



OFFICE OF THE GOVERNOR
PAGO PAGO, AMERICAN SAMOA 96799

EXECUTIVE ORDER NO. 2-1981

AMERICAN SAMOA POWER AUTHORITY

Section 1. Preamble

The American Samoa Government desires that the business of generation, transmission, and distribution and sale of electric power within the Territory of American Samoa be conducted in accordance with sound business and utility practices, that the rates and charges for that service be just, reasonable and equitable to consumers and not unduly discriminatory; that service be reliable, that energy be conserved and facilities and resources efficiently used; and that the needs of the people of American Samoa for electric power be provided for in a timely fashion.

Section 2. Authority

This executive order is issued under the authority of Section 6 of Article IV of the Revised Constitution of American Samoa and 4.0303(a) ASCA.

Section 3. Creation of the American Samoa Power Authority

There is established a governmental agency within the executive branch of the American Samoa Government known as the American Samoa Power Authority.

Section 4. Powers of the American Samoa Power Authority

The American Samoa Power Authority:

- (1) may make contracts, as authorized in this executive order;
- (2) may adopt, amend, and repeal bylaws;
- (3) may purchase or lease and hold personal property it considers necessary or convenient in the transaction of its business, and may dispose of personal property held by it;
- (4) has the power in the name of the American Samoa Government to purchase, lease, or sell real estate, and to accept title to that real estate in the name of the Government, to accomplish the purposes of this executive order;
- (5) shall make all arrangements for the generation, purchase, transmission, distribution, and sale or other disposition of electric energy generated by facilities of the Authority or purchased by the Authority within the Territory of American Samoa;
- (6) is delegated the Governor's authority to develop and publish tariffs and schedules of rates, charges, and services and other rules for providing electric energy in accordance with the Administrative Procedures Act, 4.1001 ASCA et seq.; these rates and charges carry into effect, as near as may be, the standards prescribed for ratemaking in P.L. 95-617, the Public Utility Regulatory Policies Act, effective November 9, 1978, 16 USC 2611 et seq.;
- (7) may contract for the procurement of supplies, equipment, materials, personal services other than by employees, and construction with any public or private entity upon such terms and conditions as it finds necessary to the full and convenient exercise of its purposes and powers, subject to all applicable laws and rules;

the Authority shall receive and account for its inventory of materials, supplies and equipment; and

(8) may do other things needful and necessary to the full and convenient exercise of the above powers, including but not limited to the construction of facilities on property owned by the Government.

Section 5. Board of Directors - American Samoa Power Authority

(a) The Authority is governed by a board of five (5) directors appointed by the Governor. At least two of the directors shall be experienced in the management of electric utilities, at least one shall have a financial background, and at least one shall have a legal background. No fewer than two directors shall be from outside American Samoa.

(b) The first director appointed is appointed to a term expiring on June 30, 1982. The second director is appointed to a term expiring on June 30, 1983. The third director is appointed to a term expiring on June 30, 1984. The fourth and fifth directors are appointed to terms expiring on June 30, 1985. All subsequent appointments are for four (4) year terms, or for the unexpired portion of any term. Incumbents may continue to serve after the expiration of a term until a successor is appointed and confirmed. The Governor designates the chairman annually from among the membership of the board of directors, and the board selects its vice-chairman.

(c) The board of directors shall meet at least four (4) times per year. Three (3) directors, at least one of whom must have experience in the management of electric utilities and one of whom must be from outside of American Samoa, constitute a quorum.

(d) Compensation is at a rate of \$5,000 per year for directors and \$6,000 per year for the chairman. Travel, lodging and meal expenses will be provided for outside directors.

Section 6. Board of directors - powers and duties

All powers vested in the Authority are exercised by the board of directors. In carrying out this function, the board shall also:

(1) elect at its first meeting a vice-chairman, who shall preside at all meetings in the absence of the Chairman, and other officers as it may deem desirable from among its members, elect such officers annually thereafter at its first meeting in October;

(2) appoint and prescribe the compensation for the general manager, who is the chief operating officer of the Authority and exercises all executive functions, and the business and finance manager and plant managers, who perform duties assigned by the board, subject to all applicable laws and rules, this executive order, the bylaws of the Authority, and directions of the board;

(3) develop policies and programs for the administration, management and operation of the Authority;

(4) approve the annual budget of the Authority;

(5) review monthly the operating statement of the Authority for the previous month, and such other financial reports as it deems necessary;

(6) submit monthly operating statements to the Governor not later than the 20th working day after the end of the previous month, and such other financial statements as he directs from time to time; and

(7) exercise all other powers not inconsistent with

applicable laws and rules and this executive order which are reasonably necessary to the administration, management and operation of the Authority and the board.

Section 7. Personnel

All officers and employees of the Authority other than the general manager, business and finance manager, and plant managers are appointed and compensated in accordance with the requirements of the government employee laws of the American Samoa Government, 7.0101 ASCA et seq.

Section 8. Transfer of existing systems of generation - transmission and distribution

At a date fixed by the board of directors, the American Samoa Government shall transfer to the Authority the right to operate all items of property, including construction in progress, equipment and machinery used in connection with the then existing electric utility operation of the Government. Property jointly used for electric utility and governmental non-utility functions shall be equitably allocated between the Government and the Authority, provided that the allocation assures the continuing efficient functioning of the electrical generation, transmission, and distribution functions of the Government. In the event of dispute, the allocation is determined by the Governor. The property accounts for the Authority are valued for ratemaking purposes at the depreciated acquisition cost of the property as of the date of transfer, and shall be included in the rate base of the Authority. Future capital contributions to the Authority from the Government shall be by separate authorization and appropriation. Advances made for the operations of the Authority from the general fund of the

Government shall be treated as loans and not as part of the permanent capital. Such loans shall be repaid to the Government at rates of interest specified at the time the loans are made.

Section 9. Accounting and budget

The Authority shall assume responsibility for the accounting and financial management of the electric utility, and shall administer or contract with the Government for the administration of all accounting systems, including general ledger, fixed assets, accounts receivable, accounts payable, payroll, and cash. It shall establish proper internal accounting controls and procedures, and it shall prepare an annual budget as a part of the Governor's budget process.

Section 10. Independent audit reports - utility consultants - annual reports

(a) The Authority shall employ a firm of independent certified public accountants with electric utility experience to examine and report upon the status of financial records and accounts, and may renew that employment annually. Copies of those reports shall be furnished to the Governor and the Legislature.

(b) The Authority may make intergovernmental or contractual arrangements for expert consultants to advise and consult with it on all matters related to the operations of the Authority, including ratemaking, system design, planning, budgeting and legal matters.

(c) The Authority shall provide an annual report for each fiscal year to the Governor, the Legislature, and the people of American Samoa, not later than December 31st.

Section 11. Transition period

All rates, charges, and classifications of the Authority in effect during the transfer of property and facilities, and management thereof, to its control and jurisdiction are considered to properly adopted and continue in effect until duly changed.

Section 12. Implementation

This executive order shall be implemented according to the schedule prepared initially by the Power Authority Task Force and carried forward, as supplemented, by the board of directors when appointed.

Dated: April 28, 1981.


PETER TALI COLEMAN
Governor