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I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Session

Bill No. 464-31 (COR)

Introduced by:

T.C. Ada
R.J. Respicio
J.P. Guthertz, DPA

AN ACT TO APPROVE THE TERMS AND CONDITIONS OF GUAM POWER AUTHORITY REVENUE BONDS TO REFUND AND RESTRUCTURE CERTAIN GUAM POWER AUTHORITY REVENUE BONDS; AND TO APPROVE THE TERMS AND CONDITIONS OF GUAM POWER AUTHORITY SUBORDINATE REVENUE BONDS TO TERMINATE AND RETIRE THE OBLIGATIONS OF THE AUTHORITY UNDER CERTAIN FORWARD PURCHASE AGREEMENTS RELATING TO THE INVESTMENT OF THE AUTHORITY'S BOND RESERVE FUND

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Intent. *I Liheslaturan Guåhan* finds that Section 8203 of Title 12 of the Guam Code Annotated provides that Guam Power Authority ("GPA") is authorized to incur indebtedness by the issuance of revenue bonds with the approval of the Governor to raise funds for the purpose of establishing the electric power system of GPA, or of acquiring lands for the system, or of acquiring, constructing, improving, equipping, maintaining, repairing, renewing, replacing, reconstructing or insuring the system, or any part thereof, or for the purpose of refunding any such bonds, or for any combination of such purposes.

(b) Section 12004 of Title 12 of the Guam Code Annotated provides that GPA shall not enter into any contractual agreements or obligations (including bonds) that could increase rates and charges prior to the written approval of the Guam Public Utilities Commission (the "GPUC").

(c) Section 50103 of Title 12 of the Guam Code Annotated provides that public corporations of the government of Guam, including GPA, shall issue bonds and other obligations only by means of, and through the agency of the Guam Economic Development Authority ("GEDA"), and that GEDA shall not sell any bond without the approval by *I Liheslaturan Guåhan* of the terms and conditions of the bonds.

(d) The Consolidated Commission on Utilities ("CCU") has been exploring opportunities to reduce debt service costs for nearly a decade and the primary point of focus has been the Marianas Energy Corporation ("MEC") plant contract which is financed over a 20 year period even though the useful life of the plant is estimated to be 40 years. This short-term financing has placed a high burden on existing ratepayers to repay this debt faster than usual, with the highest debt payments emerging in the next few years, between 2012 and 2018.

(e) While the CCU has concluded that the MEC contract cannot be refinanced on terms beneficial to GPA customers, GPA has developed an alternative finance strategy to serve as a proxy for the savings from an MEC refinancing wherein GPA would perform a refinancing and restructuring of its currently outstanding bonds in order to accomplish the same purposes, reducing debt service costs by approximately $8 million per year through 2018, when the front-loaded Independent Power Producer contracts, including the MEC contract, will terminate.

(f) This estimated $8 million annual savings would provide great relief to ratepayers now, at a time when they need it most, and be used to minimize the impact of rate increases on GPA customers. The GPUC recently approved a May 1 base rate increase that would yield an estimated $9.1 million per year in revenues to GPA. The proposed refinancing contemplated by this legislation would effectively roll back nearly all of the recently approved rate hike.

(g) Based on historic low interest rates and current market conditions, GPA expects to be able to refinance certain maturities of its outstanding 1993 Series A and 1999 Series A revenue bonds for debt service savings, but in any event desires to refinance certain maturities of such bonds in order to restructure debt service in a manner that results in more level total payments for capital costs, taking into account GPA's current contract with Marianas Energy Company, which requires much higher capital payments through January, 2019.

(h) GPA entered into forward purchase agreements with Lehman Brothers and Bank of America for the investment of certain funds relating to its outstanding 1993 Series A and 1999 Series A revenue bonds, and it is necessary and desirable to terminate and retire one or more of those agreements in connection with such refinancing and restructuring of the outstanding 1993 Series A and 1999 Series A revenue bonds.

(i) As a result of the potential savings to ratepayers, On June 5, 2012, the Consolidated Commission on Utilities (the "CCU") adopted a resolution relative to (1) approving the issuance of additional senior revenue bonds to refund all or a portion of the outstanding Guam Power Authority Revenue Bonds 1993 Series A and 1999 Series A, and (2) approving the issuance of subordinate revenue bonds to terminate and retire all or a portion of the outstanding GPA obligations under the forward purchase agreements.

(j) In order to benefit ratepayers, *I Liheslaturan Guåhan* has determined to approve the issuance of revenue bonds by GPA for the purposes described in subparagraph (1) of the preceding paragraph and the issuance of subordinate revenue bonds by GPA for the purpose described in subparagraph (2) of the preceding paragraph, all subject to approval by *I Maga'lahen Guåhan*, the GPUC and the Board of Directors of GEDA in accordance with law.

Section 2. Approval of the Terms and Conditions of GPA Refunding Bonds.

I Liheslaturan Guåhan, pursuant to §50103(k) of Title 12 of the Guam Code Annotated, hereby approves the terms and conditions of the issuance of senior revenue bonds by GPA for the purpose of refunding all or a portion of GPA's outstanding 1993 Series A and 1999 Series A revenue bonds in accordance with the following requirements, limitations, terms and conditions:

a) The aggregate principal amount of the refunding bonds shall not exceed the sum of (i) the amount determined in accordance with Section 8229 of Title 12 of the Guam Code Annotated, plus (ii) any additional amount needed to provide for a deposit to the debt service reserve in connection with the issuance of the refunding bonds.

b) All obligation of GPA to pay debt service on, and the redemption price of, the prior bonds shall be discharged concurrently with the issuance of the refunding bonds. Thereafter, the prior bonds shall be payable solely from and secured solely by an escrow established for such purpose.

c) The final maturity of the refunding bonds shall not be greater than 21 years after the final maturity of the bonds being refunded.

d) Such bonds shall be issued and sold pursuant to GPA's existing bond indenture, shall be held by the Trustees of the existing bonds and shall be in compliance with the provisions of Chapter 8 of Title 12 of the Guam Code

Annotated, including approval by the CCU and by *I Maga'lahen Guåhan* as provided therein.

e) The sale of the bonds shall be approved by the Board of Directors of GEDA as provided by Chapter 50 of Title 12 of the Guam Code Annotated and the terms and conditions of the issuance of the bonds shall be approved by the GPUC as provided by Chapter 12 of Title 12 of the Guam Code Annotated.

f) GPA's outstanding 1993 Series A and 1999 Series A revenue bonds maturing in calendar years 2012 through 2018, inclusive, may be refinanced with a portion of the proceeds of the bonds approved in this Section, provided that such refinancing results in GPA's ability to petition the GPUC to reduce rates during the years of the maturities being refinanced without such rate reduction resulting in the violation of any bond indenture covenants.

g) GPA's outstanding 1993 Series A and 1999 Series A revenue bonds maturing in calendar years 2019 and after may be refinanced with a portion of the proceeds of the bonds approved in this Section, provided that the present value of debt service for each maturity of such refinancing bonds shall not exceed the present value of debt service for each maturity of such refinanced bonds, using the yield on the refinancing bonds as the discount rate.

Section 3. Approval of the Terms and Conditions of GPA Subordinate Revenue Bonds to Terminate and Retire the Obligations of GPA under Certain Forward Purchase Agreements.

a) *I Liheslaturan Guåhan*, pursuant to §50103(k) of Title 12 of the Guam Code Annotated, hereby approves the terms and conditions of GPA subordinate revenue bonds in a principal amount not to exceed Twenty Million Dollars

($20,000,000) for the purposes listed in subsection (c) of this section, *provided*, that such bonds have a final maturity not later than October 1, 2027, bear interest at such rate or rates and are sold for such price or prices as shall result in a net interest cost not exceeding the limitation provided by Section 8214 of Chapter 8 of Title 12 of the Guam Code Annotated, as amended, are issued and sold in accordance with the provisions of Chapter 8 of Title 12 of the Guam Code Annotated, including approval by the CCU and by *I Maga'lahen Guåhan* as provided therein, and the Trustees for the 1993 Series A and 1999 Series A revenue bonds series shall remain as the Trustees for the subordinate revenue bonds.

b) The sale of the subordinate bonds shall be approved by the Board of Directors of GEDA as provided by Chapter 50 of Title 12 of the Guam Code Annotated and the subordinate bonds shall be approved by the GPUC as provided by Chapter 12 of Title 12 of the Guam Code Annotated.

c) The proceeds of the subordinate bonds may be applied to pay for the costs of issuance of the subordinate bonds, for credit enhancement therefor, to provide for reserves and to pay the costs of terminating and retiring GPA's obligations under the forward purchase agreements relating to the investment of certain funds relating to its outstanding 1993 Series A and 1999 Series A revenue bonds, subject in each case to approval by the GPUC of such purpose in accordance with Chapter 12 of Title 12 of the Guam Code Annotated.