

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF: ) GSWA Docket 19-02 &  
 ) ADMINISTRATIVE DOCKET  
Request for Approval by the PUC of the )  
Contract Review Protocol for the Guam ) **ALJ REPORT**  
Solid Waste Authority. )  
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**INTRODUCTION**

1. This matter comes before the Guam Public Utilities Commission [“PUC”] upon the Request of the Administrative Law Judge for PUC approval of a Contract Review Protocol for the Guam Solid Waste Authority [“GSWA”].

**BACKGROUND**

2. 12 GCA § 12000(a) defines “Public Utilities” that are under the jurisdiction of the Guam Public Utilities Commission. In Public Law 31-20, enacted on April 18, 2011, the definition of “Public Utility” was amended to include the Guam Solid Waste Authority.<sup>1</sup> The Guam Solid Waste Authority was thereby placed under the jurisdiction of the PUC.
3. Said law authorized GSWA to establish and modify its rates, with the approval of the Public Utilities Commission, for the collection, transportation, disposal, storage, recycling and processing of solid waste.<sup>2</sup>
4. Pursuant to 12 GCA § 12105, the PUC has “regulatory oversight supervision” of rates “over each public utility and shall perform the duties and exercise the powers imposed or conferred upon it by this Chapter.”<sup>3</sup>
5. 12 GCA § 12105(e)(1) states: “the utility shall not, however, enter into any contractual agreements or obligations which could increase rates and charges prior to written approval of the Commission.”<sup>4</sup>

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<sup>1</sup> 12 GCA § 12000(a).

<sup>2</sup> 10 GCA § 51A104.

<sup>3</sup> 12 GCA § 12105(a).

<sup>4</sup> 12 BCA § 12105(e)(1).

6. Any contract of a public utility could theoretically “increase rates”; however, to more precisely define the contracts that are subject to review by the PUC, the PUC historically has developed a “contract review protocol” for each public utility under its jurisdiction. Such protocols had been developed for the Guam Power Authority, the Guam Waterworks Authority, and the Port Authority of Guam.
7. The District Court of Guam recently ended the federal receivership over the Guam Solid Waste Authority and returned most of the operational control to GSWA. Therefore, GSWA will likely now intend to enter into certain contracts regarding its operations. There is a necessity for PUC to approve a relevant contract review protocol regarding GSWA contracts.
8. The ALJ met with the GSWA Chairman, Andrew Gayle, the GSWA General Manager, Larry Gast, and the GSWA Board to discuss the contract review protocol.
9. The GSWA Board plans to address the proposed Contract Review Protocol at its meeting on July 24, 2019. The proposed Contract Review Protocol has been filed with the PUC.

### ANALYSIS

10. If the GSWA Board approves the proposed Contract Review Protocol at its July 24, 2019, meeting, it will be appropriate for the PUC to take final action in approving the Contract Review Protocol.
11. If the GSWA Board does not address the protocol this month, then PUC can delay further consideration of the Protocol until its August meeting.
12. The ALJ prepared the proposed contract review Protocol. It is very similar to the existing Contract Review Protocols for the other public utilities, and combines the best elements of those contract review protocols.
13. In terms of annual revenues, GSWA brings in approximately \$20M per year. Its revenues are far less than those of the Guam Power Authority or the Guam Waterworks Authority.

14. In consideration of the revenue differences, the ALJ set the “threshold” level for review of GSWA contracts at \$500,000 (this is less than the \$1,500,000 threshold for GPA and the \$1,000,000 threshold for GWA).
15. The difference is justified by the lower revenues of GSWA. GSWA’s General Manager Larry Gast estimates that there will only be approximately four contracts per year which require PUC approval.
16. In the opinion of the ALJ, the proposed Contract Review Protocol for GSWA is reasonable and appropriate.

#### **RECOMMENDATION**

17. The ALJ recommends that the PUC approve the proposed GSWA Contract Review Protocol.
18. The proposed Contract Review Protocol Order is submitted herewith for the consideration of the Commissioners.

Dated this 22nd day of July, 2019.

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Frederick J. Horecky  
Chief Administrative Law Judge