

**PUBLIC UTILITIES COMMISSION
OF GUAM**

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December 21, 2012

VIA: HAND DELIVERY

Hon. Leonardo M. Rapadas
Attorney General of Guam
Office of the Attorney General
287 W. O'Brien Drive
Hagatna, Guam 96910

**Re: "Rate Options" Filing of the Guam Solid Waste Authority with the Guam
Public Utilities Commission**

Dear Attorney General Rapadas:

I am writing you in your capacity as Chief Legal Officer of the Government of Guam. In June of this year, Mr. David L. Manning, the District Court Appointed Receiver representative for the Guam Solid Waste Authority, filed a "Rate Request" for the Guam Solid Waste Authority for 2013 with the Guam Public Utilities Commission ["PUC"] and thereafter set forth various rate options. Correspondence indicates that you, as well as the Governor and Lieutenant Governor of Guam, received copies of the "Rate Request."

In the middle of November of this year, Mr. Manning further provided notice to the PUC, the Office of the Attorney General, and the Office of the Governor that the notice requirements of the Ratepayer Bill of Rights had been complied with. Since GSWA has complied with the ninety day notice requirements under the Ratepayer Bill of Rights, the "Rate Request" is now pending before the PUC.

Although styled a "Rate Request", the GSWA filing does not request any rate relief. It merely points out "2013 Rate Options." Mr. Manning, as the Court Receiver, indicates that neither the Receiver nor GSWA are recommending or requesting any rate increase for the solid

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CENTRAL FILES

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waste rates at the present time:

“We project that the current rates are adequate to provide for the operations and reserves of GSWA through 2015.” Testimony of David L. Manning at p. 15.

The present rates, which were approved by the District Court of Guam, are \$172.00 per ton for Commercial Customers and \$30.00 per month for Residential Customers. Such rates were adopted by the Receiver with the approval of the District Court of Guam.

As you will recall, in 2009, the Government of Guam issued certain Limited Obligation Bonds (authorized by Public Law 30-07) to pay for the costs of the closure of the Ordot Dump and the construction of the new Leyon Landfill. The bonds are special limited obligations payable solely from the “Section 30 Revenues of the Government.”

Mr. Manning indicates that, under the current rates, the Government of Guam is reimbursed by GSWA (from its tipping fees) the annual amount of \$4.497M for use of the Government’s Section 30 revenue to pay debt service. However, in 2013, when full debt service payments begin, the Section 30 payments of the Government of Guam will increase by \$7.483M annually. Unless the solid waste rates of GSWA are increased, the Government of Guam will be paying the additional amount of \$7.483M annually from the Section 30 funds to pay for the 2009(A) Bond and debt service obligations. The current reimbursements from GSWA to the government will not cover the additional annual amount due of \$7.483M from the Section 30 funds.

The GSWA filing indicates that, if the 2013 solid waste rates were to fully reimburse the government, the commercial rate per ton would need to be raised to \$225.00 and the residential rate per month to \$35.00.

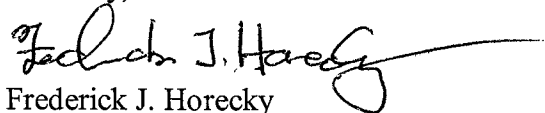
In its Notice to Guam Solid Waste Authority Ratepayers, published August 31, 2012, GSWA indicated that rates the Receiver is recommending to the Public Utilities Commission are “the same rates currently in effect for the customers of GSWA and will result in no increase in cost to GSWA Ratepayers.... In addition, GSWA understands that the Government of Guam may wish to seek a higher rate to fully reimburse itself for the debt service it pays from the Section 30 revenues for the 2009(A) Section 30 Bonds issued by the Government to finance construction of the Leyon Landfill and other capital improvements required for GSWA.”

At this time, the Guam PUC has nothing in the record before it which requests any rate increase for solid waste rates. As to the Ratepayer's Bill of Rights, the PUC entertains proposals by Public Utilities "for a rate increase." 12 GCA §12001.1. The PUC normally does not conduct public hearings for a rate matter unless rates or charges are proposed to be established, abandoned, modified or departed from. 12 GCA §12016.

At present the Guam PUC has no request before it to increase solid waste rates. The question presented is whether the Government of Guam wishes to intervene in these rate proceedings and request an increase in commercial and residential Guam Solid Waste Authority Rates for 2013. If the Government of Guam wishes to intervene in the pending proceeding before the PUC, it may file a Petition for Intervention pursuant to Rule 8 of the PUC's Rules for Practice and Procedure.

I would appreciate it if you could advise the PUC, at your earliest convenience, as to whether the government of Guam wishes to intervene in this proceeding and to seek an increase in the solid waste rates for FY2013. At present there is not a sufficient basis in the record for the PUC to commence rate proceedings, as there is no public utility which is seeking a rate increase. I look forward to discussing this matter with you or your appropriate representative at the earliest time possible. Please let me know if there is a particular attorney in the office with whom I should discuss this matter. Thank you for your attention to this matter, and please let me know if you have any questions in this regard.

Sincerely,



Frederick J. Horecky
Legal Counsel to the
Guam Public Utilities Commission

cc: David L. Manning

Arthur Clark,
Chief Policy Advisor to the Governor

Legal Counsel, Office of the Governor

Patrick Mason, Deputy Attorney General
Civil Litigation and Solicitor Division