

6. Public Law 30-165 provides that the aggregate Host Community Premium is \$150,000 per year for the village of Inarajan, and \$150,000 per year for the village of Ordot.⁶
7. The law expressly provides that the Host Community Premium shall be assessed “from the opening of the landfill until the closing of the landfill.”⁷
8. Mayor Gogue indicates that the Layon Landfill opened and began accepting trash on September 1, 2011.⁸ Receiver Representative David Manning confirmed that Layon Landfill opened on September 1, 2011.⁹
9. The PUC approved the implementation of the Host Community Benefit Premium and a Protocol on July 23, 2012; the Receiver was given 60 days to develop and implement the billing for the Host Community Premium surcharge fees. Said premium actually commenced to be billed to customers on or about October 1, 2012.¹⁰
10. The Host Community Premium surcharge fees only commenced to be assessed on October 1, 2012, which was for FY2013. However, Public Law 30-165 established that the Host Community Premium should be assessed upon the opening of the landfill, which was September 1, 2011. Thus, there is a period of one year and one month for which the Host Community Premium has not yet been assessed.
11. The ALJ herein recognized in 2012 that the PUC might well need to make “subsequent adjustments to the surcharge to assure that the assessment covers the period from the opening of the landfill until the closing of the landfill.”¹¹ The PUC must now determine the proper commencement date for the assessment of the Host Community Premium surcharge fees and whether the Receiver should disperse the “Reserve” funds in the GSWA Host Community Benefit Account to the Host Communities.

⁶ Public Law 30-165 enacted on July 22, 2010.

⁷ Id., 10 GCA §511005.

⁸ Email from Mayor Jessy Gogue to Lou Palomo, PUC Administrator, dated January 21, 2014.

⁹ Phone conversation between Receiver Representative David Manning and Frederick J. Horecky, PUC Counsel on April 29, 2014.

¹⁰ Email from Mayor Jessy Gogue to Lou Palomo, PUC Administrator, dated January 21, 2014.

¹¹ ALJ Report, GSWA Docket 12-02, dated July 27, 2012.

ANALYSIS

12. It is clear that Public Law 30-165 requires the assessment of the Host Community Premium commencing on the opening of the landfill, which was September 1, 2011. However, in accordance with the Protocol, and the time necessary to implement the surcharge, GSWA did not actually begin to charge the surcharge to Commercial and Residential Customers until October 1, 2012. Thus, for a period of one year and one month (September 1, 2011, to September 30, 2012), the PUC did not assess the Host Community Premium Surcharge or charge it to customers. In compliance with the intent of Public Law 30-165, the PUC must now do so.
13. The Receiver indicates that, presently, there is a "Reserve" in the HCPS Fund of \$13,671.57.¹² The Receiver further indicates that there is no present need to maintain a reserve in said fund. He further indicates that the estimated Host Community surcharge fee for the period of September 1, 2011, through September 20, 2012 is \$331,173.86.¹³
14. It would therefore be appropriate for the Receiver to disperse the funds presently held in reserve in the GSWA Host Community Benefit Account, in equal shares, to the villages of Inarajan and Ordot. These reserve funds, and any subsequent reserve funds in such account, should be used by the Receiver to pay down the unpaid assessments for the period of September 1, 2011 to September 30, 2012.
15. Mayor Gogue has estimated that it would take nearly 24 years for the villages of Inarajan and Ordot to be paid for the period that the premium was not assessed after the opening of the Layon Landfill.¹⁴ The use of the reserve funds to pay down the unpaid assessment will promote the goal of ensuring that the host villages receive the benefits to which they are entitled under Public Law 30-165.
16. Public Law 32-21 also provided that the Village of Ordot is eligible for the host community premiums during the "post-closure period", which includes post-closure care and maintenance of the property after the closing of the landfill for thirty (30) years *or until such time that it is deemed by the Administrator of the Guam Environmental Protection Agency that there is a significant reduction of the adverse effects to human health and the environment.* Thus, it is likely that the Host Community

¹² GBB Quarterly Report re, Host Community Premium Surcharge (HCPS) Fees, dated April 14, 2014, at p. 2.

¹³ Letter from Received Representative David Manning to Frederick J. Horecky, PUC Counsel, dated April 29, 2014, attached hereto as Exhibit "1".

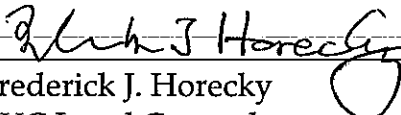
¹⁴ Email from Mayor Jessy Gogue to Lou Palomo, PUC Administrator, dated January 21, 2014.

Premium will continue to be assessed for the benefit of the Village of Ordot for many years; the application of the reserve funds to payment of the past due assessment will help to ensure that such assessment is paid as expeditiously as possible.

RECOMMENDATION

17. PUC Legal Counsel recommends that the PUC order that the Host Community Premium be assessed for the villages of Inarajan and Ordot-Chalan Pago for the period of September 1, 2011 through September 30, 2012, in the amount of \$331,173.86.
18. Reserve funds currently held by the Receiver, as well as any subsequent reserve funds in the GSWA Host Community Benefit Account obtained by the Receiver, should be applied to the past due assessment for the period of September 1, 2011, to September 30, 2012.
19. In his Quarterly Reports regarding the Host Community Premium Surcharge Funds, the Receiver should provide a breakdown of total assessments, by fiscal year, of Host Community Premium Surcharge Fees from the opening of the landfill to present, and the total payments by fiscal year to the host villages. The Report should also indicate payments made to the host villages for the assessment for the period of September 1, 2011 through September 30, 2012.
21. Payments should be made by the Receiver to the host communities in accordance with the Protocol adopted by the PUC on July 30, 2013.¹⁵
22. A proposed Order is submitted herewith for the consideration of the Commissioners.

Dated this 30th day of April, 2014.


Frederick J. Horecky
PUC Legal Counsel

¹⁵ PUC Order, GSWA Docket 12-02, dated July 30, 2013, and the Protocol adopted thereto as Exhibit "A".



**SOLID WASTE
MANAGEMENT
CONSULTANTS
RECEIVER**

April 29, 2014

Mr. Frederick J. Horecky
PUC Counsel
Public Utilities Commission
Suite 207, GCIC Building
P.O. Box 862
Hagatna, Guam 96932

Re: Estimate of Host Community Premium Surcharge Fees for the period 9-1-2011 to 9-30-2012

Dear Fred:

The following table represents a reasonable estimate of the fees that would have been assessed if the surcharge had been in effect from the opening of the landfill through September 30, 2012.

Estimated Host Community Fee for Period September 1, 2011 through September 30, 2012				
Customer	Tons	Applicable Fee	Units Charged	Estimated Fee
Residential	22,039.37	\$ 0.38	218,426	\$ 83,001.88
Commercial	59,011.91	\$ 3.57	59,011.91	\$ 210,672.52
Military	8,284.75	\$ 3.57	8,284.75	\$ 29,576.56
Government	2,219.30	\$ 3.57	2,219.30	\$ 7,922.90
Mayors	1,525.16	N/A	N/A	\$ -
Transfer Stations	5,951	N/A	N/A	\$ -
Other	139	N/A	N/A	\$ -
Total	99,170.48	N/A	N/A	\$ 331,173.86

Note: Residential units are estimated based on average number of residential customers as reported to the District Court for 9/30/11, 3/31/12 and 9/30/12 multiplied by 13 to reflect the 13 months included in this estimate.

Mr. Frederick J. Horecky
April 29, 2014
Page 2

Please let me know if you have questions or I can be of further assistance.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "David L. Manning". The signature is written in black ink and is positioned above the printed name and title.

David L. Manning
Receiver Representative