



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN RE: RATE REQUEST FOR)
LEACHATE TREATMENT) GWA Docket No. 12-01
AT LAYON LANDFILL) ORDER
_____)

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (hereinafter referred to as the “PUC” or the “Commisison”) pursuant to the December 8, 2011 Order issued by Chief Judge Frances M. Tydingco-Gatewood of the District Court of Guam in U.S. v. Government of Guam, Civil Case No. 02-00022. In its Order, the Court requested that the PUC “set the rate for the treatment of leachate from the Layon Landfill and address any rate issues that need to be addressed to enable GWA to pay its obligations for waste disposal.”

BACKGROUND

On January 24, 2012, the Administrative Law Judge of the PUC (the “ALJ”) issued an ALJ Report requesting authority from the Commission to conduct a rate investigation into the appropriate rate for the Guam Waterworks Authority (“GWA”) to charge for the treatment of leachate from Layon. On February 6, 2012, the PUC authorized the ALJ to investigate and examine the rate request ordered by the Court. On March 1, 2012, the ALJ issued a Scheduling Conference Order requiring GWA to appear at a Scheduling Conference on March 8, 2012 to discuss the rate investigation.

At the March 8, 2012 Scheduling Conference, the ALJ and GWA discussed the issues concerning the rate setting for GWA's treatment of leachate as well as GWA's past due obligations to the federal receiver, Gershman Brickner & Bratton, Inc. (the "Receiver" or "GBB") for GBB's disposal of GWA's biosolids. GWA informed the ALJ that it had reached an agreement with GBB with respect to the rate to be charged for GWA's treatment of leachate from Layon. On March 19, 2012, the ALJ issued an ALJ Report finding that the rate proposed by GBB and GWA was just, reasonable, and necessary, and subsequently recommended that the PUC approve such rate proposal.

DETERMINATIONS

In the March 19, 2012 ALJ Report, the ALJ found that GWA and GBB had reached an agreement concerning the interim rate GWA should apply for its treatment of leachate from Layon. Pursuant to the terms of such agreement, GWA would assess GBB a fee of \$14.19 per 1,000 gallons via the existing waste water master meter that measures all flow from the facility. This rate is the Commercial III rate for wastewater, and in the event the Commercial III rate is modified by the PUC at a later time, then the new Commercial III rate would apply unless a Cost of Service study determines otherwise. The \$14.19 per 1,000 gallons of wastewater is in addition to the charges for water. The ALJ further found that, under the agreement, GWA would reserve its right to conduct a Cost of Service study to formulate a rate that better reflects GWA's cost of treating the leachate; and, that GWA would continue to work towards determining what rate increase, if any, would be necessary to pay down its past due obligations to GBB.

The ALJ, thereafter, found that the rate proposed by GBB and GWA was just and reasonable as \$14.19 per 1,000 gallons under the Commercial III rate for wastewater appeared to fall within the range of rates charged for the treatment of leachate in other jurisdictions. The ALJ cited the Written Testimony of David L. Manning, which was prepared in support of the September 2010 Rate Request of the Solid Waste Management Division, as well as researched some rates charged for the treatment of leachate in other jurisdictions. The ALJ further found that the rate was necessary in light of both the federal Court Order requiring GWA to set a rate with respect to its treatment of leachate, but also because GWA must recoup its cost for treating such leachate.

Accordingly, the ALJ recommended that the PUC approve the rate proposed by GBB and GWA effective April 1, 2012. Finally, the ALJ recommended that the instant docket remain open to facilitate any rate investigation associated with GWA's repayment of its outstanding debt to GBB for GBB's disposal of GWA's biosolids.

The Commission hereby adopts the findings made in the March 19, 2012 ALJ Report and, therefore, issues the following:

ORDERING PROVISIONS

Upon careful consideration of the record herein, the March 19, 2012 ALJ Report, and for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS the following:

1. The rate of \$14.19 per 1,000 gallons which corresponds with the rate for wastewater for a Commercial III account shall be applied for the treatment of leachate

from the Layon Landfill effective April 1, 2012, and shall also be applied retroactively for any treatment of leachate from Layon during 2011.

2. The instant docket shall remain open in anticipation of any rate investigation associated with GWA's repayment of its outstanding debt to GBB for GBB's disposal of GWA's biosolids.

3. GWA is ordered to pay the PUC's regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with conducting the rate investigation and hearing process. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.

SO ORDERED this 26th day of March, 2012.



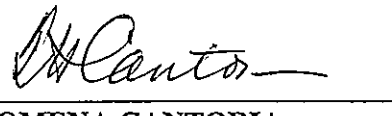
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JOSEPH M. MCDONALD
Commissioner



ROWENA E. PEREZ
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