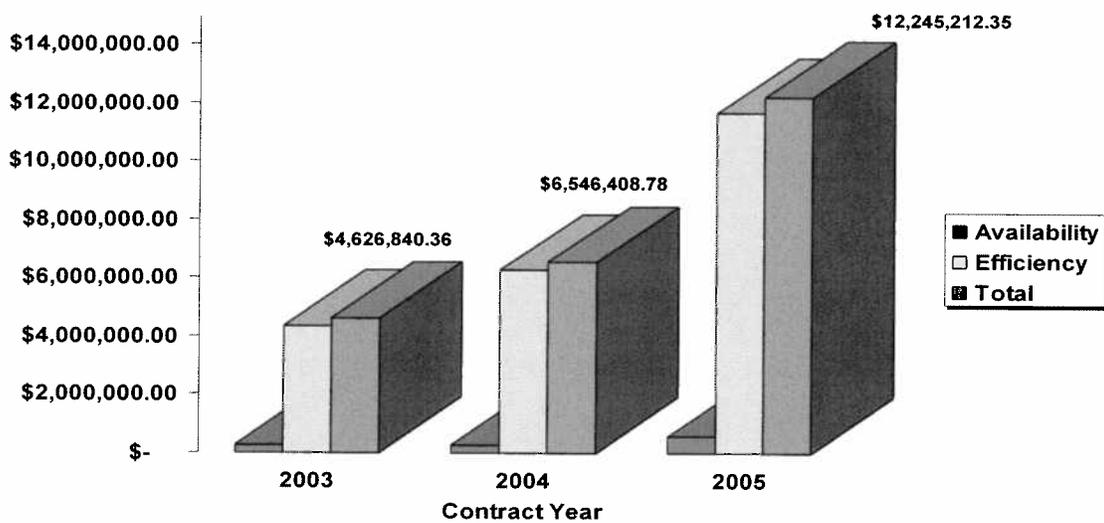


Figure 15 Cabras 1&2 Power Plant: Historical Vs. Post PMC Plant Annual Savings

### PMC Cabras 3&4 Projected Savings

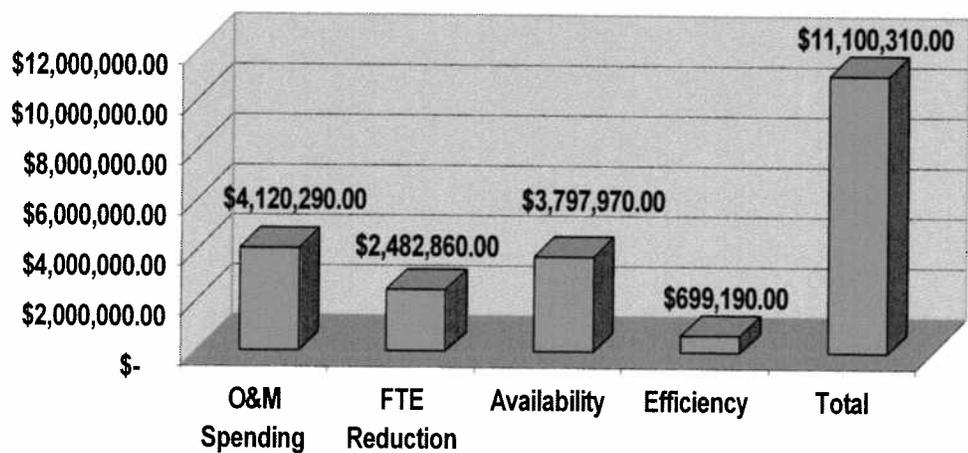


Figure 16 Cabras 3&4 Power Plant: Projected Annual Savings



## **CONSOLIDATED COMMISSION ON UTILITIES**

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

July 22, 2009

TO: I MINA 'TRENTA NA LIHESLATURAN GUAHAN

My name is John M. Benavente, P.E., and I am the General Manager of the Consolidated Utility Services. I am here to testify regarding Bill 30-175, and I am providing this testimony in my official capacity. On behalf of Guam Power Authority (GPA) and Guam Waterworks Authority (GWA), I would like to offer the following testimony:

Guam Power Authority and Guam Waterworks Authority support Bill 30-175 which allow GPA and GWA to enter into appropriate long term contracts which have proven to serve ratepayers through lower costs, improved management, and better reliability. These long term contracts allow such private entities to recoup their investment costs during the longer contract period. Spreading the cost over a longer period will lessen the need for higher power, water, and wastewater rates for the infrastructure upgrades these Public-Private Partnerships will produce.

Guam Power Authority and Guam Waterworks lead the Government of Guam in Public-Private Partnerships. They have used these instruments to decrease costs and increase power and wastewater system reliability.

IPP contracts provide reliable power to the GPA grid. These contracts are twenty year contracts for baseload, intermediate baseload, and reserve power. GPA is responsible for providing fuel to IPP power plants. It pays capacity, fixed O&M, and energy conversion charges. The cost of these investments into capital infrastructure exceeds \$150 million. Long-term contracts spread the payment of these investments and allow GPA to pass these costs to customers more affordably.

PMC contracts are valuable tools that save customers money, may reduce the need for base rate increases, and protect customer interests. The Guam PUC accepted a GPA white paper as proof that these contracts are reasonable and save GPA customers money. The Benefit Cost ratio of these GPA PMC contracts is seven to one. This means that for every dollar spent on fixed management fees to the PMCs, the Customer has received a reduction in fuel costs of seven dollars. Figure 1 shows the savings garnered by using PMCs. Furthermore, the financing provisions in PMC contracts permitted the financing of several large projects. If not financed over several years, these projects would have resulted in base rate impacts or pushed out these or other critical projects.

Finally, GPA continues to improve and strengthen customer protections in its current PMC solicitations. For example, if a PMC contractor does not meet specific performance requirements, the contract cannot be extended.

Guam Waterworks has a PMC with Veolia LLC for improving the operations and maintenance of the GWA wastewater system. The advantages of a performance management contractor include the ability to leverage the buying power of a large corporation and international corporate contracts for procurement, resulting in savings of up to 30% and in additional services, such as equipment training. PMCs have the ability to tap international resources in engineering, safety, and procurement as needed to meet peak demands or to provide specific expertise not available on-island.

The flexibility of longer contract terms for IPPs and PMCs allows the amortization of large projects over longer periods for better cash flow management. Furthermore, it creates greater incentives for contractors to provide better performance value.

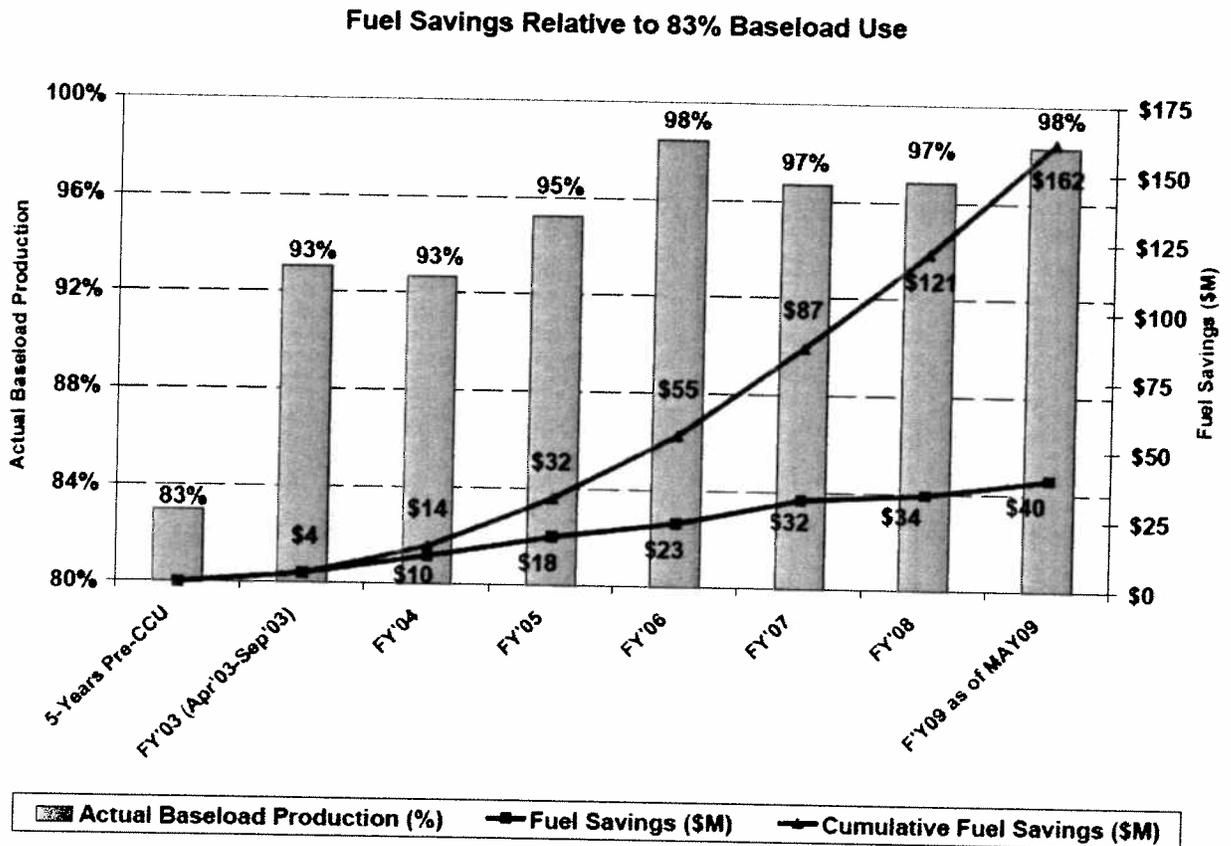


Figure 1, Fuel Savings from Increased Baseload Use as a Result of PMCs

Existing Public-Private Partnerships have helped Guam Power Authority and Guam Waterworks employees by providing better training, focused management and faster procurement in order to reach higher technical standards to accomplish their jobs in a more efficient and effective manner. The legislation which enabled such Public-Private Partnership were made under emergency conditions, were for limited time periods, and were temporary in nature. These Public-Private Partnerships have also prevented the People of Guam from losing their Island Wide Power System and Guam's Drinking Water and Wastewater Systems by ensuring greater compliance with Guam and Federal environmental regulations. And, these Public-Private Partnerships have kept the Guam Power Authority and Guam Waterworks employees in place, and trained them to accomplish their jobs in a more efficient and effective manor manner and to reach higher technical standards.

Today, the People of Guam are faced with new challenges to the Islandwide Power System, and Guam's Drinking and Wastewater Systems arising from the impending buildup of U.S. military forces on Guam and the ever-rising cost of fossil fuels which the successful operation of Guam's infrastructure heavily depends upon. And, the CCU, GPA, and GWA finds that it is time again to use the proven and time tested Public-Private Partnership tools to meet these new challenges.

GPA and GWA find that in order to encourage more private entities to invest in Guam's infrastructure, it is necessary to make permanent the tools used to create Public-Private Partnerships, and to remove barriers inhibiting such private entities from forming Public-Private Partnerships with the Guam Power Authority and the Guam Waterworks Authority. The main barrier is numerous private entities are not willing or able to compete for such Public-Private Partnerships because of high start-up costs or capital investment in power, drinking water, and wastewater facilities. GPA and GWA further believe that allowing the Guam Power Authority and the Guam Waterworks Authority to enter into long term contracts will mitigate this barrier and encourage increased interest and competition from such private entities because such long term contracts allow such private entities to recoup their investment costs during the longer contract period. Further, spreading the cost over a longer period will eliminate or lessen the need for higher power, water, and wastewater rates for the infrastructure upgrades these Public-Private Partnerships will produce.

Sincerely,



**JOHN M. BENAVENTE, P.E.**  
**General Manager**  
**Consolidated Utility Services**



# COMMITTEE ON RULES

*I Mina' Trenta na Liheslaturan Guåhan* • 30th Guam Legislature

155 Hesler Place, Hagatña, Guam 96910 • tel: (671)472-7679 • fax: (671)472-3547 • roryforguam@gmail.com

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RESPICIO  
CHAIRPERSON**

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**Frank F. Blas, Jr.  
SENATOR**

**James V. Espaldon  
SENATOR**

July 14, 2009

**MEMORANDUM**

**To: Pat Santos**  
*Clerk of the Legislature*

**Attorney Therese M. Terlaje**  
*Legislative Legal Counsel*

**From: Senator Rory J. Respicio**   
*Chairperson, Committee on Rules*

**Subject: Referral of Bill Nos. 30-175 and 30-178**

As Chairperson of the Committee on Rules, I am forwarding my referral of Bill Nos. 30-175 and 30-178.

Please ensure that the subject bills are referred, in my name, to the respective Chairpersons, as shown on the attachment. I also request that the same be forwarded to all senators of *I Mina' Trenta Na Liheslaturan Guåhan*.

Should you have any questions, please contact Elaine V. Tajalle or Stephanie Mendiola at 472-7679.

Si Yu'os Ma'åse'!

(1) Attachment

## Bill Referral 7/14/09

Page 1 of 1

Bill	Sponsor	Description	Date Introduced	Date Referred	Committee Referred
30-175 (COR)	T. C. Ada, F. B. Aguon, Jr., F. F. Blas, Jr., T. R. Muña Barnes	An act to add Subsections (14) and (15) to Section 8104 of Chapter 8 of Title 12 of the Guam Code Annotated and to add Subsections (n) and (o) to Section 14104 of Chapter 14 of Title 12 of the Guam Code Annotated, and to amend Subsection (c) of Section 14104.1, and Section 14404 of Chapter 12 of Title 12 of the Guam Code Annotated, relative to permitting the Guam Power Authority, and the Guam Waterworks Authority to enter into long term contracts.	7-14-09	7-14-09	Committee on Utilities, Transportation, Public Works and Veterans Affairs
30-178 (COR)	T. C. Ada, F. B. Aguon, Jr., F.F. Blas, Jr.	An act to approve the Jose D. Leon Guerrero Commercial Port of Guam Master Plan Update 2007 Report.	7-14-09	7-14-09	Committee on Utilities, Transportation, Public Works and Veterans Affairs

# Public Notices



## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
30<sup>th</sup> Guam Legislature • I Mina' Trenta Na Liheslaturan Guáhan

July 14, 2009

### MEMORANDUM

To: All Senators

From: Chairperson, Committee on Utilities, Transportation, Public Works and Veterans Affairs

Subject: **Public Hearing Notice: July 22, 2009 at 9:00 am and 2:00 pm**

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The agenda is as follows:

**9:00 am**

**Bill No. 30-178 (COR)** – T.C. Ada

An act to approve the Jose D. Leon Guerrero Commercial Port of Guam Master Plan Update 2007 Report.

**2:00 pm**

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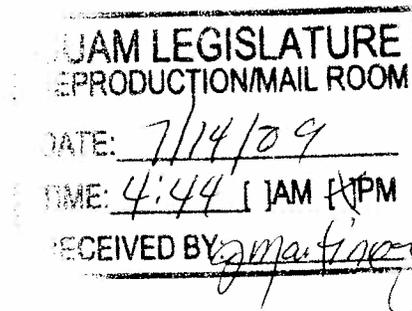
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Si Yu'os Ma'ase,

Thomas C. Ada

cc: Clerk of the Legislature  
Sergeant at Arms and Protocol  
MIS





## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
30<sup>th</sup> Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan

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The Committee will continue to accept written or electronic testimonies until 5pm, August 3, 2009; please address these testimonies to Senator Thomas C. Ada, Chairperson, Committee on Utilities, Transportation, Public Works, and Veterans Affairs. Copies of these agenda items may be found on the official Guam Legislature website ([www.guamlegislature.com](http://www.guamlegislature.com)). Please feel free to contact our office should you have any questions or concerns.

Si Yu'os Ma'ase,

Thomas C. Ada

cc: Clerk of the Legislature  
Sergeant at Arms and Protocol  
MIS



## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
30<sup>th</sup> Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan

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## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
30<sup>th</sup> Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan

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Ada Plaza Center, Ste. 207 • 173 Aspinall Avenue • Hagåtña, Guam 96910  
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## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
30<sup>th</sup> Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan

July 14, 2009

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Si Yu'os Ma'ase,

Thomas C. Ada

cc: Clerk of the Legislature  
Sergeant at Arms and Protocol  
MIS

Ada Plaza Center, Ste. 207 • 173 Aspinall Avenue • Hagåtña, Guam 96910  
Phone: (671) 473-3301 • Fax: (671) 473-3303 • Email: [Tom@SenatorAda.org](mailto:Tom@SenatorAda.org) • [www.SenatorAda.org](http://www.SenatorAda.org)

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6	5577	Hit Radio	4:49PM	15s	1	SG3 BC	CP	--
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SA: Send Again EN: Engaged AS: Auto Send TM: Terminated



Senator Tom Ada

Cyrus Luhr <cyrus@senatorada.org>

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## Office of Senator Ada - Public Hearing Notice - July 22

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Cyrus Luhr <cyrus@senatorada.org>

Tue, Jul 14, 2009 at 4:52 PM

To: news@guampdn.com, gdumat-ol@guampdn.com

To whom it may concern,

Can you please include information regarding the attached Public Hearing Notice in your governmental notice section? Thank you.

Best wishes,  
Cyrus

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Cyrus Luhr  
Staff Analyst  
Office of Senator Thomas C. Ada  
I Mina' Trenta na Liheslaturan Guåhan - 30th Guam Legislature



**Public Notice - July 28 - All Media.pdf**

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## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
30<sup>th</sup> Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan

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Thomas C. Ada

cc: Clerk of the Legislature  
Sergeant at Arms and Protocol  
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## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
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Office of  
Senator Tom Ada

Cyrus Luhr <cyrus@senatorada.org>

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## Public Hearing Notice - July 22

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Cyrus Luhr <cyrus@senatorada.org>

Thu, Jul 16, 2009 at 3:14 PM

To: Jeffrey Johnson <jeffcharjohnson@hotmail.com>, lpalomo@guampuc.com, monte@guam.net, glennlg@portguam.com, Horecky and Associates <horeckylaw@teleguam.net>, ratnathicam@pbworld.com, "Paul L. Blas" <plblas@seabridgeguam.com>, "Lawrence 'Larry' P. Perez" <zerepyrral@yahoo.com>, jflores@gpagwa.com, leno@guamwaterworks.org, chairman@guamchamber.com.gu, ccastro@guamchamber.com.gu, gdcmgr@ite.net, lsablan@gpagwa.com

Hafa Adai,

Please see the attached pdf document regarding the upcoming Public Hearing on July 22. On the agenda are Bills 30-175 (Port Master Plan) and 30-178 (GWA long-term contract). Copies of the bills may be downloaded from the Guam Legislature website ([guamlegislature.com](http://www.guamlegislature.com)), or from a direct link here: for 30-175, <http://tr.im/syR9>; and for 30-178, <http://tr.im/syQU>.

If you have any questions or concerns, or difficulty opening the document, please contact me at [Cyrus@SenatorAda.org](mailto:Cyrus@SenatorAda.org).

Sincerely,  
Cyrus

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Cyrus Luhr  
Staff Analyst  
Office of Senator Thomas C. Ada  
1400 Terminal Interchange Station - 1st Flr Guam Legislature

 **Public Hearing Notice - July 22 - Stakeholders.pdf**  
36K

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## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
30<sup>th</sup> Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan

### PUBLIC HEARING NOTICE

July 22, 2009 at 9:00 am and 2:00 pm  
Public Hearing Room, *I Liheslaturan Guåhan*

Please be advised that the Committee on Utilities, Transportation, Public Works and Veterans Affairs is holding a public hearing on July 22, 2009 at 9:00 am and 2:00 pm. This meeting will take place in the Public Hearing Room of *I Liheslatura*.

The agenda is as follows:

#### 9:00 am

**Bill No. 30-178 (COR)** – T.C. Ada

An act to approve the Jose D. Leon Guerrero Commercial Port of Guam Master Plan Update 2007 Report.

#### 2:00 pm

**Bill No. 30-175 (LS)** – T.C. Ada / F.B. Aguon, Jr. / F.F. Blas, Jr. / T.R. Muña-Barnes  
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Senator Tom Ada

Cyrus Luhr <cyrus@senatorada.org>

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## Public Hearing Notice - July 22

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Cyrus Luhr <cyrus@senatorada.org>

Thu, Jul 16, 2009 at 3:21 PM

Bcc: "Davita D. Palacios" <ddpalacios@portguam.com>, vcleon@portguam.com

Hafa adai,

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Best wishes,  
Cyrus

---

Cyrus Luhr  
Staff Analyst  
Office of Senator Thomas C. Ada  
1 Mead Street, 1st Floor, San Juan, Guam  
With Guam Legislature



**Public Hearing Notice - July 22 - Stakeholders.pdf**

36K

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# WorkCentre 7232 Broadcast Report

G3 ID

6714733303

Date/Time: 07/17/2009:04:54PM

Page: 1

Local Name  
Logo

SENATOR THOMAS ADA

Document Size: 8.5x11"SEF



## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
30<sup>th</sup> Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan

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Ada Plaza Center, Ste. 207 - 173 Aspinall Avenue • Hagåtña, Guam 96910  
Phone: (671) 473-3301 • Fax: (671) 473-3303 • Email: [Tom@SenatorAda.org](mailto:Tom@SenatorAda.org) • [www.SenatorAda.org](http://www.SenatorAda.org)

No.	Doc.	Remote Station	Start Time	Duration	Pages	Mode	Contents	Status
1	5725	671 646 7989	7-17: 4:38PM	17s	1/ 1	SG3 BC	CP	-
2	5725	671 472 1917	4:39PM	30s	1/ 1	ECM BC	CP	-
3	5725	4772689	4:41PM	39s	1/ 1	ECM BC	CP	-
4	5725	6714774445	4:43PM	16s	1/ 1	SG3 BC	CP	-
5	5725	Horecky and Assoc.	4:43PM	16s	1/ 1	SG3 BC	CP	-
6	5725	6716499564	4:45PM	14s	1/ 1	SG3 BC	CP	-
7	5725	477 2465	4:45PM	16s	1/ 1	SG3 BC	CP	-
8	5725	6496178	4:47PM	15s	1/ 1	SG3 BC	CP	-

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GS ID

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Date/Time: 07/17/2009/04:54PM

Page: 2 (Last Page)

Local Name            SENATOR THOMAS ADA  
Logo

No.	Doc.	Remote Station	Start Time	Duration	Pages	Mode	Contents	Status	
9	5725	6716462335	4:49PM	17s	1	1 SG3	BC	CP	-
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11	5725	6474032	4:51PM	0s	-	1 G3	BC	EN	-
12	5725	6714774141	4:52PM	27s	1	1 SG3	BC	CP	-
13	5725	4726202	4:53PM	15s	1	1 SG3	BC	CP	-
14	5725	648-3290	4:54PM	26s	1	1 SG3	BC	CP	-

Note:

RE: Resend            MB: Send to Mailbox            BC: Broadcast            MP: Multi Polling            RV: Remote Service  
PG: Polling            RB: Relay Broadcast            RS: Relay Send            BF: Box Fax Forward            CP: Completed  
SA: Send Again        EN: Engaged                    AS: Auto Send                TM: Terminated



Senator Tom Ada

Cyrus Luhr &lt;cyrus@senatorada.org&gt;

## Public Hearing Notice - July 22 - Bills 30-175 and 30-178

Cyrus Luhr &lt;cyrus@senatorada.org&gt;

Fri, Jul 17, 2009 at 4:59 PM

To: judiguthertz@pticom.com, senjim@ite.net, "Adolpho B. Palacios" <senabpalacios@gmail.com>, Ben Pangelinan <senbenp@guam.net>, "Edward J.B. Calvo" <sencalvo@gmail.com>, "Frank B. Aguon, Jr." <aguon4guam@gmail.com>, "Frank F. Blas, Jr." <frank.blasjr@gmail.com>, Jimmy Espaldon <senator@espaldon.com>, Judi Won Pat <info@judiwonpat.com>, Matt Rector <matt@mattrector.com>, Ray Tenorio <ray@raytenorio.com>, "Rory J. Respicio" <rorifyorguam@gmail.com>, Telo Taitague <senatortelo@gmail.com>, Tina Muna Barnes <tinamunabarnes@gmail.com>, Tom Ada <tom@senatorada.org>, aokada@guamlegislature.org, chris.budasi@guamlegislature.org, ciquinata@gmail.com, cyrus@senatorada.org, delta9marlo@gmail.com, doc.wyittenbachsantos@gmail.com, edpocaigne@judiwonpat.com, edpocaigne@yahoo.com, elg@guamlegislature.org, epogue@hotmail.com, fba\_irenem@yahoo.com, fbtorres@yahoo.com, jamespcastro@gmail.com, jennifer@mattrector.com, jessica@raytenorio.com, jonbdiaz@gmail.com, justin@mattrector.com, laurielista@gmail.com, legislativesecretary1@gmail.com, lizama.frances@gmail.com, mark@judiwonpat.com, maryfejeran@gmail.com, maya.alonso@gmail.com, mermae@raytenorio.com, mjperez48@yahoo.com, mona.duenas@gmail.com, patrickcepeda@hotmail.com, pjtcruz@yahoo.com, rjquitugua@gmail.com, rlikeke05@gmail.com, rob.tupaz@gmail.com, roberto.phil@gmail.com, roland@judiwonpat.com, rsmuna@yahoo.com, sahara@judiwonpat.com, sayama01@yahoo.com, teddytaz\_222@yahoo.com, the2006er@hotmail.com, tpmatane@yahoo.com, vel.komiyama@yahoo.com, zunior0831@hotmail.com, bill phillips <phillipsguam@gmail.com>, Carlos Pangelinan <carlospguam@yahoo.com>, Chris Odoca <codoca@gmail.com>, Derick Hills <derickhills@live.com>, Elaine Tajalle <elainevtll@gmail.com>, Frank Torres <fbtorres@judiwonpat.com>, Fred Burgos <fred@mattrector.com>, Gina Tabonares <aguonmedia@gmail.com>, Jay Sunga <ajsunga@senatorada.org>, Jose Cruz <josecruzjr17@yahoo.com>, Joy Unpingco <joyunpingco@gmail.com>, Lisa Cipollone <cipo@guamlegislature.org>, Mary Lou Wheeler <mlwheeler2000@yahoo.com>, Mike Lidia <mike.lidia9@gmail.com>, Nicole Santos <nsantos@senatorada.org>, Phillip Leon Guerrero <phill@raytenorio.com>, Ron Taitague <ez2plez57@yahoo.com>, "teddytaz@ite.net" <teddytaz@ite.net>, Tony Quitugua <tq@guamlegislature.org>, sem@guamlegislature.org, mcarlson@ite.net

Hafa Adai,

Please see the attached pdf regarding an upcoming Public Hearing on July 22. On the agenda are Bills 30-175 (Port Master Plan) and 30-178 (GWA long-term contract). Copies of the bills may be downloaded from the Guam Legislature website ([guamlegislature.com](http://guamlegislature.com)), or from a direct link here: for 30-175, <http://tr.im/syR9>; and for 30-178, <http://tr.im/syQU>.

If you have any questions or concerns, or difficulty opening the document, please contact me at [Cyrus@SenatorAda.org](mailto:Cyrus@SenatorAda.org).

Sincerely,  
Cyrus

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Cyrus Luhr  
Staff Analyst  
Office of Senator Thomas C. Ada  
I Mina' Trenta na Liheslaturan Guahan - 30th Guam Legislature

 **Public Hearing Notice - July 22 - All Senators.pdf**  
32K



## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
30<sup>th</sup> Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan

July 14, 2009

### MEMORANDUM

To: All Senators

From: Chairperson, Committee on Utilities, Transportation, Public Works and Veterans Affairs

Subject: **Public Hearing Notice: July 22, 2009 at 9:00 am and 2:00 pm**

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Si Yu'os Ma'ase,

Thomas C. Ada

cc: Clerk of the Legislature  
Sergeant at Arms and Protocol  
MIS

# WorkCentre 7232 Broadcast Report

G3 ID

6714733303

Date/Time: 07/17/2009; 04:38PM

Page: 1 (Last Page)

Local Name: SENATOR THOMAS ADA  
Logo:

Document Size: 8.5x11"SEF



## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
30<sup>th</sup> Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan

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Thomas C. Ada

cc: Clerk of the Legislature  
Sergeant at Arms and Protocol  
MIS

Ada Plaza Center, Ste. 207 • 173 Aspinall Avenue • Hagåtña, Guam 96910  
Phone: (671) 473-3301 • Fax: (671) 473-3303 • Email: [Tom@SenatorAda.org](mailto:Tom@SenatorAda.org) • [www.SenatorAda.org](http://www.SenatorAda.org)

No.	Doc.	Remote Station	Start Time	Duration	Pages	Mode	Contents	Status
1	5724	KUAM	7-17; 4:32PM	21s	1	1	SG3 BC	CP
2	5724	Pacific Daily News	4:33PM	40s	1	1	ECM BC	CP
3	5724	Pacific News Centr	4:34PM	15s	1	1	SG3 BC	CP
4	5724	Marianas Variety	4:35PM	17s	1	1	SG3 BC	CP
5	5724	K-Stereo	4:36PM	30s	1	1	ECM BC	CP
6	5724	Hit Radio	4:37PM	15s	1	1	SG3 BC	CP
7	5724	K-57	4:37PM	14s	1	1	SG3 BC	CP

Note:  
RE: Resend MB: Send to Mailbox BC: Broadcast MP: Multi Polling RV: Remote Service  
PG: Polling RB: Relay Broadcast RS: Relay Send BF: Box Fax Forward CP: Completed  
SA: Send Again EN: Engaged AS: Auto Send TM: Terminated



Senator Tom Ada

Cyrus Luhr <cyrus@senatorada.org>

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## Reminder: Public Hearing Notice - July 22

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Cyrus Luhr <cyrus@senatorada.org>

Fri, Jul 17, 2009 at 4:42 PM

To: Jeffrey Johnson <jeffcharjohnson@hotmail.com>, lpalomo@guampuc.com, monte@guam.net, glennlg@portguam.com, Horecky and Associates <horeckylaw@teleguam.net>, ratnathicam@pbworld.com, "Paul L. Blas" <plblas@seabridgeguam.com>, Len Isotoff <lisotoff@matson.com>, ariel.dumapit@iss-shipping.com, desmond\_aw@mariana-express.com, hhealey@horizonlines.com, rsablan@msa-guam.com, gdavid@ambyth.guam.net, vcleon@portguam.com, ddpalacios@portguam.com, "Lawrence 'Larry' P. Perez" <zerepyrral@yahoo.com>, jflores@gpagwa.com, leno@guamwaterworks.org, chairman@guamchamber.com.gu, ccastro@guamchamber.com.gu, gdcmgr@ite.net, lsablan@gpagwa.com, sbblas@gpagwa.com  
Cc: Jay Sunga <ajsunga@senatorada.org>, Nicole Santos <nsantos@senatorada.org>

Hafa Adai,

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Sincerely,  
Cyrus

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Cyrus Luhr  
Staff Analyst  
Office of Senator Thomas C. Ada  
I Mina Trenta na Liheslaturan Guahan - 30th Guam Legislature



**Public Hearing Notice - July 22 - Stakeholders.pdf**

36K

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## **Senator Thomas C. Ada**

**CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs**  
**30<sup>th</sup> Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan**

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Senator Tom Ada

Cyrus Luhr <cyrus@senatorada.org>

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## 2-day notice: Office of Senator Ada - Public Hearing Notice - July 22

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Cyrus Luhr <cyrus@senatorada.org>

Fri, Jul 17, 2009 at 4:46 PM

To: news@guampdn.com, gdumat-ol@guampdn.com

To whom it may concern,

Can you please include information regarding the attached Public Hearing Notice (to take place on July 22) in your governmental notice section? Thank you.

Best wishes,  
Cyrus

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Cyrus Luhr  
Staff Analyst  
Office of Senator Thomas C. Ada  
I Mina' Trenta na Liheslaturan Guåhan - 30th Guam Legislature



**Public Notice - July 22 - All Media.pdf**

35K

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## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
30<sup>th</sup> Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan

July 14, 2009

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Si Yu'os Ma'ase,

Thomas C. Ada

cc: Clerk of the Legislature  
Sergeant at Arms and Protocol  
MIS



## Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs  
30<sup>th</sup> Guam Legislature • I Mina' Trenta Na Liheslaturan Guåhan

### AGENDA

#### PUBLIC HEARING

WEDNESDAY, JULY 22, 2009

Public Hearing Room, *I Liheslaturan Guahån*

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# Paradise Bingo

Sponsored by: OSCA Center

**Monday, July 20, 2009**

Royal Orchid Hotel, Ground Floor Banquet Room  
Doors Open at 4:00 pm...Game Starts 7:15 pm; Phone 649-8102/8103

Package purchased include ALL Regular Jackpot Games

**\$3,000 COVER ALL GIVEAWAY**

**6 CARD PRICES**  
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6 across \$25 + 6 free  
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Early Bird - 2 for \$5  
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**\$2,000 BABY JACKPOT GIVEAWAY**

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## LIFESTYLE

### GOVERNMENT MEETINGS

**July 22**

**A.B. Won Pat Guam International Airport Authority:** Board of directors regular meeting 3 p.m., terminal conference room 3, Tamuning. Agenda copies available. Parking available in public parking lot. For special accommodations, call 646-0300.

**Committee on Utilities, Transportation, Public Works and Veterans Affairs:** Public hearing 9 a.m., Legislature's public hearing room, Hagåtña, on Bill 30-178, to approve Jose D. Leon Guerrero Commercial Port of Guam master plan update 2007 report. 2 p.m. on Bill 30-175, relative to permitting Guam Power Authority and Guam Waterworks Authority to enter into long-term contracts.

**July 23**

**Civil Service Commission:** Board meeting 5:30 p.m., seventh-floor conference room, ITC Building, Tamuning. Motion hearing: Eloise R. Sanchez vs. Guam Public School System; bills and laws relating to CSC. For special accommodations, call Blanca at 647-1855/7 or TDD 647-1872.

**Guam Economic Development Authority:** Board of directors regular meeting 1:30 p.m., Suite 511, ITC building, Tamuning. For special accommodations, call Lori Villaverde, 647-4332, ext. 120.

**Guam Visitors Bureau:** Board of directors regular meeting 4 p.m., GVB main conference room, Tumon. For special accommodations, call 646-5278.

**Port Authority of Guam:** Board of directors meeting 5 p.m., board conference

room, Cabras Island, Piti. For special accommodations, call Simeon Delos Santos, 477-5931/4, ext. 430 or pager 635-1351.

**July 27**

**Public Defender Service Corp. Board of Trustees:** Regular meeting 12:30 p.m., Supreme Court conference room, Guam Judicial Center, Hagåtña. Agenda copies available. For special accommodations, call Bernadette Changulaf, 475-3100.

**July 28**

**Civil Service Commission:** Board meeting 5:30 p.m., seventh-floor conference room, ITC Building, Tamuning. Hearing on merits: Johnny R. Newby vs. Guam Fire Department; bills and laws relating to CSC. For special accommodations, call Blanca at 647-1855/7 or TDD 647-1872.

**Committee on Public Safety, Law Enforcement and Senior Citizens:** Public hearing 9 a.m., Legislature's public hearing room, Hagåtña. Bill 162, creating on-line warrant repository; Bill 30-176, establishing separate Notary Public revolving fund, and establishing new fees collected by GovGuam for notary applications and for issuing certificates of authenticity and apostilles, and to clarify that apostilles are issued by Department of Administration director or deputy director; Bill 30-177, authorizing attorney general's office to collect fee for its AG clearances, and establishing separate fund for deposit of such fees. For special accommodations, call 472-5047/5048.

**Guam Board of Examiners for Optometry:** Regular meeting 8:30 a.m., Health Professional Licensing Office board room, Suite 9, Legacy Square Commercial Complex, Mangilao. Call 735-7406/11.

**July 29**

**Civil Service Commission:** Board meeting 5:30 p.m., seventh-floor conference room, ITC Building, Tamuning. Hearing on merits: Johnny R. Newby vs. Guam Fire Department; bills and laws relating to CSC. For special accommodations, call Blanca at 647-1855/7 or TDD 647-1872.

**Governor's Prevention and Early Intervention Advisory Community Empowerment (PEACE) Council:** Meeting as a whole 10 to 11:30 a.m., PEACE office, J&G Commercial Complex, building F, second floor, Suites 203-204F, Hagåtña. Call 477-9079/9083 or 477-8861.

**Guam Board of Registration for Professional Engineers, Architects and Land Surveyors:** Regular meeting 4 p.m., board conference room, Upper Tumon. For special accommodations, call 646-3113.

**Guam Education Policy Board:** Regular meeting 5 p.m., Upi Elementary School, Yigo. For special accommodations, call 300-1627/9.

**July 30**

**Guam Community College:** Board of Trustees monthly meeting 6 p.m., president's conference room, second floor, student services and administration building 2000. For special accommodation, call 735-5919/5938.

**Guam Pardon Review Board:** Regular hearing 3 p.m., Parole Services Division, fifth floor, Suite 505, DNA building, Hagåtña. For special accommodations, call 473-7001.

**Guam Parole Board:** Regular hearing 8:30 a.m., Parole Services Division, fifth floor, Suite 505, DNA building, Hagåtña. For special accommodations, call 473-7001.

**Guam Workforce Investment Board:** Meeting 4 p.m., third-floor conference room, GCIC building, Hagåtña. Agenda copies available upon request. For special accommodations, call Joy Jean Mantanona, 475-7079/7075.

**July 31**

**Government of Guam Retirement Fund:** Board of Trustees regular meeting noon, Retirement Fund conference room, Route 8, Maite. For special accommodations, call 475-8900/1.

**Aug. 3**

**Guam Board of Barbering and Cosmetology:** Regular meeting 9 a.m., Health Professional Licensing Office board room, Suite 9, Legacy Square Commercial Complex, Mangilao. Call 735-7406/11.

**Guam Board of Barbering and Cosmetology:** Public hearing on licensing fees 10:30 a.m. to 12:30 p.m., Health Professional Licensing Office board room, Suite 9, Legacy Square Commercial Complex, Mangilao. Call 735-7406/11.

**Aug. 5**

**Mayors Council of Guam:** Regular meeting 10 a.m., council's conference room, J & G Commercial Center, Suite 111F, Hagåtña. Call Elaine Schaaf, 472-6940 or 477-8461.

**Aug. 19**

**Mayors Council of Guam:** Special meeting 10 a.m., council's conference room, J & G Commercial Center, Suite 111F, Hagåtña. Call Elaine Schaaf, 472-6940 or 477-8461.

Facilitate Daily News Monday July 20, 2009 guampdn.com

I MINA'TRENTA NA LIHESLATURAN GUÅHAN  
2009 (FIRST) REGULAR SESSION

Bill No. 30- 175(COR)

Introduced by:

T.C. Ada  
F.B. Aguon  
F.F. Blas, Jr.

2009 JUL 14 AM 9:19

TRMunozBarnes

**AN ACT TO ADD SUBSECTIONS (14) AND (15) TO SECTION 8104 OF CHAPTER 8 OF TITLE 12 OF THE GUAM CODE ANNOTATED AND TO ADD SUBSECTIONS (n) AND (o) TO SECTION 14104 OF CHAPTER 14 OF TITLE 12 OF THE GUAM CODE ANNOTATED, AND TO AMEND SUBSECTION (c) OF SECTION 14104.1, AND SECTION 14404 OF CHAPTER 12 OF TITLE 12 OF THE GUAM CODE ANNOTATED, RELATIVE TO PERMITTING THE GUAM POWER AUTHORITY, AND THE GUAM WATERWORKS AUTHORITY TO ENTER INTO LONG TERM CONTRACTS.**

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

2 **SECTION 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds that it has  
3 previously authorized the Consolidated Commission on Utilities, the Guam Power Authority, and the  
4 Guam Waterworks Authority to enter into Performance Management Contracts, Contracts with  
5 Independent Power Producers, and other Private-Public Partnerships which enabled private entities  
6 to build, rehabilitate, operate, and manage various parts of the Islandwide Power System and  
7 Guam's Drinking Water and Wastewater Systems at significant savings to ratepayers. Such  
8 contracts have proven to be an invaluable tool which enabled the Consolidated Commission on  
9 Utilities, the Guam Power Authority, and the Guam Waterworks Authority to end load shedding,  
10 reduce the expensive use of fast track generators to save ratepayers over \$110 million in avoided fuel  
11 costs since 2003, eliminate boil water notices, end the rationing of drinking water, stop the spillage  
12 of wastewater into Guam's precious environment, and end the threats such conditions imposed on  
13 the health and safety of the People of Guam and Guam's economic growth. The legislation which

1 the health and safety of the People of Guam and Guam's economic growth. The legislation which  
2 enabled such Public-Private Partnership were made under emergency conditions, were for limited  
3 time periods, and were temporary in nature. These Public-Private Partnerships have also helped  
4 GWA avoid federal receivership after being sued in December 2002 by the U.S. Environmental  
5 Protection by ensuring greater compliance with Guam and Federal environmental regulations. And,  
6 these Public-Private Partnerships have helped existing Guam Power Authority and Guam  
7 Waterworks employees by providing better training, focused management and faster procurement in  
8 order to reach higher technical standards to accomplish their jobs in a more efficient and effective  
9 manner.

10 Today, *I Liheslaturan Guahan* finds that the People of Guam are faced with new challenges  
11 to the Islandwide Power System, and Guam's Drinking and Wastewater Systems arising from the  
12 impending buildup of U.S. military forces on Guam and the ever-rising cost of fossil fuels which the  
13 successful operation of Guam's infrastructure heavily depends upon.

14 *I Liheslaturan Guahan* finds that in order to keep costs for certain large infrastructure  
15 projects as low as possible for ratepayers through the use of longer term partnerships, it is prudent to  
16 allow appropriate use of Public-Private Partnerships, and to remove barriers inhibiting such private  
17 entities from forming Public-Private Partnerships with the Guam Power Authority, and the Guam  
18 Waterworks Authority. *I Liheslaturan Guahan* finds that allowing the Guam Power Authority and  
19 the Guam Waterworks Authority to enter into appropriate long term contracts has proven to serve  
20 ratepayers well through lower costs, improved management, and better reliability and because such  
21 long term contracts allow such private entities to recoup their investment costs during the longer  
22 contract period. Spreading the cost over a longer period will lessen the need for higher power,  
23 water, and wastewater rates for the infrastructure upgrades these Public-Private Partnerships will  
24 produce.

25  
26 **SECTION 2. Subsection (14) of Section 8104 of Chapter 8 of Title 12,**  
27 **Guam Code Annotated is hereby added to read:**

28 (14) Notwithstanding any other provision of law or regulation, the Guam  
29 Power Authority may enter into long term contracts for a period up to and not exceeding  
30 thirty (30) years for supplies, services, or construction contracts that cost thirty-million-

1 dollars (\$30,000,000) or more. Nothing herein shall repeal, limit, or otherwise prohibit any  
2 law or regulation authorizing the Authority to enter into any contract for a longer period.

3  
4 **SECTION 3. Subsection (15) of Section 8104 of Chapter 8 of Title 12, Guam**  
5 **Code Annotated is hereby added to read:**

6 “(15) Notwithstanding any other provision of law or regulation, the Authority  
7 may enter into Performance Management Contracts to manage or operate any part of the  
8 Island Wide Power System for a period up to and not exceeding fifteen (15) years. Nothing  
9 herein shall repeal, limit, or otherwise prohibit any law or regulation authorizing the  
10 Authority to enter into any contract for a longer period.”

11 **SECTION 4. Subsection (n) of Section 14104 of Chapter 14 of Title 12, Guam Code**  
12 **Annotated is hereby added to read:**

13 “(n) Notwithstanding any other provision of law or regulation, the Authority  
14 may enter into long term contracts for a period up to and not exceeding thirty (30) years for  
15 supplies, services, or construction contracts that cost thirty-million-dollars (\$30,000,000) or  
16 more. Nothing herein shall repeal, limit, or otherwise prohibit any law or regulation  
17 authorizing the Authority to enter into any contract for a longer period.”

18 **SECTION 5. Subsection (o) of Section 14104 of Chapter 14 of Title 12, Guam**  
19 **Code Annotated is hereby added to read:**

20 “(o) Notwithstanding any other provision of law or regulation, the Authority  
21 may enter into Performance Management Contracts to manage or operate any part of Guam’s  
22 Drinking Water or Wastewater Systems for a period up to and not exceeding fifteen (15)  
23 years. Nothing herein shall repeal, limit, or otherwise prohibit any law or regulation  
24 authorizing the Authority to enter into any contract for a longer period.”

25 **SECTION 6. Subsection (c) of Section 14104.1 of Chapter 14 of Title 12, Guam**  
26 **Code Annotated is hereby amended to read:**

27 “(c) ~~no~~ a contract for service awarded ~~shall be for a duration of more~~  
28 ~~than two (2) years, and~~ must include provisions for periodic and timely

1 inspections of all facilities whose maintenance is contracted, with provisions for  
2 the revocation of contracts, without penalty to the Authority, for any breach of  
3 contract or failure to provide adequate service, as contracted.

4 ~~No other contract, beyond the maintenance contracts specifically detailed in this Section,~~  
5 ~~may be entered into by the Authority for a duration in excess of one (1) year, except as~~  
6 ~~permitted under the terms of the build, operate and transfer program ('BOT') specifically~~  
7 ~~authorized in Guam law or as otherwise permitted herein.~~”

8 **SECTION 7. Section 14404 of Chapter 14 of Title 12, Guam Code Annotated is**  
9 **hereby amended to read:**

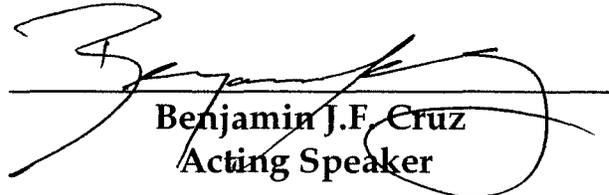
10 **“§ 14404. Contract Limits Performance Reviews.** ~~No contract awarded subject to the~~  
11 ~~provisions of this Act may be awarded for a period of greater than five (5) years, except that a~~  
12 ~~contract for the operation and maintenance of water wells may not be awarded for a period of greater~~  
13 ~~than ten (10) years.~~ All contracts awarded subject to the provisions of this Act must contain  
14 performance reviews at least annually, and provisions for contract termination or penalty based upon  
15 such review. “

16 **SECTION 8. Severability.** If any provisions of this Act or its application to any person or  
17 circumstance is found to be invalid or contrary to law, such invalidity shall *not* affect other  
18 provisions or applications of this Act which can be given effect without the invalid provisions or  
19 applications, and to this end the provisions of this Act are severable.

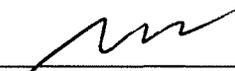
I MINA'TRENTA NA LIHESLATURAN GUÅHAN  
2009 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

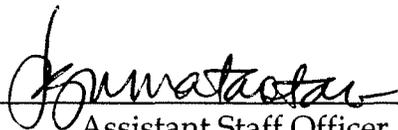
This is to certify that **Substitute Bill No. 175-30 (COR), "AN ACT TO ADD NEW SUBSECTIONS (14) AND (15) TO §8104 OF CHAPTER 8; TO ADD NEW SUBSECTIONS (n) AND (o) TO §14104 OF CHAPTER 14; AND TO AMEND §14104.1 AND §14404 OF CHAPTER 14, ALL OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO PERMITTING THE GUAM POWER AUTHORITY AND THE GUAM WATERWORKS AUTHORITY TO ENTER INTO LONG TERM CONTRACTS,"** was on the 13<sup>th</sup> day of November, 2009, duly and regularly passed.

  
Benjamin J.F. Cruz  
Acting Speaker

Attested:

  
\_\_\_\_\_  
Rory J. Respicio  
Acting Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 17 day of Nov., 2009, at 4:25 o'clock P.M.

  
\_\_\_\_\_  
Assistant Staff Officer  
*Maga'lahaen's Office*

APPROVED:

  
\_\_\_\_\_  
FELIX P. CAMACHO  
*I Maga'lahaen Guåhan*

Date: 27 Nov 2009

Public Law No. 30-66

***I MINA'TRENTA NA LIHESLATURAN GUÅHAN***  
**2009 (FIRST) Regular Session**

**Bill No. 175-30 (COR)**

As substituted by the Committee on Utilities,  
Transportation, Public Works, and Veterans Affairs,  
and amended on the Floor.

Introduced by:

T. C. Ada  
F. B. Aguon, Jr.  
F. F. Blas, Jr.  
T. R. Muña Barnes  
E. J.B. Calvo  
B. J.F. Cruz  
J. V. Espaldon  
Judith P. Guthertz, DPA  
Adolpho B. Palacios, Sr.  
v. c. pangelinan  
M. J. Rector  
R. J. Respicio  
Ray Tenorio  
Telo Taitague  
Judith T. Won Pat, Ed.D.

**AN ACT TO *ADD* NEW SUBSECTIONS (14) AND (15) TO §8104 OF CHAPTER 8; TO *ADD* NEW SUBSECTIONS (n) AND (o) TO §14104 OF CHAPTER 14; AND TO *AMEND* §14104.1 AND §14404 OF CHAPTER 14, ALL OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO PERMITTING THE GUAM POWER AUTHORITY AND THE GUAM WATERWORKS AUTHORITY TO ENTER INTO LONG TERM CONTRACTS.**

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

2        **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that it has previously authorized the Guam Power Authority to enter into

1 performance management contracts, contracts with independent power producers,  
2 and other private-public partnerships that enabled private entities to build,  
3 rehabilitate, operate, and manage various parts of the island-wide power system to  
4 achieve the quality level of services demanded by GPA's rate payers. Such  
5 contracts have proven to be an invaluable tool which enabled the Guam Power  
6 Authority to end load shedding, reducing the expensive use of fast track generators  
7 to save ratepayers over One Hundred Ten Million Dollars (\$110,000,000) in  
8 avoided fuel costs since 2003.

9 *I Liheslaturan Guåhan* finds that the island-wide power system and Guam's  
10 drinking and wastewater systems face new challenges in the form of the impending  
11 buildup of U.S. military forces on Guam and the ever-rising cost of fossil fuels  
12 used to power Guam's infrastructure.

13 *I Liheslaturan Guåhan* finds that an effective tool to enable the GPA and  
14 GWA (Public Utilities) to expand the infrastructure needed, and to operate and  
15 maintain their respective systems, would be to authorize the use of public-private  
16 partnerships between private entities and the Public Utilities. *I Liheslaturan*  
17 *Guåhan* finds that allowing the Public Utilities to enter into appropriate long-term  
18 contracts has proven to serve ratepayers well through lower costs, effective  
19 operations and management, and operations reliability.

20 **Section 2.** A new subsection (14) of §8104 of Article 1, Chapter 8 of Title  
21 12, Guam Code Annotated, is hereby *added* to read:

22 “(14) The Guam Power Authority may enter into long term contracts  
23 for a period up to and *not exceeding* thirty (30) years for renewable energy  
24 contracts, purchased power agreements, refurbish-operate-maintain  
25 contracts, and build-operate-transfer contracts that cost Thirty Million  
26 Dollars (\$30,000,000) *or* more. Nothing herein *shall* repeal, limit, *or*

1 otherwise prohibit any law *or* regulation authorizing the Authority to enter  
2 into any contract for a longer period.”

3 **Section 3.** A new subsection (15) of §8104 of Article 1, Chapter 8 of Title  
4 12, Guam Code Annotated, is hereby *added* to read:

5 “(15) The Guam Power Authority may enter into performance  
6 management contracts (PMC) to manage any part of the island wide power  
7 system with a base period up to five (5) years and *no more than* two (2) five  
8 (5) year renewal option periods, *not exceeding* a total of fifteen (15) years,  
9 including the base period and all option periods. Nothing herein *shall* repeal,  
10 limit, *or* otherwise prohibit any law *or* regulation authorizing the Authority  
11 to enter into any contract for a longer period.”

12 **Section 4.** A new subsection (n) of §14104 of Article 1, Chapter 14 of  
13 Title 12, Guam Code Annotated, is hereby *added* to read:

14 “(n) The Guam Waterworks Authority may enter into long term  
15 contracts for a period up to and *not exceeding* thirty (30) years for refurbish-  
16 operate-maintain contracts, and build-operate-transfer contracts that cost  
17 Thirty Million Dollars (\$30,000,000) *or* more related to the Guam  
18 Waterworks Authority’s wastewater treatment facilities and the construction  
19 of water wells. Nothing herein *shall* repeal, limit, *or* otherwise prohibit any  
20 law *or* regulation authorizing the Authority to enter into any contract for a  
21 longer period.”

22 **Section 5.** A new subsection (o) of §14104 of Article 1, Chapter 14 of  
23 Title 12, Guam Code Annotated, is hereby *added* to read:

24 “(o) The Guam Waterworks Authority may enter into performance  
25 management contracts to manage any part of Guam’s Drinking Water *or*  
26 Wastewater Systems with a base period up to five (5) years and *no more*  
27 *than* two five (5) year option periods, *not exceeding* a total of fifteen (15)

1 years, including the base period and all option periods. Nothing herein *shall*  
2 repeal, limit, *or* otherwise prohibit any law *or* regulation authorizing the  
3 Authority to enter into any contract for a longer period.

4 The Office of the Attorney General *shall* hereby oversee the process  
5 for bidding and negotiation of any performance management contract to be  
6 entered into under the provisions of this Section and *shall* certify, in writing,  
7 that this process was conducted in compliance with any applicable laws,  
8 rules and regulations *prior* to approval.”

9 **Section 6.** §14104.1 of Article 1, Chapter 14 of Title 12, Guam Code  
10 Annotated, is hereby *amended* to read:

11 **“§14104.1. Contractual Restrictions.** Any contract by the  
12 Authority to contract maintenance services relative to sewage pumps,  
13 booster pumps, and all pumps and other facilities directly associated with  
14 water wells *shall* be subject to the following provisions:

15 (a) any procurement of service or goods, *shall* be entirely  
16 subject to the procurement laws of Guam, and all related rules and  
17 regulations;

18 (b) all successful bidders must have a minimum of three (3)  
19 years of demonstrated expertise in the maintenance of  
20 electromechanical pump devices; and

21 (c) a contract for service awarded must include provisions for  
22 periodic and timely inspections of all facilities whose maintenance is  
23 contracted, with provisions for the revocation of contracts, without  
24 penalty to the Authority, for any breach of contract or failure to  
25 provide adequate service, as contracted.”

26 **Section 7.** §14404 of Chapter 14 of Article 1, Title 12, Guam Code  
27 Annotated, is hereby *amended* to read:

1           **“§14404. Contract Performance Reviews.** All contracts awarded  
2 subject to the provisions of this Act must contain performance reviews at  
3 least annually, and provisions for contract termination *or* penalty based upon  
4 such review.”

5           **Section 8.** *No* contract *shall* be awarded by GWA and/or GPA under the  
6 authorization granted herein containing terms authorized herein in *any* solicitation  
7 issued *prior* to the passage of this Act.

8           **Section 9. Severability.** *If* any provisions of this Act or its application to  
9 any person or circumstance is found to be invalid or contrary to law, such  
10 invalidity shall *not* affect other provisions or applications of this Act which can be  
11 given effect without the invalid provisions or applications, and to this end the  
12 provisions of this Act are severable.