

SUPPORT SERVICES
CLAIMS
MONTHLY REPORT

MONTH OF: October 1992
PREPARED BY: Amorisk
DATE: 01-15

CLAIM NO.	DATE FILED	CLAIMANT	CAUSE OF DAMAGE	DENIED	APPROVED AMOUNT	PENDING	
93-324	10/01/92	Alpo John	Syphoon Restoration	✓	\$		
325		Page, Daniel J.	Power Fluctuation	✓			
326		Chillo, Ronald	Power Outage	✓			
327	10/02	Ungotay, Reynaldo	Syphoon Restoration	✓			
328		Fish, Maricel	Power Surge	✓			
329		Triandung, Rose	"	✓			
330	10/05	Pambanta, Vincent P.	Syphoon Restoration	✓			
331		Pallesteros, Romeo	"	✓			
332	10/04	Abarin, Cornelio	"	✓			
333		Yama's Co. Inc.	Water-Line		\$111.75		
334		Wackley, Bob	Syphoon Restoration	✓			
335	10/17	Mood, Vivian	Power Fluctuation	✓			
336		San Juan Road, Amelita	Syphoon Restoration	✓			
337		Cuba, Pinda M.	Power Surge	✓			
338		Falomo, Jesus F.	Syphoon Restoration	✓			
339	10/08	Radona, Joe F.	"	✓			
340		Aguera, Anita	Power Fluctuation thru village	✓			
341		Urtolan, Christopher	"	✓			
342	10/14	Brodac, Rodel	Syphoon Restoration	✓			
343	10/15	Orlajes, Mark A.	Power Surge	✓			
TOTAL					19	\$ 111.75	0

SUPPORT SERVICES
CLAIMS
MONTHLY REPORT

MONTH OF: October 1992
PREPARED BY: Comerio
DATE: 10-29

CLAIM NO.	DATE FILED	CLAIMANT	CAUSE OF DAMAGE	DENIED	APPROVED AMOUNT	PENDING
93-344	10/10	Magness, Naldie P.	Load Shedding	✓	\$	
345	10/19	Tomachey, Terehuo	Voltage Fluctuation	✓		
346		Ross, Daniel	" "	✓		
347	10/23	Del Rosario, Gladis	Typhoon Restoration	✓		
348		Pruitt, Eric	Load Shedding	✓		
349		Carriaga, Araceli	" "	✓		
350		" "	" "	✓		
351	10/26	Orlino, Albert	Power Fluctuation	✓		
352	"	" "	" "	✓		
353		Karpovich, James	" "	✓		
354	10/27	Leon Guerrero, Joseph D.	" "	✓		
355		Camecho, Juan L.	Power Surge	✓		
356		P.U. A.G.	Excavation, Quarterline			✓
357	10/28	"	" "			✓
358		Guam Telephone Authority	Telephone Cable	✓		
359		" " "	" "	✓		
360		Mutanane, Marie	Low Voltage	✓		
361		Mesa, Jane A.	Typhoon Restoration	✓		
362	10/29	Machado Yoshire	Power Surge	✓		
363		Sentes Carmen	Low Voltage	✓		
TOTAL				18	\$ 0	2

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SUPPORT SERVICES
CLAIMS
MONTHLY REPORT

MONTH OF: October 1992
PREPARED BY: Amirick
DATE: 29 - 30

CLAIM NO.	DATE FILED	CLAIMANT	CAUSE OF DAMAGE	DENIED	APPROVED AMOUNT	PENDING
93-304	10/29	Paloma Jesus	High Voltage	✓	\$	
305	10/30	Duenas, Martha	Road Shredding	✓		
TOTAL				2	\$ 0	0

SUPPORT SERVICES
CLAIMS
MONTHLY REPORT

MONTH OF: November 1992
 PREPARED BY: SP/ML/ML
 DATE: 10-27

CLAIM NO.	DATE FILED	CLAIMANT	CAUSE OF DAMAGE	DENIED	APPROVED AMOUNT	PENDING
93-586	11/10	Duane, Julie	Stall Shredding	✓	\$	
987		Mona Fleury	" "	✓		
988	11/12	Cartel, Joseph M.	" "	✓		
989	11/13	Jeffrey, James	Syphon Restoration	✓		
990		Rayon, Bernita	Power Surge	✓		
991		Ward, Tom H.	Syphon Restoration	✓		
992		Dunaway, Denise S.	Stall Shredding	✓		
993		Poole, David H.	" "	✓		
994	11/17	Maya, Isabel	" "	✓		
995		Aranda, Mary Beth	" "	✓		
996		Champion, Grand	Syphon Restoration	✓		
997		Del Rosario, Gladis	Transformer			✓
998	11/19	Shaw, Pamela	Syphon Restoration	✓		
999		Ross, Rudy Jr.	Stall Shredding	✓		
400	11/20	Ghiora, Michael	Syphon Restoration			✓
401		Smith, Benjamin	" "	✓		
402	11/24	Costello, Cepeludo	Power Failure	✓		
403		Moscoso, Santiago	Crew rush over water pipe	✓		
404	11/25	Morris, Edward G.	Stall Shredding	✓		
405	11/27	Mullery, Raymond	Syphon Restoration	✓		
TOTAL				19	\$	2

SUPPORT SERVICES
CLAIMS
MONTHLY REPORT

MONTH OF: November 1992
PREPARED BY: Amelich
DATE: 30

CLAIM NO.	DATE FILED	CLAIMANT	CAUSE OF DAMAGE	DENIED	APPROVED AMOUNT	PENDING
406 407	11/80	Roman Alfredo Guerrero, Daniel C.	Load Shedding " ")		\$	✓ ✓
TOTAL				2	\$ 2	2

**SUPPORT SERVICES
CLAIMS
MONTHLY REPORT**


MONTH OF: December 1992
 PREPARED BY: AMC/MSK
 DATE: 01-28

CLAIM NO.	DATE FILED	CLAIMANT	CAUSE OF DAMAGE	DENIED	APPROVED AMOUNT	PENDING
93-408	12/01	Duenas, Gregorio	Good Shedding		\$	✓
409	12/02	Queita, Colene J.	Upjohn & Ford Shedding	✓		
410	12/03	Salvador, Conrad	Upjohn Restoration			✓
411		Cabrera, Elizabeth	Upjohn Restoration	✓		
412	12/04	Cardis, Jonathan	Good Shedding	✓		
413		Amber, Victoria	Good Shedding	✓		
414	12/07	Park Kwang W07	" "			✓
415		Carbonel Edwin R.	Power Fluctuation			✓
416		Abujan, Dara	" "	✓		
417	12/09	Wely, Mel F.	Low Voltage	✓		
418	12/10	Fursten, Tom	Power Surge	✓		✓
419		Silva, David	Good Shedding	✓		
420		Sublan Antonia	Power Fluctuation	✓		
421	12/14	Subarneo, Carmelita	" "			✓
422	12/15	Guam Girls Sports	" "	✓		
423		Munioyari, R.	" "	✓		
424	12/14	Pradley, David A.	Shoved Service Top	✓		
425	12/17	Reno Joseph C.	Power Fluctuation	✓		
426	12/28	Miral, Daniel	Voltage	✓		
427	12/19	Quidachay, Antonio G.	Damaged Vehicle			
428		Capeno Sergio P.	" "			
		TOTAL		13	\$ -0-	7

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TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) REGULAR SESSION

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5 Bill No. 13(LS)
6 Introduced By:

D. Parkinson 

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11 AN ACT TO MAKE GUAM POWER AUTHORITY LIABLE FOR DAMAGES
12 CAUSED TO APPLIANCES AD ELECTRICAL CONSUMERS AS A RESULT OF
13 POWER SURGES OR FLUCTUATIONS IN VOLTAGE OR FREQUENCY IN
14 GPA SUPPLIED POWER BY ADDING A NEW 12 GCA 8119.

15
16 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

17 Section 1. Legislative Findings. The Legislature has
18 received numerous complaints about ruined appliances resulting
19 from power surges. The Legislature finds that there is a
20 continuing problem with consumers with ruined appliances and
21 electrical equipment as a result of power surges and fluctuations
22 with voltage over the Guam Power Authority lines. The
23 Legislature finds that this situation is totally unacceptable.
24 The consumers have no control over the quality of power delivered
25 by Guam Power Authority. Control over power voltages and power
26 frequency (60 mhz) is strictly in the hands of Guam Power
27 Authority. Despite this Guam Power Authority takes the position
28 that it is the responsibility of the consumers to provide
29 elaborate voltage control devices and power conditioning units to
30 protect refrigerators, air conditioners, televisions, vcr's, and
31 other electrical appliances. The consumers of GPA are entitled
32 to quality, reliable power and should not be required to bear the
33 costs of damages caused by voltage and frequency fluctuations nor

EXHIBIT "B"

GPA Surge Liability

34 should they be required to buy voltage and frequency regulators
35 which in some cases cost more than some of the appliances they
36 are designed to protect. The Legislature finds that this problem
37 is unique to Guam among the States and Territories of the United
38 States. The Legislature finds that the People of Guam, as
39 Americans, are entitled to the same quality of electrical power
40 as the United States mainland. The Legislature also find that
41 GPA should bear the costs of damages to electrical appliances
42 caused by GPA's negligence.

43 Section 2. A new section 8119 is added to Title 12 of the
44 Guam Code Annotated to read as follows:

45 "Section 8119. The Guam Power Authority shall be
46 liable for damages caused to electrical appliances and
47 devices when such damages are proximately caused by power
48 surges, voltages fluctuations or frequency fluctuations in
49 the power supplied by the Guam Power Authority to a consumer
50 when such damage is not a result of any negligence on the
51 part of the consumer and is not a result of an otherwise
52 defective appliance or electrical device.

53 Except for computer equipment or equipment for which
54 the manufacturer recommends that a voltage protection
55 device, surge protector, or power conditioning device be
56 installed by the consumer, the Guam Power Authority may not
57 require the use of voltage protection devices, surge
58 protectors or power conditioners and may not raise the
59 failure to use such devices as a defense to claims for
60 damages arising out of voltage or frequency fluctuations or

GPA Surge Liability

61 power surges. In establishing liability for damages
62 pursuant to this section, the consumer need only prove that
63 the appliance or electrical device was damaged by a
64 variation of voltage or a variation of frequency or a surge
65 in power supplied by the Guam Power Authority. The Guam
66 Power Authority may raise as an affirmative defense proof
67 that the appliance or electrical device in question was
68 defective or that the fluctuation of voltage or frequency or
69 power surge was not caused by the Guam Power Authority but
70 was in fact caused by the consumer's electrical wiring
71 system or devices or equipment belonging to the consumer.
72 It shall be an affirmative defense for the Guam Power
73 Authority to establish that the quality of power delivered
74 to the consumer's meter was satisfactory."

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1 TWENTY-SECOND GUAM LEGISLATURE
2 1993 (FIRST) REGULAR SESSION
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5 Bill No. 13
6 As substituted by the
7 Committee on Electrical
8 Power and Consumer Protection
9 Introduced By:

D. Parkinson
M. G. Cardello

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14 **AN ACT TO MAKE GUAM POWER AUTHORITY LIABLE FOR DAMAGES**
15 **CAUSED TO APPLIANCES AD ELECTRICAL CONSUMERS AS A RESULT OF**
16 **POWER SURGES OR FLUCTUATIONS IN VOLTAGE OR FREQUENCY IN**
17 **GPA SUPPLIED POWER BY ADDING A NEW 12 GCA 8119.**
18

19 **BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**

20 **Section 1.** Legislative Findings. The Legislature has
21 received numerous complaints about ruined appliances resulting
22 from power surges. The Legislature finds that there is a
23 continuing problem with consumers with ruined appliances and
24 electrical equipment as a result of power surges and fluctuations
25 with voltage over the Guam Power Authority lines. The
26 Legislature finds that this situation is totally unacceptable.
27 The consumers have no control over the quality of power delivered
28 by Guam Power Authority. Control over power voltages and power
29 frequency (60 mhz) is strictly in the hands of Guam Power
30 Authority. Despite this Guam Power Authority takes the position
31 that it is the responsibility of the consumers to provide
32 elaborate voltage control devices and power conditioning units to
33 protect refrigerators, air conditioners, televisions, vcr's, and
34 other electrical appliances. The consumers of GPA are entitled
35 to quality, reliable power and should not be required to bear the
36 costs of damages caused by voltage and frequency fluctuations nor

• GPA Surge Liability

37 should they be required to buy voltage and frequency regulators
38 which in some cases cost more than some of the appliances they
39 are designed to protect. The Legislature finds that this problem
40 is unique to Guam among the States and Territories of the United
41 States. The Legislature finds that the People of Guam, as
42 Americans, are entitled to the same quality of electrical power
43 as the United States mainland. The Legislature also find that
44 GPA should bear the costs of damages to electrical appliances
45 caused by GPA's negligence.

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53 when such damage is not a result of any negligence on the
54 part of the consumer and is not a result of an otherwise
55 defective appliance or electrical device.

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57 the manufacturer recommends that a voltage protection
58 device, surge protector, or power conditioning device be
59 installed by the consumer, the Guam Power Authority may not
60 require the use of voltage protection devices, surge
61 protectors or power conditioners and may not raise the
62 failure to use such devices as a defense to claims for
63 damages arising out of voltage or frequency fluctuations or
64 power surges. In establishing liability for damages

GPA Surge Liability

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66 the appliance or electrical device was damaged by a
67 variation of voltage or a variation of frequency or a surge
68 in power supplied by the Guam Power Authority. The Guam
69 Power Authority may raise as an affirmative defense proof
70 that the appliance or electrical device in question was
71 defective or that the fluctuation of voltage or frequency or
72 power surge was not caused by the Guam Power Authority but
73 was in fact caused by the consumer's electrical wiring
74 system or devices or equipment belonging to the consumer.
75 It shall be an affirmative defense for the Guam Power
76 Authority to establish that the quality of power delivered
77 to the consumer's meter was satisfactory."

78 Any Consumer claiming damages from the Guam Power
79 Authority who relies upon the provisions of this section as
80 authority must file such claims with the Guam Power
81 Authority within ninety (90) days of the date of the alleged
82 damage. Otherwise, except for the shortened period in which
83 to make a claim, the procedures contained in the Government
84 of Guam Claims Act shall apply to claims brought pursuant to
85 this section to the extent not otherwise inconsistent
86 herewith. This section shall be effective only as to
87 damages occurring after the date that this section becomes
88 law.

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IN THE DISTRICT COURT OF GUAM
TERRITORY OF GUAM
APPELLATE DIVISION

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RUFIN HENRY SUAREZ PEREZ,)
)
Plaintiff-Appellee,) DCA CIVIL CASE 84-0063A
)
vs.)
)
GUAM POWER AUTHORITY,) OPINION
)
Defendant-Appellant.)
_____)

BEFORE: DUENAS, LAURETA, and WEIGEL*, District Judges
DUENAS, District Judge

On or about May 21, 1984, the Plaintiff-Appellee experienced a partial power loss to his residence and soon thereafter a complete power outage. The Plaintiff-Appellee contacted Guam Power Authority (hereinafter referred to as GPA) and GPA sent its trouble shooter to his residence. The GPA crew replaced a power line and restored the Plaintiff-Appellee's power. After power was restored to the Plaintiff-Appellee's residence, he discovered that his refrigerator and certain light fixtures were not functioning.

The Plaintiff-Appellee contacted the deputy director of GPA concerning his broken refrigerator but was unable to receive

* The Honorable Stanley A. Weigel, Senior Judge, U.S. District Court, Northern District of California, sitting by designation.

1 any assistance. The Plaintiff-Appellee then filed suit in small
2 claims court alleging that GPA's negligence in failing to trim
3 trees near its power lines caused the power fluctuation and
4 outage which damaged his refrigerator and light fixtures. The
5 Plaintiff-Appellee was awarded judgment in the amount of \$500.00.

6 GPA moved for a trial de novo in the Superior Court of
7 Guam pursuant to Rule 92(j), Superior Court Rules of Civil
8 Procedure. A trial de novo was granted and a court trial was
9 held on August 24, 1984, with the Plaintiff-Appellee appearing
10 pro se and Defendant-Appellant being represented by counsel. The
11 Superior Court issued its decision and order granting judgment in
12 favor of the Plaintiff-Appellee in the total amount of \$800.00
13 (\$500.00 plus costs and disbursements of this action) on
14 September 4, 1984. The court found as follows: "[i]t could be
15 said that the fact that wires strung through a camachele (sic)
16 tree could rub against the thorny limbs of the tree and cause
17 breaking and ultimately a power shortage should have been
18 reasonably anticipated and defendant is therefore liable for
19 negligence." (Decision & Order of the Superior Court of Guam,
20 September 4, 1984, p.2).

21 A timely appeal was filed by the Defendant-Appellant
22 alleging that the Plaintiff-Appellee had failed to sustain his
23 burden of proof with respect to the element of causation and that
24 the Superior Court had erred in finding GPA negligent, and
25 liable for the damages incurred by the Plaintiff-Appellee as a
26 result of the power fluctuation and outage. We agree with the

1 Defendant-Appellant and reverse the decision and order of the
2 Superior Court.

3 The standard for review in this case is the "clearly
4 erroneous" standard. Schenck v. Government of Guam, 609 F.2d
5 387, 390 (9th Cir., 1979). "A finding is 'clearly erroneous'
6 when although there is evidence to support it, the reviewing
7 court on the entire evidence is left with the definite and firm
8 conviction that a mistake has been committed." United States v.
9 United States Gypsum Co., 333 U.S. 364, 395, 68 S.Ct. 525, 92
10 L.Ed 746 (1948).

11 In the case at bar, the Plaintiff-Appellee had the
12 burden of proving that GPA was negligent in failing to trim the
13 camachili tree in question and that this negligence was the
14 actual and proximate cause of the claimed damage to his
15 refrigerator and light fixtures. Spencer v. Beatty Safway
16 Scaffold Co., 141 Cal. App. 2d 875, 297 P.2d 746, 751 (1956); and
17 Montgomery Light & Water Power Co. v. Thombs, 87 So. 205, 209
18 (Ala. 1920).

19 After completely and carefully reviewing the record
20 below, it is clear to this Court that the Plaintiff-Appellee
21 failed to meet his burden of proof with respect to the element of
22 causation and that a mistake has been committed. The
23 Plaintiff-Appellee testified at trial that the power lines
24 connected to his house ran through a very thorny camachili tree
25 that was located across the street from his house. He alleged
26 that the constant rubbing of the lines on the thorny tree caused

1 the breakage in the power line which resulted in the power
2 outage. The Plaintiff-Appellee, however, admits that he never
3 saw the power line or any breakage in the power line and that he
4 must rely on what GPA offers into evidence. The Plaintiff-
5 Appellee presented no further witnesses or evidence. GPA, on the
6 other hand, called its line electrician and its manager for
7 transmission and distribution of electric power, as witnesses.
8 The line electrician, who was the first person that had examined
9 the power line after the outage, testified that the short
10 occurred from two spans of breakage in the power line that were
11 not in close proximity to any trees or obstructions. He testi-
12 fied that the initial breakage point was located two feet from
13 the power pole on copper wire which caused the second breakage
14 point on the aluminum wire located above the street. GPA's
15 manager then testified that shorts in power lines could result
16 from any number of causes; that the intermixing of copper and
17 aluminum wire in power lines is an accepted utility practice that
18 is done islandwide; and that these particular power lines were
19 insulated with high technology material to withstand abrasion.

20 Our in-depth review of the record reveals that the
21 evidence below does not support the finding and decision of the
22 trial court. We would have agreed with the decision and order of
23 the trial court had there been any proof that the breakage in the
24 power line occurred near the tree. If that had been the case,
25 then GPA would have been negligent for failing to properly trim
26 and maintain such tree and ultimately liable for the Plaintiff-


1 Appellee's damage since this would have been the type of injury
2 that GPA could have reasonably anticipated would occur due to its
3 negligence. However, there was absolutely no proof before the
4 Superior Court that the breakage in the power line occurred near
5 the tree. Instead, there was direct proof that the two spans of
6 breakage occurred nowhere near any trees or any obstructions.

7 Mere speculation that GPA's failure to trim the tree
8 was a possible cause of Plaintiff-Appellee's damage is
9 insufficient to sustain the judgment. The Plaintiff-Appellee
10 must have either shown direct proof of causation or raised a
11 reasonable inference that the negligence complained of was the
12 proximate cause of the injury. Spencer, supra at p. 751. He did
13 neither.

14 Accordingly, the decision and order of the Superior
15 Court is reversed.

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19 _____
20 CRISTOBAL C. DUENAS, District Judge

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22 _____
23 ALFRED LAURETA, District Judge

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25 _____
26 STANLEY A. WEIGEL, Designated Judge

FILED
JAN 22 1985
DISTRICT COURT OF GUAM

DISTRICT COURT OF GUAM
TERRITORY OF GUAM
APPELLATE DIVISION

RUFIN HENRY SUAREZ PEREZ,)	D.C. CASE NO. 84-0063A
Plaintiff-Appellee,)	S.C. CASE NO. 688-84
vs.)	STIPULATION FOR
GUAM POWER AUTHORITY,)	EXTENSION OF TIME TO
Defendant-Appellant.)	FILE APPELLEE'S BRIEF

IT IS HEREBY STIPULATED AND AGREED by and between the parties hereto that Appellee, Rufin Henry Suarez Perez, may file his Appellee's brief on or by January 31, 1985.

Dated this 21st day of January, 1985.

ARRIOLA & COWAN
P.O. Box X, Agana, Guam 96910
Counsel for Appellant

By: *Oliver W. Bordallo*
OLIVER W. BORDALLO

Rufin Henry Suarez Perez
RUFIN HENRY SUAREZ PEREZ

ARRIOLA & COWAN, AGANA GUAM 96910

SO ORDERED: JAN 22 1985

/s/ Cristobal C. Duenas
JUDGE, DISTRICT COURT OF GUAM

