



Jerrick Hernandez <jhernandez@guamopa.com>

## GPA Reply to Protest and Opposition to Substantial Interest

tgrojas@guamwaterworks.org <tgrojas@guamwaterworks.org>

Wed, Nov 22, 2023 at 5:00 PM

To: Jerrick Hernandez <jhernandez@guamopa.com>

Cc: tgrojas@guamwaterworks.org

Hi Jerrick,

Please see:

GPA Reply to Protest and Opposition to Substantial Interest. Attached.

Thank you.



*Theresa G. Rojas, Esq.*

*Legal Counsel*

*Guam Waterworks Authority*

*Ste 200, Gloria B. Nelson Public Service Building*

*688 Route 15*

*Mangilao, Guam 96913*

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GPA\_Reply\_to\_Protest\_and\_Opposition\_11\_22\_TGR.pdf  
9939K

1 **THERESA G. ROJAS, ESQ.**  
2 Interim Counsel  
3 Guam Power Authority  
4 Gloria B. Nelson Public Building  
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9 *Attorney for Guam Power Authority*

10 **BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY**  
11 **PROCUREMENT APPEAL**

12 **In the Appeal of:**

13 **DOOIK ENG., LTD.,**

14  
15 Appellant.

16 } **Appeal Case No. OPA-PA-23-004**

17 } **GUAM POWER AUTHORITY’S REPLY**  
18 } **TO DOOIK’S PROTEST AND**  
19 } **OPPOSITION TO ITS MOTION FOR**  
20 } **CONFIRMATION OF SUBSTANTIAL**  
21 } **INTEREEST**

22 Agency, Guam Power Authority (“GPA”) hereby submits its Reply to Appellant’s  
23 (“Dooik”) November 17, 2023, Opposition and Appellant’s November 15, 2023 Protest to GPA’s  
24 Motion for Confirmation of Substantial Interest.

25 Dooik’s protest denies the people of Guam the ability to be relieved from loadshedding at  
26 an earlier pace as GPA’s Multi-Step Bid No. GPA-023-23 absolutely addresses a substantial  
27 interest to the Territory. Following the aftermath of Typhoon Mawar and the damage caused to  
28 GPA’s generating units and the under-construction Ukudu Plant it is abundantly clear that GPA  
29 has demonstrated an imminent need for additional power generation as “all existing GPA  
30 generating units are critical in order to serve customer loads.” (Decl. of John M. Benavente at  
31 Exhibit A-002). The Yigo Diesel units at issue in Multi-Step Bid No. GPA-023-23 have the ability  
32

1 to generate over 40MW (megawatt<sup>1</sup>) of power but today only produce 9MW. (Decl. of John M.  
2 Benavente at Exhibit A-002 and **Exhibit A-002** attached herein). On any day Guam’s ratepayers  
3 and the community-at-large suffer when Guam’s peak demand exceeds GPA’s load or generation  
4 capacity and GPA’s rotating outage schedules take effect.<sup>2</sup> The outages disturb the community-  
5 at-large, the Territory, and local and federal government residents and agencies who all rely on  
6 the use of GPA’s electric power. (Decl. of John M. Benavente at Exhibit A-002, stating, “*GPA is*  
7 *the sole provider for electrical services on Guam to residential, commercial, GovGuam and*  
8 *military customers*”). As a result, outages have affected Guam’s economy, Guam’s health care,  
9 individual personal welfare, and public safety. And, the Territory has collectively responded and  
10 echoed the need to support GPA’s role and its capacity shortfalls; all to protect the Territory’s and  
11 the government’s substantial interests. (Decl. of Jennifer G. Sablan at Exhibit A-001-002  
12 (illustrating the partnership sought from Guam’s large load customers to help reduce load through  
13 GPA’s interruptible load program))<sup>3</sup>; (Decl. of Beatrice P. Limtiaco at Exhibits, A, B, and C  
14 (confirming the request and response from the Guam Legislature by the introduction of Bill No.  
15 201-37 to provide expedited maintenance, operation, and overhaul, of GPA’s diesel generators)).  
16 The Guam’s Public Utilities Commission wrote in support of Bill No. 201-37 indicating that  
17 “Guam is amid an electric power emergency” urging members of the Guam Legislature to “allow  
18 GPA to procure vendors to maintain, operate, and overhaul its diesel generators” which included  
19 GPA’s 40MW Yigo Diesels. **See Exhibit B-002.** The Guam Police Department has also responded  
20 to the public safety issues outages have caused and now assigns officers to traffic lights where  
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30 <sup>1</sup> A megawatt (MW) is the standard unit used to measure electrical power in the International System of Units (SI).

31 The symbol for megawatt is MW. It measures equivalent to 1 million watts or 1,000 kilowatts (kW).

32 <sup>2</sup> See GPA Outage Notifications at <<https://web.guamalerts.com/notification/gpa>>

<sup>3</sup> During GPA’s 11/23/2023 Work session before the CCU, GPA confirmed nine (9) participants in its Interruptible Load Program: See <https://www.youtube.com/watch?v=h1nwHwl0ndU>.

1 outages occur to facilitate safe driving and safety. See **Exhibit C-001-002** and GPA is calling  
2 upon its 50,000 plus ratepayers to “Beat the peak” as the struggle and substantial interests affecting  
3 the Territory are apparent.  
4

5 On November 22, 2023 GPA’s General Manager (“GM”) presented the Guam CCU with  
6 the generation capacity projection for December 2023. (See **Exhibit A-002**). The generation  
7 capacity lists all GPA’s generating units and the unit or volume of electricity that each generating  
8 unit can produce. As of December 2023, the Yigo Diesel units now produce 9 MW of power when  
9 over 40 MW can be obtained. On record, and during the November 22, 2023 CCU GPA work  
10 session the GPA GM stated that the Yigo Diesel units could immediately provide up to an  
11 additional “25 MW of power” if maintenance and overhauls could be performed to repair and  
12 rehabilitate the units.<sup>4</sup> This would bring the Yigo Diesels to a total of 33 MW which is nearly the  
13 equivalent to the amount of power produced by Cabras 2 (a baseload unit) now generating 35 MW  
14 of power. (See **Exhibit A-002**). Therefore, it is clear that the Yigo Diesel units have a substantial  
15 and clear effect on the available power generated and transmitted to Guam’s public. And, each  
16 day any of Guam’s units can be taken offline due to needed emergency repairs. “At times the  
17 operating capacity can drop to 221.4 MW. The 221.4 MW is far below customer demand<sup>5</sup> which  
18 results in rotating load shedding when necessary.” (Decl. of John M. Benavente at Exhibit A-002).  
19 This operating capacity is reliant and contingent on GPA’s ability to produce and generate power;  
20 so, each time a baseload generator fails or is taken offline, the generation available to ratepayers  
21 and the Territory is affected.  
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31 <sup>4</sup>See <https://www.youtube.com/watch?v=h1nwHwl0ndU>.

32 <sup>5</sup> Customer Peak Demand is not a fixed number. The number increases and decreases as customers use more and less power.



1 A plain reading of 5 G.C.A. §5425 (g) illustrates that the statute only requires a showing  
2 that the award is necessary to protect “substantial interests” of Guam. The people of Guam and  
3 the government as a whole have a substantial interest to lift the stay in GPA-023-23 to avoid  
4 further loadshedding. Approvals are still required before GPA may award the contract; but any  
5 further delay of the contract, whether by days, weeks, months or more, will affect GPA’s ability  
6 to increase its generating load to increase needed capacity immediately. And, Guam’s  
7 procurements statutes may not deprive Dooik of a meaningful review since the procurement rules  
8 provide remedies for any contracts awarded improperly or in violation of the procurement rules.  
9 See 5 G.C.A. Chapter 5, Article 9.

13 Statutory approvals by the Attorney General have been sought and remain under  
14 consideration. GPA is hopeful the elected Attorney General will respond soon and concur with  
15 its position that a substantial interest exists to allow the OPA to grant GPA’s motion and lift the  
16 stay. (See **Exhibit D and E** for requests made to the OAG).

20 Respectfully submitted this 22<sup>nd</sup> day of November, 2023.

22 *Purchasing Agency*  
23 *Guam Power Authority*

24 By: \_\_\_\_\_/s/\_\_\_\_\_  
25 **THERESA G. ROJAS, ESQ.**  
26 *Interim Counsel*

# Generation Capacity Shortfall

## November 22, 2023

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JOHN M. BENAVENTE, P.E.  
General Manager  
GUAM POWER AUTHORITY

# Generation Capacity Projection for December 2023

December 2023 Target	
All Base Load Repaired	
Cabras 1	43
Cabras 2	35
Piti 8	43
Piti 9	43
Piti 7	31
Dededo 1	19
Dededo 2	19
Macheche	16
<b>Yigo CT</b>	<b>Down Hard</b>
<b>Yigo Diesels</b>	<b>9</b>
Caterpillar Units	12
Wartsila Units	3
<b>Total:</b>	<b>273</b>
Interruptible Load	16
<b>Total:</b>	<b>289</b>
<b>Anticipated Peak Demand</b>	235
Reserve (Shortfall)	54

**PUBLIC UTILITIES COMMISSION  
OF GUAM**

Jeffrey C. Johnson  
Chairman

Peter B. Montinola  
Vice-Chairman

Commissioners  
Joseph M. McDonald  
Rowena E. Perez-Camacho  
Michael A. Pangelinan  
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Administrator  
  
Colleen N.S. Chlarson  
Administrative Assistant

Frederick J. Horecky  
Chief Administrative Law Judge

Joephet R. Alcantara  
Administrative Law Judge

Anthony R. Camacho  
Legal Counsel

November 22, 2023

Senator William A. Parkinson  
Chairperson, Committee on Fire, Agriculture,  
Power and Energy Utilities, Public Transit,  
Unemployment Insurance, and Universal Health Insurance  
37<sup>th</sup> Guam Legislature  
Suite 905, DNA Building  
238 Archbishop FC Flores St.  
Hagatna, Guam 96910

**SUBJECT: Testimony of Chairman Jeffrey C. Johnson, Guam Public Utilities Commission, on  
Bill No. 201-37(COR)**

Dear Chairperson Parkinson:

**INTRODUCTION**

The Guam Public Utilities Commission ["PUC"] appreciates the opportunity to comment on proposed Bill No. 201-37 (COR). The PUC fully supports the Bill.

Guam is amid an electric power emergency. There is currently insufficient load capacity to consistently meet the required demand. This situation has resulted in on-going load-shedding. This Bill is a good first step in providing solutions for temporary power generation and repair of existing diesel generators until the Ukudo Power Plant is commissioned (hopefully in January 2026).

**THIS BILL SHOULD HELP IN ENABLING GPA TO MITIGATE THE PROBLEM OF  
ONGOING ISLAND-WIDE LOAD SHEDDING**

EX-B-001

The Bill would waive certain requirements in the Procurement Law to allow GPA to procure vendors to maintain, operate, and overhaul diesel generators, “specifically described as 40MW Yigo diesels, 24MW Tenjo Diesels, 6MW MDI/Pulantat Diesels, and 6MW Talofofa Diesels.”

The Bill would allow GPA to select vendors without complying with the ordinary Source Selection and Contract Formation procedures in the Procurement Law. Provisions allowing protests to stay procurements until resolution would also be waived.

### **PUC SUGGESTS CERTAIN AMENDMENTS TO THE BILL**

There is presently pending before the PUC an application of GPA to procure 40MW of Temporary Power. GPA should also be allowed to seek 40MW of temporary power under the provisions of this Bill. This addition fits nicely into the Bill, as Section 1 already mentions “temporary power generation” as part of the “responsible solutions.”

The Bill Name would be amended to read: “AN ACT TO ADD NEW §8113.15 TO CHAPTER 8 OF TITLE 12 OF THE GUAM CODE ANNOTATED, RELATIVE TO PROVIDING **TEMPORARY POWER AND MAINTENANCE, OPERATION AND OVERHAUL OF DIESEL GENERATORS**”

The title of Section 2 of the Bill, 8113.15, should be amended to read: “**Provision of 40MW of Temporary Power and Maintenance, Operation, and Overhaul of Diesel Generators.**” §8113.15 would be amended to read: “...the Guam Power Authority (“GPA”) with all deliberate speed, and with the consent with of the Guam Public Utilities Commission (“GPUC”) shall proceed with the procurement for a vendor or vendors to **provide 40MW of Temporary Power, and to maintain, operate, and overhaul diesel generators...**”.

### **THE PUC IS WILLING AND CAPABLE OF UNDERTAKING THE PROCURMENT REVIEW FUNCTIONS IMPOSED UPON IT BY THIS BILL**

Essentially, this Bill would place responsibility upon the PUC for reviewing procurements by GPA made under the special provisions of Bill 201-37 (COR). The PUC is not technically a procurement body. Its core function is utility regulation and rate setting. However, under its existing Contract Review Protocol with GPA, the PUC currently does review all proposed procurements of GPA in excess of \$1.5M. Ordinarily, PUC reviews GPA procurements to assure basic compliance with procurement laws. The PUC has Commissioners, Administrative Law Judges, and the PUC Counsel who are familiar with procurement laws and well versed in their application. The PUC would seek to assure that the procurement procedures used by GPA for procurement under this Bill would be done in a fair and objective manner.

### **CONCLUSION**

The adoption of Bill No. 201-37(COR) should assist GPA in implementing solutions to reduce the occurrence of load shedding. The Guam Legislature should fully support this Bill and advocate its enactment into law.

Thank you for your consideration of this Testimony.

Sincerely,



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**Jeffrey C. Johnson**  
**Chairman**  
**Guam Public Utilities Commission**

[https://www.postguam.com/news/gpd-directing-traffic-at-intersections-affected-by-load-shedding/article\\_decc2afa-882f-11ee-9753-ab21eaf94871.html](https://www.postguam.com/news/gpd-directing-traffic-at-intersections-affected-by-load-shedding/article_decc2afa-882f-11ee-9753-ab21eaf94871.html)

# GPD directing traffic at intersections affected by load shedding

SHANE TENORIO HEALY | THE GUAM DAILY POST

NOV 21, 2023



GPD Police Officer Trainee Kent Espinosa directs traffic at the Paseo Loop intersection on Sunday, May 28, 2023, in Hagåtña. David Castro/The Guam Daily Post

DAVID R. CASTRO

The Guam Police Department will be directing traffic at major intersections affected by load shedding until 6 p.m. tonight, according to acting police spokesperson Sgt. Paul Tapao.

EX-C-001

On Tuesday afternoon, GPD issued an advisory to the community regarding officers on duty who will be directing traffic in major intersections affected by load shedding up until 6 p.m.

"Motorists are asked to please proceed with caution through major intersections when officers are on scene and to be mindful of other motorists and pedestrians when officers are not on scene and traffic lights are off," Tapao stated.

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**SHANE HEALY**



**From:** [tgrojas@guamwaterworks.org](mailto:tgrojas@guamwaterworks.org)  
**To:** [dbmoylan@gmail.com](mailto:dbmoylan@gmail.com); [jguthrie@oagguam.org](mailto:jguthrie@oagguam.org); "Zerlyn Leon Guerrero"  
**Cc:** "John M Benavente"; [Beatrice Limtiaco](#); "Jennifer G Sablan"; [Marianne Woloschuk](#); [tgrojas@guamwaterworks.org](mailto:tgrojas@guamwaterworks.org)  
**Subject:** Request to Concur with GPA Motion for Substantial Interest  
**Date:** Monday, November 13, 2023 6:06:57 PM  
**Attachments:** [Transmittal Letter to AG\\_OPA-PA023-004\\_SIGNED.pdf](#)  
[Motion for Substantial Interest Declaration TGR \(002\).pdf](#)  
[AG\\_Concurrence\\_DRAFT.docx](#)

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Honorable AG Moylan,

Please view the GPA GM's letter request attached and GPA's Motion to Confirm a Substantial Interest Declaration to lift the stay on GPA-023-23 appealed to the OPA. In line with GPA's request, A draft Word file is also attached for your use.

Kind Regards,

Theresa  
Interim GPA Counsel



*Theresa G. Rojas, Esq.*  
*Legal Counsel*  
*Guam Waterworks Authority*  
*Ste 200, Gloria B. Nelson Public Service Building*  
*688 Route 15*  
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# GUAM POWER AUTHORITY

ATURIDÂT ILEKTRESEDÂT GUÂHAN  
P.O.BOX 2977 • HAGÂTÑA, GUAM U.S.A. 96932-2977

November 13, 2023

Honorable Douglas B. Moylan  
Attorney General of Guam  
*Ufisinan Hinirat Abugao*  
Office of the Attorney General  
590 S. Marine Corps Drive, Suite 901  
Tamuning, Guam 96913

Subject: Request to Confirm Substantial Interest Declaration, OPA-PA-23-004

Dear Attorney General,

The attached GPA filing to the Office of the Public Auditor is transmitted herewith for your review and confirmation, pursuant to 5 G.C.A. §5425(g)(1).

All oppositions to this filing are due by Friday, November 17, 2023 by 5 p.m. so I ask for your support and signature on the attached indicating that you **CONCUR** with GPA's determination of substantial interests by Wednesday, November 15, 2023 so we may timely file your concurrence with the OPA.

This request is being made in compliance with the laws of Guam which require a written determination from the head of the purchasing agency and concurrence from the Attorney General to lift the stay on the above-referenced procurement permitting GPA to increase generation capacity and allow GPA to concurrently meet customer loads as well as provide necessary reserve to support emergency maintenance and outages at our aging plants minimizing or avoiding load shedding.

I can be reached at 671-648-3180 or by email at [jbenavente@gpagwa.com](mailto:jbenavente@gpagwa.com), should you need clarification or have any other questions on this matter.

Sincerely,

John M. Benavente, P.E.  
General Manager

Attachment

cc: Jennifer G. Sablan, AGMO  
Beatrice "Tricee" P. Limtiaco, AGMA

EX-D-002



**From:** [John M Benavente](#)  
**To:** [Beatrice Limtiaco](#); [Rojas, Theresa Victoria Gumataotao](#); [Marianne Woloschuk](#); [Jennifer G Sablan](#)  
**Subject:** FW: Assistance  
**Date:** Tuesday, November 21, 2023 9:19:03 AM  
**Attachments:** [AG Concurrence DRAFT.DOCX](#)  
[Motion for Substantial Interest Declaration TGR \(002\).pdf](#)  
[Transmittal Letter to AG OPA-PA023-004 SIGNED.pdf](#)

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FYI, johnb

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**From:** John M Benavente  
**Sent:** Tuesday, November 21, 2023 9:18 AM  
**To:** MOYLAN RICHARD E <dbmoylan@gmail.com>  
**Cc:** John M Benavente (jbenavente@gpagwa.com) <jbenavente@gpagwa.com>  
**Subject:** Assistance

Good Morning Doug,

I am reaching out for your assistance on this issue please.

We have price bids in from three proponents which have qualified but have not been able to move forward with the process. I need to get these generators repaired and overhaul as part of our action plan to mitigate load shedding.

Appreciate your earliest assistance

Si Yu'os Ma'åse',

John M. Benavente, P.E.  
General Manager  
GUAM POWER AUTHORITY

EX-E-001