



ORDER RE:  
PRELIMINARY ISSUES  
In the Matter of:  
Guam Power Authority's 2011  
Multi-Year Base Rate Filing  
GPA Docket 11-09  
February 8, 2012

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in 12 GCA §12004. 12 GCA §12004 provides in pertinent part: "...General Lifeline Rates may only be increased [by the PUC] when the total actual overall cost of providing service to all classes of customers, increases by no less than twenty percent (20%)."

The question is whether the 20% requirement is a onetime event, after which the lifeline rate may be increased at the discretion of the PUC ("one time event"); or whether, after the 20% requirement is initially satisfied, it must be satisfied each time again thereafter before the PUC again raises the lifeline rate (the "ratchet" approach). At the hearing, GCG indicated that, in prior rate proceedings involving the Guam Waterworks Authority, it had been assumed that once the overall cost of providing service exceeds twenty percent, the general lifeline rates could not be increased again until the twenty percent threshold was again met. GPA does not concur with such position.

The parties were instructed that they would have five days each from the date of the hearing to submit their positions as to the proper interpretation of the lifeline rate "threshold" issue. No party submitted a statement.

Initially, the ALJ believes that he may submit a preliminary ruling on this issue, but any final determination regarding the proper interpretation as to the "threshold" for increasing the lifeline rates must be rendered by the PUC Commissioners. In the meantime, to provide guidance to the parties in this proceeding, the ALJ will provide a preliminary determination on this issue. For purposes of this proceeding, the "ratchet" interpretation will be adhered to and observed. The statutory framework establishes that, once the total actual overall cost of providing service to all classes of customers has increased by no less than 20%, the general lifeline rates may be increased.

However, no language in the statute suggests that, once the 20% requirement is met, the Commission may thereafter increase the lifeline rate at its discretion. Even after the 20% requirement is initially met, the Commission is confronted with the same statutory requirement that it may not increase the general lifeline rates until the 20% requirement is satisfied. The statutory language does not disappear after the 20% requirement is met initially for the first time. For any increase thereafter, the Commission cannot again increase the general lifeline rates until the 20% requirement is again satisfied.

To hold that the 20% requirement is only "a onetime threshold" would rewrite the statute. 12 GCA §12004 supports such interpretation. The PUC is generally granted the authority to establish and modify rates for GPA, including lifeline rates. However, the

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statute specifically restricts the authority of the PUC to modify lifeline rates. The general lifeline rates "**may only be increased**" when the total actual overall cost of providing service to all classes of customers increases by no less than 20%. The 20% requirement must be interpreted in the context of a provision which is designed to limit the general rate making authority of the PUC by restricting its powers with regard to general lifeline rates.

The present general lifeline rates for GPA are not "need-based", which may be good or bad policy. However, it is not the role of the ALJ, or the PUC, to alter legislative requirements. Substantive changes in the requirements for general lifeline rates, or the policy governing such rates, should be the province of the Guam Legislature.

SO ORDERED this 8<sup>th</sup> day of February, 2012.

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Frederick J. Horecky  
Administrative Law Judge  
Public Utilities Commission