

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN RE: REQUEST BY THE GUAM)
WATERWORKS AUTHORITY FOR)
APPROVAL OF BOND PROJECTS)
FUNDED BY GWA'S 2010 SERIES)
BOND PROCEEDS)

GWA Docket No. 11-01

ORDER



This matter comes before the Guam Public Utilities Commission (the "PUC") pursuant to the January 31, 2011 Supplemental Order signed by the Commissioners, which requested a legal opinion regarding the following issue: "whether Public Law 30-145 and its mandates should be considered by the PUC prior to approving any future use of bond funds by the Guam Waterworks Authority ["GWA"], and what impact said Public Law has, if any, upon GWA's future use of bond funds."

On January 12, 2011, the Guam Waterworks Authority ("GWA") petitioned the PUC for approval of its proposed projects funded by GWA's 2010 Series Bond ("Series Bond") proceeds. On January 24, 2011, the Administrative Law Judge of the PUC (the "ALJ") issued an ALJ Report recommending that the PUC approve all of the Series Bond projects identified in GWA's January 12, 2011 petition. On January 31, 2011, at the PUC's January meeting, the PUC issued an Order authorizing GWA to utilize the proceeds from the Series Bond to fund the proposed projects.

At the January meeting, the Honorable Senator Vicente Pangelinan ("Senator Pangelinan") submitted testimony relative to the Series Bond. In particular, Senator Pangelinan testified that the \$118.8 million bond sold on November 10, 2010 was "intended on being used toward projects that would bring the agency into compliance with the Safe Drinking Water Act and the Clean Water Act."

ORIGINAL

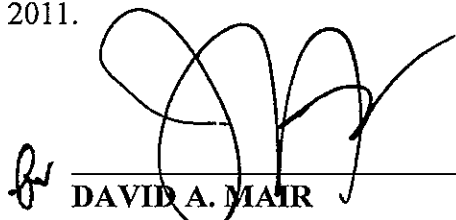
Senator Pangelinan further testified that Public Law 30-145 requires that \$20 million of the principal amount of the bonds must “be used to pay the balance of the government of Guam Limited Obligation (Section 30) Series 200A bond and any other portions of Bonds or Loans paid for by General Fund revenues for which the Guam Waterworks Authority has received proceeds.” Senator Pangelinan additionally testified that of the \$118.8 million, no money has been paid to fulfill the debt obligation described above. Senator Pangelinan therefore requested that the PUC examine Public Law 30-145’s effect on GWA’s use of bond funds.

Thereafter, the PUC issued a Supplemental Order requesting a legal opinion regarding whether Public Law 30-145 and its mandates should be considered by the PUC prior to the approval of any future use of bond funds by the Guam Waterworks Authority, and what impact, if any, Public Law 30-145 has upon GWA’s future use of bond funds.

In consideration of the legal issues before the PUC, the ALJ would like to afford GWA an opportunity to respond to the allegations and issues raised in Senator Pangelinan’s testimony, which is attached hereto as “Exhibit A.” After GWA files its response, the ALJ shall provide the PUC with a legal opinion requested in the PUC’s January 31, 2011 Supplemental Order.

Accordingly, the ALJ hereby orders that, within twenty (20) days of the date of this Order, or by **Thursday, March 17, 2011**, GWA shall file a response with the PUC addressing the issues raised in Senator Pangelinan’s testimony at the January 31, 2011 PUC hearing.

Dated this 25th day of February, 2011.



DAVID A. MAIR
Administrative Law Judge

**Public Utilities Commission Special Meeting
January 31, 2011
Testimony – Senator Vicente (ben) Cabrera Pangelinan**

Håfa Adai Commissioners,

I come before you as a senior Senator of the 31st Guam Legislature; as the Chairman of the Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement, and Land (Committee), and as a ratepayer. I appreciate the work and due diligence the Public Utilities Commission (PUC) has with regard to the rate increases of the agencies under its purview. Your careful deliberation of issues that may affect ratepayers aims to protect our ratepayers, the people of Guam.

The Guam Waterworks Authority (GWA) sold approximately \$118.8 million bonds in the municipal market on November 10, 2010. These funds were intended on being used toward projects that would bring the agency into compliance with the Safe Drinking Water Act and the Clean Water Act, based on a stipulated order with the federal government. According to Guam Public Law 30-145, "An act to amend section 4 of Public Law 28-71, Relative to approving the terms and conditions of the issuance of Guam Waterworks Authority Revenue Bonds," which was signed into law on May 17, 2010, the Guam Waterworks Authority is allowed to issue bonds on specific terms and conditions. The law outlines that the Guam Waterworks Authority had the authority to issue bonds with a principal amount not to exceed \$240 million at a net yield to bondholders not exceeding seven and one-half percent per annum.

Article 2, Chapter 14 of Title 12 of the Guam Code Annotated, of which Public Law 30-145 amends, also stipulates that of the amount of bonds issued by the Guam Waterworks Authority, \$20 million of the principal amount shall be used to pay the balance of the government of Guam Limited Obligation (Section 30) Series 2001A bond and any other portions of Bonds or Loans paid for by General Fund revenues for which the Guam Waterworks Authority has received proceeds. Guam Waterworks Authority only issued approximately \$118.8 million of the maximum \$240 million authorized by the Guam Legislature, of which, none has gone to fulfilling the letter of the law stated in Article 2, Chapter 14 of Title 12 of the Guam Code Annotated and Public Laws 28-71 and 30-145. I am requesting that before the PUC approve the use of the newly issued bond funds that the matter of Public Law 30-145 be settled.

The second matter of interest is the Guam Power Authority (GPA) issuance of debt in the past year. The REVENUE BONDS 2010 SERIES A included a Series 2010A Subordinate Lien Taxable Bonds to fill a Working Capital Fund (WCF) and to retire \$20 million Cathay Commercial Paper. According to the Guam Consolidated Commission on Utilities Resolution No. 2010-27, the Working

Capital Fund is a contingency fund intended on ensuring "funds would be available to respond to the next natural disaster."

While this is a legitimate concern, I question the filling of a contingency fund with bond proceeds and leveraging the need to fill the Working Capital Fund within the newest revenue bond indenture and passing the cost to civilian residential ratepayers. The Guam Power Authority must be held to a higher standard by the PUC that forces GPA to pay for the civilian residential rate payer allocation of the working capital fund through gains in operational efficiency and interest earned on the capital sitting in the fund.

The Working Capital Surcharge allocation of debt service for civilian residential rate payers is estimated to cost approximately \$2.5 million dollars a year over four years or an average increase of about \$22 dollars a year per household.

YEAR 1	\$ 2,502,095
YEAR 2	\$ 2,488,282
YEAR 3	\$ 2,532,867
YEAR 4	\$ 2,556,449

This represents approximately seven-tenths of 1 percent (0.7%) of GPA's Fiscal Year 2009 operating and maintenance expense. I am confident that the executive and operational management expertise at GPA, can introspectively scrutinize GPA operations to find efficiency gains to reduce costs equivalent to the civilian residential rate payers portion of the proposed Working Capital Surcharge.

In fact, the upcoming major capital improvement project, under frequency load shedding (UFLS) is a great example of GPA finding efficient ways to protect the revenue stream vital to funding operations. The under frequency load shedding project will improve the reaction of baseload generators to unscheduled, forced outages that cause intermittent disruption of power services. The end result will be getting the system back online quicker which avoids revenue loss similar to what occurred during the November 3, 2010 extended island wide power outage.

To be absolutely clear on my request to you tonight, I am advocating that residential civilian rate payers be removed from the working capital surcharge. Not government of Guam, commercial customers or the Navy. It is also not my intention that the residential allocation be shifted to government of Guam, commercial customers or the Navy but rather that GPA reduce cost to cover this portion of the working capital surcharge.

It is with regret that I bring up the next matter because the PUC approved the use of \$6 million dollars of excess bond proceeds not needed to pay off the \$20 million Cathay Loan as a reimbursement of expenses and for contingency funds.

The approved use of the funds provided in the order were \$3 million for reimbursements and \$3.1 million as a contingency reserve for cost overruns on the Smart Grid Project or other approved bond projects.

My feedbacks on the August 30, 2010 PUC Order is simple:

- 1) If money borrowed through a bond was not needed to pay off the Cathay Loan then it should be used to relieve the ratepayers paying for the bond, not reimburse GPA for expenses already incurred.
- 2) Using the proceeds as a hedge against cost overruns on the Smart Grid project or other projects is absurd. The Smart Grid project has an existing budget of \$33.2 million dollars. GPA must be able to manage bid specifications and project execution according to budget. This type of contingency fund generally leads to unnecessary bells and whistles. The expectation of the people is that GPA project management be on budget and on-time.

It is my sincere hope that the commission reconsiders the August 30, 2010 order and channels the excess \$6 million in bond proceeds into rate relief for the consumers.

Lastly, there is the issue of unexpected \$5.1 million windfall to the Authority from the Bank of America settlement. Mr. Joaquin Flores has recently appealed to the CCU to apply the \$5.1 million dollars to the Working Capital Surcharge. Given my position on the Working Capital Surcharge, the application of the \$5.1 million dollars is better suited to offset any LEAC increase that this commission determines is warranted for the period February 2011 through July 2011.

As the rate setting body for the Guam Power Authority, Guam Waterworks Authority, Port Authority of Guam and Solid Waste Disposal, you are all well aware of the increases pushed onto consumers over the last several years. I am appealing to you to continue to exercise reasonableness to the cases presented to you by the utilities. Too often, the lawyers, consultants and executives charged with running the utilities overshadow the ratepayer at these hearings because the matters discussed are complicated and intimidating. I am counting on you to continue to protect those without the expertise and resources to come before you from any additional cost of living increases.

I thank you for the opportunity to address this body this evening and I look forward to future appearances on behalf of the people of Guam.

Si Yu`os Ma`ase

Vicente (ben) Cabrera Pangelinan
Senator