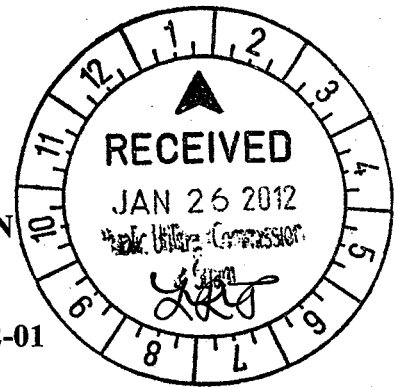


BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN RE: RATE REQUEST FOR LEACHATE )  
TREATMENT OF LAYON )  
LANDFILL )

GWA DOCKET 12-01

ALJ REPORT

RECEIVED  
LAW OFFICES OF  
HORECKY & ASSOCIATES

Date: 1/26/2012  
Time: 2:47 pm By: JMW

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the "PUC") 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.

BACKGROUND

On December 7, 2011, the Court held a quarterly status hearing regarding an update on the progress of the Consent Decree projects by the federal receiver, Gershman, Brickner & Bratton, Inc. (hereinafter referred to as the "Receiver"), as well as the operations of the Guam Solid Waste Authority, all of which concern the closure of Guam's Ordot Dump and the preparation for the use of the Layon Landfill. Thereafter, on December 8, 2011, the Court issued an Order highlighting the recent accomplishments of the Receiver during the last quarter of 2011, as well as noting some issues raised at the December 7, 2011 status hearing and in the Receiver's Quarterly Report filed in the case.

DISCUSSION

1. Agreement Regarding the Receiver's Disposal of Biosolids and GWA's Treatment of Leachate

With respect to the Guam Waterworks Authority ("GWA"), the Court notes in its December 8, 2011 Order that "[t]he Receiver reported that it has only collected 9.3% of its

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Government billings” and that “[t]his low percentage is driven primarily by an agreement with GWA, which allows GWA to accumulate charges for disposal of biosolids.” Order, p. 3 (Dec. 8, 2011). “GWA has been allowed to accumulate these charges with the intent that the accumulated balance will be applied to fees associated with treatment of leachate from the Layon Landfill.” Order, at 3-4. The Court further states that “[t]he balance owed by GWA as of September 30, 2011, was \$599,643.99, and additional charges are accumulating at a rate in excess of \$20,000 per month.” Order, at 4. The Court adds that “[t]o accurately weigh the feasibility of the agreement with GWA, the Receiver needs to know the rate of leachate treatment.” Order, at 4.

Accordingly, it appears that the Receiver has agreed to dispose of GWA’s biosolids insofar as the charges for such disposal would be offset by GWA’s treatment of leachate from the Layon Landfill. However, as noted by the Court, GWA is incurring significant debt associated with the Receiver’s disposal of such biosolid waste since GWA has not yet established a particular rate for the treatment of leachate from the Layon Landfill. Thus, no such offset is being applied, and instead, GWA is accumulating debt.

2. **Establish Rate for the Treatment of Leachate**

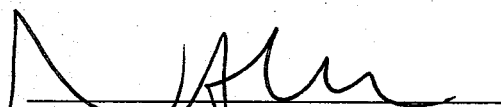
In light of the agreement between GWA and the Receiver, GWA must establish a rate for the treatment of leachate from the Layon Landfill in order to apply such fees against the Receiver’s charges for the disposal of GWA’s biosolids. Toward that goal, and pursuant to the express provisions of the Court’s Order, the PUC has been ordered “to 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.” Order, at 4. As a result, the

ALJ hereby recommends that the PUC authorize the ALJ to conduct a rate investigation into the appropriate rate for the treatment of leachate relative to the Layon Landfill.

**RECOMMENDATION**

The District Court of Guam, in U.S. v. Government of Guam, Civil Case No. 02-00022, by its December 8, 2011 Order, directed the PUC to “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.” Order, at 4. Accordingly, the ALJ hereby recommends that the PUC authorize the ALJ to conduct a rate investigation into the appropriate rate for GWA to charge for the treatment of leachate relative to the Layon Landfill. A draft Order is submitted herewith for the consideration of the Commissioners.

Dated this 24<sup>th</sup> day of January, 2012.

  
**DAVID A. MAIR**  
Administrative Law Judge

P124005.JRA

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

IN RE:    RATE REQUEST FOR LEACHATE    )    GWA DOCKET 12-01  
          TREATMENT OF LAYON            )    ORDER  
          LANDFILL                         )  
\_\_\_\_\_ )

**BACKGROUND**

This matter comes before the Guam Public Utilities Commission (the "PUC") 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.

**DETERMINATIONS**

In his January 20, 2012 ALJ Report, the ALJ noted that on December 7, 2011, the Court held a quarterly status hearing regarding an update on the progress of the Consent Decree project by the federal receiver, Gershman, Brickner & Bratton, Inc. (hereinafter referred to as the "Receiver"), as well as the operations of the Guam Solid Waste Authority, all of which concern the closure of Guam's Ordot Dump and the preparation for the use of the Layon Landfill. The ALJ further noted that after the status hearing, the Court issued an Order on December 8, 2011 highlighting the following: recent accomplishments of the Receiver during the last quarter of 2011, issues raised at the December 7, 2011 status hearing, and issues raised in the Receiver's Quarterly Report filed in the case.

Based on the Court's Order, the ALJ learned that the Receiver agreed to dispose of GWA's biosolids insofar as the charges for such disposal would be offset by GWA's treatment of leachate from the Layon Landfill. However, GWA has been incurring debt as a

result of this agreement since GWA has not yet established a particular rate for the treatment of leachate from the Layon Landfill; and that, GWA must establish a rate for the treatment of leachate from the Layon Landfill in order to apply such fees against the Receiver's charges for the disposal of GWA's biosolids.

The ALJ thereafter determined that pursuant to the express provisions of the Court's Order, the PUC has been ordered "to 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." Order, at 4. The ALJ therefore recommended that the PUC authorize the ALJ to conduct a rate investigation to determine an appropriate rate for the treatment of leachate relative to the Layon Landfill.

Based on the foregoing, the Commission hereby issues the following.

#### **ORDERING PROVISIONS**

Upon consideration of the record herein, the January 20, 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 PUC hereby authorizes the ALJ to investigate and examine the rate request ordered by the Chief Judge Frances M. Tydingco-Gatewood of the District Court of Guam in U.S. v. Government of Guam, Civil Case No. 02-00022, on December 8, 2011, related to the treatment of leachate from the Layon Landfill.

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2. 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 conduction 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 12024(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.

SO ORDERED this \_\_\_\_\_ of January, 2012.

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**JEFFREY C. JOHNSON**  
Chairman

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**JOSEPH M. MCDONALD**  
Commissioner

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**ROWENA E. PEREZ**  
Commissioner

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**FILOMENA CANTORIA**  
Commissioner

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**MICHAEL A. PANGELINAN**  
Commissioner

P124006.JRA