

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



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)
PETITION OF
GUAM WATERWORKS AUTHORITY)
FOR RATE RELIEF)
)
_____)

GWA DOCKET 13-01
ALJ REPORT
RE: GWA'S MULTI-YEAR
RATE PETITION

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the "PUC") pursuant to the Petition for the Approval of the Guam Waterworks Authority's 5 Year Financial Plan, filed by the Guam Waterworks Authority ("GWA") on June 5, 2013.

BACKGROUND

On March 1, 2013, GWA filed its Five Year Financial Plan relative to fiscal years 2014 through 2018 (hereinafter referred to as the "Rate Plan"). On June 5, 2013, GWA filed its Petition for approval of the Rate Plan. On June 5, 2013, Administrative Law Judge ("ALJ") David A. Mair transmitted the Rate Plan to Lummus Consultants International Inc. ("Lummus"), the PUC's consultants for water and wastewater matters, for their independent review.

In accordance with the Ratepayers' Bill of Rights, duly noticed public hearings were held in the village of Hagåtña on October 21, 2013, and in the villages of Asan and Dededo on October 23, 2013. On October 22, 2013, GWA and Lummus entered into a Stipulation agreeing to certain terms and conditions, as well as agreeing to certain proposed rates.

ORIGINAL

DISCUSSION

A. GWA'S FIVE YEAR RATE PLAN

The Rate Plan indicates the following rate increases: 16% in FY2014; 14.5% in FY2015; 17.5% in FY2016; 10% in FY2017; and 9% in FY2018.¹ These increases include an adjustment to GWA's Lifeline rate in FY2016.² GWA maintains that "the principal drivers of the Plan are the significant investments required by a 2011 Federal Court Order, regulatory mandates and policy statements."³ "Other drivers include the obligatory requirement for improving service levels, meeting reserve requirements and contractual obligations such as the 2005 and 2010 Revenue bond covenants."⁴ The Rate Plan further contemplates the issuance of three new bonds during 2013, 2015, and 2018, in order to generate \$350 million in capital expenditures for upgrades or rehabilitation of existing facilities or construction of new facilities.⁵

In addition, the Rate Plan also includes \$50 million in capital projects funded by base rate generated revenues; the refinancing of a \$30 million short term debt; and the implementation of two new financial policies.⁶ These new policies consist of the following: (1) a \$12 million Working Capital and Cash Reserve; and (2) a Rate

¹ GWA's 5 Year Financial Rate Plan ("Rate Plan"), p. 6 (Mar. 1, 2013).

² Rate Plan, p. 5.

³ Rate Plan, p. 1.

⁴ Rate Plan, p. 1.

⁵ Rate Plan, p. 1.

⁶ Rate Plan, p. 4.

Stabilization Reserve in the amount of \$9.5 million to minimize rate increases for FY2016 through FY2018.⁷

GWA maintains that approximately 85%, or \$300 million of the planned \$350 million financing will be used to fund water and wastewater projects required under the 2011 federal Stipulated Amended Order.⁸ These projects include: (1) Groundwater Chlorination; (2) Water Metering; (3) Ugum Surface Water Treatment Plant; (4) Sinajana Water Sytem; (5) Storage tank Rehabilitation & Replacement; (6) Northern District WWTP Upgrades; (7) Agana WWTP Interim Measures; (8) Agat/Santa Rita WWTP Improvements; (9) Baza Gardens WWTP Improvements; (10) Umatac-Merizo WWTP Improvements; and (11) SSES and I&I/SSES Work Plan.⁹

Revenues were based on rates and consumption, and natural growth in GWA's customer base, and are forecasted to grow 80% during the projection period.¹⁰ The military build up was not incorporated into the Rate Plan.¹¹ Power, Navy water purchases, and salaries of its employees represent GWA's three largest operating and maintenance costs.¹²

⁷ Rate Plan, p. 4.

⁸ Rate Plan, p. 4.

⁹ Rate Plan, p. 4.

¹⁰ Rate Plan, p. 5.

¹¹ Rate Plan, p. 5.

¹² Rate Plan, p. 7.

B. GWA'S PETITION FOR APPROVAL OF THE RATE PLAN

1. June 5, 2013 Petition

In the Petition for approval of its Rate Plan, GWA contends that “[t]he primary reason for the rate increases are necessary to pay debt service on the issuance of approximately \$450M in bonds required for GWA to comply with the November 2010 Order of the United States District Court in Civil Case No. 02-00035 (‘Order’) by upgrading and refurbishing GWA’s existing water and wastewater infrastructure as required under the Clean Water Act and the Safe Drinking Water Act.”¹³ GWA further contends that “bonds are expected to be issued in three series in calendar years 2013, 2015 and 2018” and that “[d]ebt service on the bonds is expected to increase from the current level of \$7.7M today to \$40M by FY2018.”¹⁴

GWA adds that it needs these increases “to cover the cost of internally financed capital projects of approximately \$50M” as well as “to cover costs of operation such as sludge disposal, power, chemicals, payroll and Navy water purchases.”¹⁵ Accordingly, GWA requested PUC approval for the following rate increases: (1) 16% for FY2014; (2) 14.5% for FY2015; (3) 17.5% for FY2016; (4) 10% for FY2017; and (5) 9% for FY2018.

2. Testimony of Greg Cruz, CFO

In support of the Petition, GWA submitted written testimony from Greg Cruz, GWA’s CFO. In his testimony, Mr. Cruz expressed his support of the Rate Plan consisting of rate increases in the aggregate of 67% for the next five years.

¹³ Petition for the Approval of the Guam Waterworks Authority’s 5 Year Financial Plan (“Petition”), p. 1 (June 5, 2013).

¹⁴ Petition, p. 1.

¹⁵ Petition, p. 2.

Mr. Cruz indicated that the “primary basis” of the rate petition is to “raise capital by way of revenue bonds for upgrades and rehabilitation of GWA’s existing system infrastructure and for construction of new facilities to bring GWA into compliance with a 2011 Federal Court Order and [Clean Water Act] and [Safe Drinking Water Act] requirements and to pay for debt service associated with the financing.”¹⁶ Mr. Cruz further advised that the “primary driver” of the Rate Plan’s revenue requirements is “debt service.”¹⁷

Mr. Cruz testified that “approximately \$450 million in borrowing is projected in order to finance the necessary upgrades and rehabilitation of GWA’s existing system infrastructure and construction of new facilities to bring GWA into compliance.” Mr. Cruz further testified that power costs are projected to increase; Navy FENA water purchases are forecasted to also increase; and annual salaries of GWA employees are also expected to increase.¹⁸

Mr. Cruz also indicated the following: that chemical and sludge costs will increase significantly; that the Rate Plan contemplates implementation of two (2) new financial policies, namely the Rate Stabilization Fund and the Working Capital Reserve; that the Rate Plan includes \$50 million of capital projects to be funded by GWA’s base rates; and that the Rate Plan further includes the refinancing of GWA’s 2010 \$30 million short term debt.¹⁹

¹⁶ Petition, Exhibit B, p. 2.

¹⁷ Petition, Exhibit B, p. 2.

¹⁸ Petition, Exhibit B, p. 4.

¹⁹ Petition, Exhibit B, pp. 4-5.

The Rate Plan, however, neither addresses the PUC's Order requiring GWA to pay the Government of Guam \$18.3 million relative to P.L. 30-145, nor the military build up.²⁰

3. Resolution No. 18-FY2013

The Rate Plan is further supported by Resolution No. 18-FY2013 issued by the Consolidated Commission on Utilities (the "CCU"). Pursuant to the Resolution, the CCU found that the rate increases "are driven primarily by obligatory investment for system reliability, federal regulatory compliance, the 2011 Federal Court order and meeting rate covenant and PUC debt coverage requirements including credit rating considerations."²¹ The CCU further found the Rate Plan to be "acceptable," approved the Rate Plan, and consequently authorized GWA to petition the PUC for approval of the Rate Plan and the proposed rates outlined therein.²²

4. Public Notice

GWA submits that it has published notice of the Rate Plan, as well as mailed notice to its ratepayers on or before May 3, 2013, in compliance with the Ratepayers' Bill of Rights.²³

C. STIPULATION

Pursuant to the October 23, 2013 Stipulation entered between GWA and Lummus, and filed in this docket, the following are highlights of the Stipulation's provisions.

²⁰ Petition, Exhibit B, p. 5.

²¹ Petition, Exhibit A, p. 2.

²² Petition, Exhibit A, pp. 4-6.

²³ Petition, p. 1; Petition, Exhibit B, p. 3.

1. Unaccounted for Water

The parties have agreed that GWA will “reprioritize its meter replacement program and its leak detection and repair program (‘LD&R’)²⁴ Accordingly, GWA will increase its spending on these two programs.²⁵

2. Water and Sewer Metered Sales

The parties also have agreed that the water and sewer metered sales should be based on a continuation of the 7.5% increase agreed to in the 2013 true-up stipulation and that it should continue throughout the five years of the current plan.²⁶ In addition, the parties have agreed to increase the water and sewer metered sales an additional 3% in FY2014, and an additional 1.5% in FY2015.²⁷

3. Salaries

With respect to increases in GWA employee salaries, the parties have agreed to lower the increase in salaries to 3% for FY2014, and for subsequent fiscal years, the increase should be limited to a maximum of 3%, “unless GWA provides additional justification for higher increases in subsequent reviews.”²⁸

²⁴ Stipulation, p. 1.

²⁵ Stipulation, p. 2.

²⁶ Stipulation, p. 1.

²⁷ Stipulation, p. 1.

²⁸ Stipulation, p. 2.

4. System Development Charge Revenues

The parties further have agreed to forecast a 5% increase in revenues from GWA's System Development Charge per year as follows: (1) 5% for FY2014; (2) 10% for FY2015; (3) 15% for FY2016; (4) 20% for FY2017; and (5) 25% for FY2018.²⁹

5. Reduction in Operating and Maintenance Expenses

The parties further agreed to reduce GWA's operating and maintenance expenses by \$1.4 million during the Rate Plan period.³⁰

6. Fee Study

With respect to GWA's miscellaneous fees and charges, the parties have agreed that GWA will examine the costs of providing each service, and will file with the PUC proposed fees and charges during FY2014 in order to implement such proposed fees and charges by FY2015.³¹

7. Fire Protection System

The parties have also agreed that GWA will perform a study in order to determine the cost of providing fire protection service for sprinkler systems or private hydrants directly connected to the distribution system.³² This study should be completed no later than FY2015 in order to implement fees related to fire protection service by FY2016.³³

²⁹ Stipulation, p. 2.

³⁰ Stipulation, p. 2.

³¹ Stipulation, p. 3.

³² Stipulation, p. 3.

³³ Stipulation, p. 3.

8. Construction Costs

With respect to estimating costs of large construction projects, the parties have agreed that with each true-up, cost estimates of future projects “will be re-assessed in light of changing economic conditions, market competitiveness for large construction projects in Guam and in the region, and realized actual costs for completed projects.”³⁴

Accordingly, where the true-ups reveal “significantly higher or lower than experienced costs, then future cost estimates will be appropriately adjusted”; and “to the extent that future cost estimates are adjusted during a true-up process, the size of associated bond levels will be adjusted proportionately.”³⁵

9. Bond Interest Rates

With respect to the FY2013 bond issue, the parties agreed to set the interest rate at “the level reflective of current financial market conditions, as determined by the bond underwriters.”³⁶ With respect to the subsequent bond issues, the parties have agreed to set the rate 5.5%, subject to the annual true-ups.³⁷

10. Financial Policies

With respect to GWA’s proposed new financial policies, the parties have agreed to set the following funds and net surplus as follows: (1) the Working Capital and Cash Reserve should be set at \$13.5 million by the end of FY2018; and (2) the Capital Improvement Fund-Working Capital Reserve for Debt Service should be set at \$11.185

³⁴ Stipulation, p. 3.

³⁵ Stipulation, p. 3.

³⁶ Stipulation, p. 4.

³⁷ Stipulation, p. 4.

million.³⁸ This fund replaces GWA's originally proposed Rate Stabilization fund. In addition, the parties have agreed to set the cumulative surplus at the end of the 5 year period to \$1 million, as opposed the originally proposed surplus of \$13.9 million.³⁹

11. Rate Structure Studies

The parties have additionally agreed to request PUC approval for a study related to switching from fixed fees for Residential Sewer Service to consumption-based fees.⁴⁰ The parties have agreed to complete such a study by December 30, 2015, and for possible implementation by FY2016.⁴¹

In addition, the parties have agreed that GWA should consider adopting a rate to encourage conservation. For instance, GWA could establish a "high tail (3rd) block rate (for all consumption above 10,000 gallons per month)," with a "second block" rate for use "between 5,001 galls and 10,000 gallons per month," which third block rate could be set at 1.25 to 1.5 times the current second block rate.⁴² The parties have agreed to complete such an assessment by December 30, 2016, and for possible implementation by FY2017.⁴³

³⁸ Stipulation, p. 4.

³⁹ Stipulation, p. 4.

⁴⁰ Stipulation, p. 5.

⁴¹ Stipulation, p. 5.

⁴² Stipulation, p. 5.

⁴³ Stipulation, p. 5.

12. Stipulated Increases

With respect to GWA's proposed rate increases, the parties agreed that GWA should be awarded overall increases in the customers' bills, which include water and wastewater rates, as well as a one-time adjustment to GWA's Lifeline rate.

Based on the Stipulation, the parties have specifically agreed to the following rate increases: (1) 15% for FY2014; (2) 14.5% for FY2015; (3) 16.5% for FY2016; (4) 7% for FY2017; and (5) 4% for FY2018. These rate increases are expected to take effect October 1st of the given fiscal year, except for FY2014, which shall be effective on November 1, 2013.

13. True Ups

The parties have also indicated that the rates shall be monitored and adjusted with each annual true up to reflect the actual data of the prior year.

D. PUBLIC COMMENT

1. Public Hearings

At the Hagåtña public hearing, no member of the public provided testimony. At the public hearing held in the village of Asan, several individuals provided testimony. For instance, Al Saenz asked GWA, "What does the rate increase get us?" Mr. Saenz testified that the "increase itself doesn't bother me." He added that the "rate increase is ok" so long as he had "better service."

In his testimony, Mayor Ben Gumataotao asked whether GWA could get a grant from the federal government. Mayor Gumataotao then asked what the purposes of the increases were for. GWA General Manager Martin Roush testified that the rate increases

were for projects related to compliance with EPA mandates, as well as for replacement of GWA's aging infrastructure, and maintenance repairs.

Mayor Gumataotao then asked GWA what the interest rate was for this upcoming borrowing. Greg Cruz, GWA CFO, testified that the Legislature has placed a cap on the interest rate at 7.5%. Mayor Gumataotao further testified that he was "in favor of improvement" but that he wanted GWA to borrow at a low interest rate.

Gabriel Simon of Ken Corp testified that he supported a "strong viable GWA." He further testified, however, that Ken Corp uses about 40 million gallons a day, which adds up to \$20,000 per day for water. Mr. Simon testified that the rate increase would mean that Ken Corp would then owe \$24,000 a day for water.

Mr. Simon also testified that 40% is spent on non-revenue water, and that GWA "knows where the leaks are," and therefore should address the issue of non-revenue water. Mr. Simon further maintained that Guam was losing its competitive edge in the market and suggested that EPA must get involved. Mr. Simon suggested that GWA could request concessions from EPA in order to slow down the rate increases.

Mayor Joana Margaret Blas testified that she did not support the rate increase. However, she expressed that if "we must fix" the water system, then "we need to fix" it. She asked how GWA could "save money." She maintained that there have been a "lot of complaints of water spills" but that these leaks are "still not fixed," which results in "a lot of wasted water."

Mr. Dominguez questioned why the Government of Guam did not use drinking water straight from the faucet. In addition, Mr. Dominguez asked whether GWA could provide "drinking stations" that provide "drinking water" at the municipalities.

In Dededo, members of GWA and a representative from Senator Tom Ada's office were present at the hearing. However, no one provided testimony at the hearing.

2. **Written Testimony**

No written testimony was submitted.

FINDINGS AND RECOMMENDATION

Based on the record before this Commission, the ALJ hereby finds that Lummus has thoroughly reviewed GWA's proposed rate increases contained in its Rate Plan, and that GWA has demonstrated its need to increase its rates, particularly to: fund projects in order to comply with the "2011 Federal Court Order, regulatory mandates and policy statements"⁴⁴; improve "service levels, meeting reserve requirements and contractual obligations such as the 2005 and 2010 Revenue bond covenants"⁴⁵; as well as "to cover the cost of internally financed capital projects of approximately \$50M" and "cover costs of operation such as sludge disposal, power, chemicals, payroll and Navy water purchases."⁴⁶

The ALJ further finds, however, that during this rate investigation, there has been substantial discussion and negotiation between GWA and Lummus which has culminated in a slight reduction of the rate increases originally proposed by GWA. As a result, based on the record before this Commission, the ALJ recommends that the PUC approve the Stipulation of the parties. Accordingly, the ALJ recommends that the Commission determine that the proposed rates, as well as the recommendations, set forth in the Stipulation are "just" and "reasonable" as required under 12 G.C.A. §§ 12015 and 12017.

⁴⁴ Rate Plan, p. 1.

⁴⁵ Rate Plan, p. 1.

⁴⁶ Petition, p. 2.

Therefore, the ALJ recommends that the PUC approve implementation of the 15% rate increase for FY2014, effective November 1, 2013. The ALJ further recommends that the PUC approve the subsequent rate increases, for instance: (1) 14.5% for FY2015; (2) 16.5% for FY2016; (3) 7% for FY2017; and (4) 4% for FY2018. These remaining rate increases should be implemented on October 1st of each fiscal year, subject to an annual true-up to reflect the actual data for the prior year.

In addition, GWA should be ordered to perform the additional obligations set forth in the Stipulation as agreed between the parties, which include conducting the proposed studies indicated in the Stipulation. A schedule of such studies shall be indicated in the proposed Order, which is attached hereto for the Commission's consideration.

Respectfully submitted this 25th day of October, 2013.



JOEPHET R. ALCANTARA
Administrative Law Judge

P134096.JRA