

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF: |) | GPA Docket 11-08 |
| |) | |
| The Application of the Guam Power Authority to Approve the Proposed Settlement Agreement for the Payment in Lieu of Taxes Assessed by the Department of Administration |) | DEFERRAL ORDER |
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INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission [PUC] upon GPA’s Application for PUC approval of the Proposed Settlement Agreement for the Payment in Lieu of Taxes Assessed by the Department of Administration.¹

BACKGROUND

2. On March 31, 2011, the Department of Administration (DOA) billed GPA for \$12.25M as amounts due to the government “as payments in lieu of taxes (PILOT)” for a period of fourteen years.²
3. Pursuant to Public Law 18-15 and successive amendments (most recently Public Law 27-110: (4), three utilities, the Port, the Airport, and GPA, are required, in accordance with certain statutory prerequisites, to make such payments to the government in lieu of taxes.³
4. The PILOT settlement is subject to review and prior approval by the PUC in accordance with the Contract Review Protocol for Guam Power Authority, which requires PUC to approve any GPA financial obligation in excess of \$1,500,000.⁴
5. On August 8, 2011, PUC Counsel issued his Report herein.⁵The Commissioners adopt the facts and Background as stated in the PUC Counsel Report.

¹ GPA Application to Approve the Proposed Settlement Agreement for the Payment in Lieu of Taxes Assessed by the Department of Administration, GPA Docket 11-08, filed June 15, 2011.

² Id. at p. 1.

³ Id.

⁴ Contract Review Protocol for Guam Power Authority, Administrative Docket, §1d.

⁵ PUC Counsel Report, GPA Docket 11-08, dated August 8, 2011.

DETERMINATIONS

6. GPA has indicated its intent that “the proposed PILOT surcharge would apply to the Navy.”⁶
7. GPA did not serve the Navy with its initial Petition in this matter, nor was Navy otherwise advised by GPA of GPA’s intent to seek surcharge payments from Navy to reimburse PILOT payments.
8. The PUC should not proceed ahead with the consideration or resolution of this matter until the Navy has had a full and fair opportunity to present its position on the matters of the appropriateness of the settlement and the assessment of surcharges for PILOT reimbursement against the Navy.
9. Pursuant to the Ratepayer Bill of Rights, GPA is not permitted to file its request for establishment of the PILOT surcharges with unless it gives at least three months’ notice.⁷ Since GPA gave its notice of intent to establish PILOT surcharges in its notice published on or about June 22, 2011, PUC cannot consider GPA’s request for establishment of PILOT surcharges until GPA has filed its rate case in accordance with the Ratepayers’ Bill of Rights.
10. In addition, the Commission must hold *at least* three (3) public hearings on GPA’s request for establishment of PILOT surcharges.⁸

ORDERING PROVISIONS

After review of the review of the record herein, GPA’s Petition for approval of PILOT Settlement and Establishment of Surcharges, GPA’s Responses to the PUC Request for Information, and the PUC Counsel Report, for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission HEREBY ORDERS that:

1. The Commission should defer consideration of the GPA’s Petition for Approval of PILOT Settlement and Establishment of Surcharges for the reasons outlined in the PUC Counsel Report.

⁶ GPA Second Set of Responses to PUC Requests for Information, set 2-1, GPA Docket 11-08, filed July 20, 2011.

⁷ 12 GCA §12001.2(b)

⁸ 12 GCA §12016

2. Prior to PUC review and/or approval of this Petition, Navy must have a full and fair opportunity to present its position concerning the establishment of PILOT surcharges.
3. The Commission is without jurisdiction to review or approve the PILOT surcharges until all of the requirements of the Ratepayer Bill of Rights are complied with, including the conduct of three public hearings.
4. Since GPA has included the PILOT surcharges within its Ratepayer Bill of Rights notice, the propriety of the proposed settlement with the government and issues related to establishment of the surcharges should be deferred at present and subsequently considered during the course of the Rate Case.
5. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

Dated this 10th day of August, 2011.

Jeffrey C. Johnson
Chairman

Rowena E. Perez
Commissioner

Joseph M. McDonald
Commissioner

Michael A. Pangelinan
Commissioner

Filomena M. Cantoria
Commissioner