

**GUAM PUBLIC UTILITIES COMMISSION
SPECIAL MEETING
January 29, 2010
SUITE 202, GCIC BUILDING, HAGATNA**



MINUTES

The Guam Public Utilities Commission [PUC] conducted a special business meeting commencing at 6:00 p.m. on January 29, 2010 pursuant to due and lawful notice. Commissioners Johnson, Perez, McDonald, and Pangelinan were in attendance. The following matters were considered at the meeting under the agenda made *Attachment "A"* hereto.

1. Approval of Minutes

The PUC reviewed the Minutes of the meeting conducted on December 23, 2009. Upon motion duly made, seconded and unanimously carried, the minutes were approved as written.

2. Guam Waterworks Authority

The matter of the System Development Charge, Docket 08-08, came before the PUC upon further consideration of a proposed Order implementing SDCs. PUC Counsel reported that the record in this matter is complete and includes the Stipulation of Georgetown Consulting Group and GWA, the ALJ Report and a proposed Order. Pursuant to statute, the PUC must adopt SDCs, although it has discretion as to the terms of the SDCs. The revised order before the Commission would approve the SDCs stipulated to by GCG and GWA, and would be effective March 1, 2010.

The Commissioners proceeded to discuss the proposed Order. Commissioner McDonald wanted to include a provision which would make amortization optional for all residential customers, subject to legal review. Commissioner Perez indicated that she had previously raised this concern, and also wished to include a provision that would require GWA to work with the Guam Legislature to extend the five year statutory time limit during which residents who pay for installation of waterlines can obtain reimbursement from other residents that come in and use such waterlines.

GWA's Legal Counsel and its General Manager indicated that they did not object to the option to amortize for residential customers or the proposal of Commissioner Perez, as optional amortization for residential customers is "within the Commission's purview." GWA's Counsel requested, however, that optional residential amortization should exclude developers who develop more than one home. Commissioner Pangelinan, noting the exclusion from amortization of SDCs requested by GWA for developers who

develop more than one home, and the provisions for optional amortization by residential homeowners and the extension of the five year period during which residential homeowners who pay for waterlines could obtain reimbursement, as requested by Commissioners McDonald and Perez, moved to approve the SDCs with the revisions recommended. Upon motion duly made seconded and unanimously carried, the System Development Charges recommended, with revisions, were approved. The Commissioners have adopted the Decision and Order made *Attachment "B"* hereto.

3. Guam Power Authority

The Commission next proceeded to consider GPA's December 18, 2009, LEAC filing in Docket 02-04. PUC Counsel reported that in its Petition, GPA had requested that current LEAC factor of \$0.12967 per kWh for its civilian customers be increased to \$0.14213 per kWh for meters read on and after February 1, 2010 and continuing until July 31, 2010. Georgetown Consulting Group [GCG] had reviewed GPA's Petition and suggested, based upon an updated Morgan Stanley Fuel Price Forecast for both No. 2 and No. 6 oil, that the LEAC factor be increased to \$0.15046 per kWh for meters read on and after February 1, 2010.

Counsel indicated that GCG and GWA had also addressed aspects of fuel handling costs and the fuel hedging program. The proposed Order recommends that a LEAC factor of \$0.15046 per kWh be used by GPA for all civilian customer bills for meters read on and after February 1, 2010. This change reflects a 10.5% increase in the total bill, or \$20.79 for a residential customer utilizing an average on 1,000 kilowatt hours per month. GPA should submit a report to the PUC on the current status of its fuel hedging program on or before March 15, 2010, and a transmission study before May 15, 2010. Upon completion of PUC Counsel's report, the Chairman indicated for the record that Commissioner Cantoria had joined the meeting. After clarification by the Commissioners of the deadlines for the filings of such reports, upon motion duly made, seconded and unanimously carried, the Order made *Attachment "C"* hereto was approved.

The Chairman then indicated that Commissioner McDonald had to depart the meeting. PUC Counsel then reported on the status of Docket 07-10, the GPA Supplemental Filing for Base Rate Petition regarding implementation of Phase II rate increase. Counsel stated that there was a status conference between the parties scheduled for February 5, 2010, and public hearings for February 11 and 12. Counsel wished to apprise the Commissioners of these upcoming proceedings; it was likely that the outcome of these proceedings would be before the Commissioners at their February meeting.

The Commission next considered the Application of Guam Power Authority for approval of its Contract for the supply of Diesel Engine Cylinder Lubricating Oil in

General Regulatory Docket 94-04. Counsel reported that GPA's application to procure diesel engine cylinder lubricating oil had already been reviewed by the Commission; the Commission had previously approved the procurement and the draft contract. This matter was now only back before the Commission for final review of the contract entered into by GPA. The contract has been awarded to Shell, Guam, Inc. There is a fixed premium for the cylinder oil for the term of the contract.

The approximate cost will amount to \$1.6 Million per year and could go as high as over \$3 Million per year, depending on whether or not GPA exercises certain options. GPA has presented the case the contract is reasonable and necessary for the operations of GPA's plants. The contract has a three year term with options to extend for two additional one year terms. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the Contract for the Supply of Diesel Engine Cylinder Lubricating Oil between GPA and Shell, Guam Inc., and adopted the Order made *Attachment "D"* hereto.

PUC Counsel next presented a request that the Commissioners authorize the Chairman to approve GPA's Residual Fuel Oil Contract in Docket 94-04. This contract involves Residual Fuel Oil for GPA's operating plants, which in some years costs more than \$200 Million. Previously, this procurement was approved by the Commission, and the contract format had also been presented by GPA to the Commission. Now GPA is nearly ready to finalize the contract with Petrobras; the contract needs to be approved prior to February 15, 2010. Counsel indicated that, since the Commission likely will not meet before February 15, 2010, the Chairman should be authorized to approve the contract as has been done in previous cases.

Commissioner Perez requested that a copy of such report be obtained before approval by the Chairman, and that such approval be ratified by the Commission at the next meeting. Upon motion duly made, seconded and unanimously carried, the Commissioners moved to authorize the Chairman to approve GPA's Residual Fuel Oil Contract with the conditions noted upon submission of a Legal Report from Counsel that the contract is reasonable, prudent and necessary.

4. GTA Telecom

The Commission next proceeded to consider the Administrative Law Judge Decision & Order on Remedies and Other Relief, and a proposed PUC Order, in Docket 08-11, In Re: Arbitration Disputes, GTA/PDS. PUC Counsel indicated that the Commission was very familiar with the background and history of this proceeding. Previously, the ALJ had ruled in favor of PDS, finding that certain dark fiber routes provided were not in "good working condition." ALJ Mair had conducted an evidentiary hearing on damages, and the parties had a full opportunity to present evidence and argument.

Subsequent to the conclusion of the hearing, the ALJ recommended in his Decision and Order that certain relief be awarded.

The ALJ recommended that PDS be awarded the sum of \$68,158.71, which represents the amounts paid by PDS to GTA for dark fiber that failed to comply with the Limtiaco standards, plus pre-judgment and post-judgment interest; that PDS be awarded the sum \$16,158.71 as cover costs (amounts PDS was required to expend for alternate equipment because the dark fiber routes weren't working); that no damages be awarded for lost profits, as such profits are not authorized in the Interconnection Agreement; that the ALJ be authorized to commence appropriate proceedings to propose a "financial incentive plan", where under fines or fees would be automatically assessed for payment to a CLEC when service failures occur; that PDS be required to accept the remaining dark fiber routes, Talofoto-Inarajan and Agat-Piti; that all pre and post judgment interest be calculated on simple interest of 6% per annum; that PDS be awarded attorneys fees in the amount of \$25,780; and that penalties should not be imposed against GTA.

Attorney Bill Mann, Counsel for PDS, requested that the Commission address the pending rule making proceeding, which would authorize the ALJ to allocate regulatory fees, prior to deciding the available relief to PDS in the Arbitration proceeding. If the rulemaking proceeding were to be decided by the Commission first, prior to decision of the arbitration matter, PDS would be entitled to have GTA pay the regulatory costs and expenses of this proceeding, which are considerable. The ALJ did not require GTA to pay such regulatory costs, because the rule presently requires that the parties share the regulatory costs. The ALJ also recommended that the rule be changed to allow the ALJ and the PUC to decide which party should be responsible for paying regulatory costs.

PUC Counsel explained that he was not ready to issue a final recommendation to the PUC concerning the rule making proceeding; this evening the Commission was scheduled to receive public comment and testimony on the proposed new rule, which would allow the ALJ and the Commission to allocate regulatory expenses in a proceeding to one party or both. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the Decision and Order of the ALJ on Remedies and Other Relief, and adopted the Order made *Attachment "E"*.

5. Pacific Data Systems

This matter, PDS Docket 09-02, Request for Rulemaking, came before the Commission upon the Notice of Proposed Rulemaking. PUC Counsel reported that he had filed a Legal Counsel Report which did recommend that the Commission should implement a rule change whereby the ALJ and the Commission could, in particular cases, decide that one party should bear all of the regulatory costs and expenses. Regulatory costs and expenses are matters such as ALJ fees and Legal Counsel fees that the Commission

charges to utilities and regulated entities in a regulatory proceeding. The present rule requires that parties bear regulatory fees equally; however in some circumstances, it may be appropriate to require one party to be responsible for such fees and expenses.

PUC Counsel indicated that written comments had been filed herein very recently by GTA, and that Counsel had not had a full opportunity to review such comments. Therefore, he recommended that this evening, all parties would have an opportunity to provide public testimony or comment on the rule. The Chairman then asked whether there were any parties present that wished to comment on the proposed rule. For GTA, its counsel Terry Brooks raised concerns that present law requires the PUC to allocate administrative costs and regulatory fees "on a pro rata basis." He also indicated that if such a rule were implemented, there should be standards to determine how and when fees would be allocated in a particular case. Attorney Brooks recommended that PUC decline to adopt the rule change. Attorney for PDS Bill Mann stated that this rule change has already been recommended by Georgetown Consulting Group and PUC Counsel. Arbitrators have to exercise discretion all the time in arbitration proceedings. PDS recommends that the Commission adopt the rule change. Upon motion duly made, seconded and unanimously carried, the Commissioners moved to authorize ten additional days for the parties present at the hearing to submit additional comments on the proposed rule.

6. Port Authority of Guam

This matter, Port Docket 09-02, came before the PUC upon the request by the Port Authority for PUC review of tariffs and rates, the Recommendations of PUC Consultant Slater Nakamura & Co. [SN], the ALJ Report and the Proposed Order Establishing Interim Rates. PUC Counsel indicated that the Commission had previously approved an investigation of Port rates and tariffs, and that it was authorized to implement interim tariffs until December 31, 2010, in Public Law 30-52. Counsel presented the ALJ Report, which recommended that the Commission implement certain tariff increases for the Port.

According to Counsel, rate increases were supported by a variety of sources, including the Parsons Brinkerhoff Financial Feasibility Study and other studies submitted by the Port, the appraisal reports of Captain, Hutapea & Associates, and the recommendations of the PUC Consultant, Slater Nakamura. Based upon the foregoing, the ALJ Report found that there was a basis in the record to support interim tariff increases for the Port, including the following:

- (1) An increase in Cargo Handling Charges of 3.4%, as set forth in the Port Tariff Rate Table;
- (2) Fuel Storage, Throughput, and Bunkering fee increases of up to 150%, as recommended by the PUC Consultants SN, and Captain,

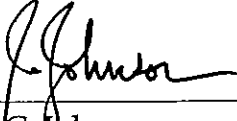
Hutapea & Associates. The Captain, Hutapea firm did a detailed market analysis of Bunkering charges for other ports, and found that Guam's current rate of \$.18 per barrel was low. The Saipan port charge is \$.61 per barrel with American Samoa at \$.41 per barrel. Raising Guam's Bunkering charge to \$.40 per barrel would still place it on the low side of port charges. Both Captain, Hutapea and Slater, Nakamura, found that, based upon increases in the Consumer Price Index in the last 12 years of over 35%, increases in the Port Bunkering charges were reasonable. There have been no port tariff increases since 1993, and some tariffs have not been increased since 1983.

- (3) Pipeline Easement Lease rates should also be increased; such leases should be valued at 25% of market value for easements within existing rights of way; where no current easements exist, rental rates for such leases should be 50% of the current market value.
- (4) However, the ALJ Report recommended that the request of the Port to increase Agana Marina Boat Slip charges to the same level as assessed for the Agat Marina should be denied. There was substantial public opposition to such increases, and SN recommends that the increases not be approved. No financials or cost analyses have been provided to support such increase.
- (5) Finally, the ALJ Report recommended that a facility maintenance fee of \$25.00 be approved for each bill of lading. PUC Consultant SN indicated that Ports generally charge such a fee. However, before such fee is implemented, the Port should implement a policy that limits the charge for merchandise valued under a certain amount, such as \$2,500.

In general, however, the increases requested are found necessary to support the Port modernization plan and to be just and reasonable. Counsel presented an Order to the Commissioners which set forth the rate increases recommended in the ALJ Report. PUC Counsel pointed out that all increases in tariffs are only "interim" and are subject to change or revision by the PUC. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the recommended interim tariff increases for the Port and adopted the Order Establishing Interim Rates made *Attachment "F"* hereto.

6. Other Business

There being no further business, the Commissioners moved to adjourn the meeting.

A handwritten signature in black ink, appearing to read "J. Johnson", written over a horizontal line.

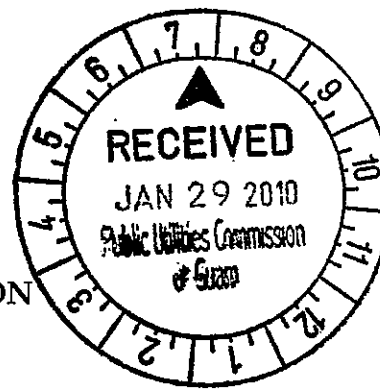
Jeffrey C. Johnson
Chairman

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

**SPECIAL MEETING
SUITE 202 GCIC BUILDING
414 W. SOLEDAD AVE. HAGATNA, GUAM
6:00 p.m. January 29, 2010**

1. **Approval of Minutes of the Meeting of December 23, 2009.**
2. **Guam Waterworks Authority**
 - Docket 08-08, Petition of Guam Waterworks Authority for Establishment of a System Development Charge, ALJ Report, and Revised Proposed Order.
3. **Guam Power Authority**
 - Docket 02-04, GPA's December 18, 2009 LEAC Filing; Consideration of GCG Report and/or Stipulation, and Proposed Order.
 - Docket 07-10, Status Report on GPA Supplemental Filing for Base Rate Petition regarding Implementation of Phase II Rate Increase; Schedule for Public Hearings.
 - Docket 94-04, Petition for Approval of Contract to Supply Diesel Engine Cylinder Lubricating Oil to GPA; Proposed Order.
 - Docket 94-04, Request for Authorization for Chairman to approve Residual Fuel Oil Bid GPA-001-10
4. **GTA Telecom**
 - Docket 08-11 In Re: Arbitration Disputes, GTA/PDS; ALJ Decision & Order on Remedies and Other Relief, and Proposed PUC Order.
5. **Pacific Data Systems**
 - PDS Docket 09-02, Request for Rulemaking; Notice of Proposed Rulemaking; Legal Counsel Report; Proposed Amended Rule 1.b.iii [Rules Governing Regulatory Fees for Telecommunications Companies]; Taking of public comment or testimony concerning the Proposed Amended Rule.
6. **Port Authority of Guam**
 - Port Docket 09-02, Request by the Port for PUC Review of Rates; Report and Recommendations of PUC Consultant, Slater, Nakamura & Co.; ALJ Report; and Proposed Order Establishing Interim Rates.
7. **Other Business**

Attachment "A"



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

PETITION OF GUAM WATERWORKS)
AUTHORITY FOR ESTABLISHMENT) DOCKET 08-08
OF A SYSTEM DEVELOPMENT)
CHARGE)

DECISION AND ORDER

Background

This matter comes before the Guam Public Utilities Commission [GPUC] upon the Administrative Law Judge Report issued by ALJ Mair on November 9, 2009.¹ The Report is attached hereto and incorporated herein as Exhibit A. Therein ALJ Mair sets forth the background and history of proceedings before the PUC to implement GWA's proposed water and wastewater system development charges and accompanying rules and regulations ["SDC"]. As indicated therein, the regulatory history of GPUC's efforts to implement the SDC has spanned a period of over eight years.²

Pursuant to 12 GCA §12015.5, GWA is required to establish and implement, subject to the prior approval of the Commission, a water and sewer system development charge schedule, which charges shall be assessed on each user who is for the first time connecting property into the Guam's water or wastewater system, or to each builder if the density of development on existing connection is increased. A charge schedule is required to recover any additional costs associated with constructing and expanding, upgrading and repairing water and wastewater facilities for such new users and development.³

The Commission has a statutory obligation to undertake proceedings for the establishment and approval of water and sewer system development charge schedule for GWA.⁴ After a period of collaborative work and exchange of information, GWA and the Commission's independent regulatory consultant, Georgetown Consulting Group ["GCG"] entered into a stipulation on October 22, 2009, and attached a schedule

¹ Administrative Law Judge Report issued by ALJ David A. Mair on November 9, 2009, *Attachment A* hereto.

² ALJ Report p. 5.

³ 12 GCA §12015.5(a).

⁴ 12 GCA §12015.5(b).

of both water and wastewater SDC fees, along with proposed SDC rules and regulations (the "Stipulation").⁵

The Testimony of Larry R. Gawlik, consulting associate of GCG, indicates that GWA and GCG worked in close coordination in the development of the proposed SDC. The parties agreed to utilize a hybrid "methodology" for the determination of SDCs that encompasses the use of the equity (buy-in) and incremental methodologies.⁶ Public hearings were conducted on November 5, 2009, at the offices of the GPUC in Hagatna and on November 6, 2009, at the community centers in Asan and Yigo. There was no public testimony in opposition to the proposed SDCs. There was only one member of the public present at the Hagatna hearing, who requested assurances from GWA that developers would be able to obtain credits or offsets regarding SDC assessments under appropriate circumstances.

Determinations

1. All required notices have been duly given.
2. The Administrative Law Judge Report of November 9, 2009, should be confirmed and ratified.
3. The schedule of SDC fees for water and wastewater attached to the Stipulation, and GWA System Development Charge Implementation Guidelines ("the Implementation Guidelines") provide rates and fees that conform to the statutory requirements of law as set forth in 12 GCA §12015.5.
4. The Implementation Guidelines also include a schedule for the Amortized System Development Charge [ASDC] for low or moderate income residents as required by statute. Furthermore, the Guidelines should provide that person(s) who build or purchase a new single family home or dwelling which will be occupied as their primary residence may amortize payment of the SDCs in the same manner as allowed under the ASDC for low and moderate income residents. The Implementation Guidelines provide a rational and reasonable method of implementing the SDCs.

⁵ Stipulation entered into between GWA and GCG on October 22, 2009.

⁶ The equity of buy-in component is premised upon future customers buying in to GWA's existing system to achieve equity between new and existing customers. This approach assesses new customers a fee to approximate the level of equity existing customers have in the system. The incremental component is derived by considering GWA's planned capital improvement projects for meeting the growth needs of its water and wastewater systems. The Stipulation, p. 1.

5. The recommended system SDCs are to be assessed on new potable water and sanitary connections throughout the GWA service area, thereby creating equity among all new customers as well as between existing and new customers. The proposed SDCs are "just" and "reasonable" pursuant to 12 GCA §§12015 and 12017.
6. Customers, who as of the date of this Order, are on a septic system and subsequently connect to GWA's wastewater system, should not be charged a wastewater SDC by GWA. New customers, who after the date of this Order, are on a septic system and do not connect into GWA's wastewater system, also should not be charged a wastewater SDC. These determinations are supported on the following grounds: (1) the statutory language and overall scheme for SDC's does not support charging the SDC's for such persons; (2) the equity method includes a component that presumes "existing" customers have already paid into the system and this assumption does not distinguish between water customers, wastewater customers or those customers having both water and wastewater services; (3) the statute governing mandatory connections for persons on septic systems has not been enforced and may confuse the overall enforcement and applicability of SDC's for such persons.
7. Nearly all residential customers hereafter required to pay SDCs should be billed at the rate in the SDC schedule for $\frac{3}{4}$ " x $\frac{5}{8}$ " meters. On a going forward basis, residential customers will be billed at the SDC rate for $\frac{3}{4}$ " x $\frac{5}{8}$ " meters. Only in exceptional circumstances, where warranted by the volume of usage and the number of fixtures in a residential dwelling, a residential customer may be charged the SDC for a $\frac{3}{4}$ " meter. A residential customer shall only be charged the SDC for a $\frac{3}{4}$ " meter where use of a $\frac{3}{4}$ " meter is required by GWA Rules and Regulations.
8. Based upon the record established in this case, the proposed implementation of the SDC, as stipulated to by both parties, has undergone deliberate and careful regulatory scrutiny. The Stipulation of the parties, the SDC Schedules, and Implementation Guidelines should be approved by the Commission.
9. Currently, pursuant to 28 G.A.R. §2118(c)(1), GWA is required, under certain circumstances, for a period of five years, to reimburse original residential customers who have paid for a single residential customer service lateral extension. Where additional customers connect to such extension, GWA is required to refund the payments from the additional customers to the original customer/applicant. The five year reimbursement period is not

sufficient to allow for full and adequate reimbursement of original customers who bear the cost of residential customer service lateral extensions. In some circumstances, additional customers connect to lateral extensions after the five year period has expired. GWA should undertake all possible measures to extend the timeframe during which GWA may refund payments to original customers to at least ten years.

Ordering Provisions

After careful review and consideration of the above determinations, the Report and Recommendations of the ALJ, the Stipulation and the record herein, for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, Guam Public Utilities Commission hereby ORDERS that:

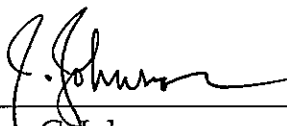
1. All rulings and orders of the ALJ in this proceeding are confirmed and ratified. All motion not hereto for granted or denied are denied. No other matters currently require discussion.
2. The Stipulation of the parties, filed herein, is approved and adopted by the Commission. The schedules of water SDCs and wastewater SDCs indicated attached hereto as Exhibit "B" are also approved and adopted by the Commission. The approved schedules include the amortized SDCs provided by law for low or moderate income residents and the amortized SDCs, as ordered herein, for person(s) who build or purchase a new single family home or dwelling to occupy as their primary residence.
3. The SDCs indicated in Exhibit "B" shall be charged to water and wastewater customers of GWA in accordance with the SDC Implementation Guidelines attached hereto as Exhibit "C". Said Implementation Guidelines are adopted as an Order of the Commission, and shall provide for the amortization of SDC charges as set forth herein. GWA is hereby ordered to implement the water and wastewater SDCs in full accordance with said Implementation Guidelines.
4. Customers, who as of the date of this Order, are on a septic system and subsequently connect to GWA's wastewater system, shall not be charged a wastewater SDC by GWA. New customers, who after the date of this Order, are on a septic system and do not connect into GWA's wastewater system, also shall not be charged a wastewater SDC.
5. Nearly all residential customers hereafter required to pay SDCs shall be billed at the rate in the SDC schedule for $\frac{3}{4}$ " x $\frac{5}{8}$ " meters. On a going forward

basis, residential customers will be billed at the SDC rate for $\frac{3}{4}$ " x $\frac{5}{8}$ " meters. Only in exceptional circumstances, where warranted by the volume of usage and the number of fixtures in a residential dwelling, a residential customer may be charged the SDC for a $\frac{3}{4}$ " meter. A residential customer shall only be charged the SDC for a $\frac{3}{4}$ " meter where use of a $\frac{3}{4}$ " meter is required by GWA Rules and Regulations.

6. The Water and Wastewater charges set forth in Exhibit "B" are hereby found to be "just" and "reasonable" pursuant to 12 GCA §§12015 and 12017.
7. GWA shall be authorized to charge said water and wastewater SDCs to applicable customers on and after March 1, 2010.
8. Pursuant to the recommendation of the ALJ, GWA shall delete the term "offset" in the Interim Guidelines made Exhibit "C" hereto. Although the Guidelines define the term "offset", there is no provision providing for such offset. GWA should provide, by appropriate regulation and/or guideline, a policy or provision whereby GWA agrees to give credits or offsets to developers regarding SDC assessments under appropriate circumstances.
9. GWA shall deposit all revenues generated by the water and sewer system development charge schedule into the Island Water and Sewer Infrastructure Development Fund. Said Fund shall only be expended for costs associated with the construction, expansion, upgrade, and repair of water and wastewater facilities for users who are for the first time connecting property into the Guam water or wastewater system, or for builders if the density of the existing connection is increased.
10. GWA shall provide a report to the PUC, for review and approval, within ninety (90) days prior to the end of each fiscal year, which report shall include a full accounting of the receipts and expenditures into and from the Fund, with appropriate details of expenditures into and from the Fund, a summary of all SDC revenues collected and expended to date, the current balance of the Fund, a description of projects funded during the year with SDC funds, a description of projects that GWA intends to fund with SDC funds and all expenditures made on approved projects, a listing of who the contributors to the Fund were, and the number of ERU's connected to the water and wastewater systems.
11. The SDC shall be reviewed by the Commission no less than every three (3) years, which will allow for the SDCs to reflect the planning uncertainties with regard to GWA's infrastructure needs.

12. GWA shall undertake all necessary and feasible measures to extend the five year timeframe in 28 G.A.R. §2118(c)(1) during which it may refund payments to original customers made for a single residential customer service lateral extension to a period of at least ten years. Such measures shall include initiation of appropriate rulemaking proceedings, if applicable, under the Administrative Adjudication Law; the drafting of legislation, if necessary, implementing such extension and the presentation of the same to the Guam Legislature, and diligent efforts to effect the passage of such legislation. In its annual report and accounting to the PUC concerning the SDCs, GWA shall also report to PUC upon its progress in amending its regulation and securing the passage of legislation.
12. GWA 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.

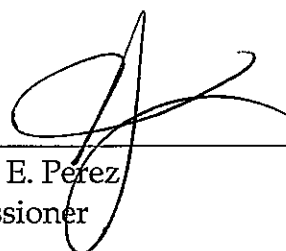
Dated this 29th day of January, 2010.



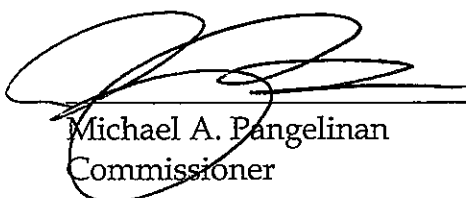
Jeffrey C. Johnson
Chairman



Joseph M. McDonald
Commissioner



Rowena E. Perez
Commissioner



Michael A. Pangelinan
Commissioner

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

PETITION OF GUAM WATERWORKS)	
AUTHORITY FOR ESTABLISHMENT)	DOCKET 08-08
OF A SYSTEM DEVELOPMENT)	
CHARGE)	
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ADMINISTRATIVE LAW JUDGE REPORT

BACKGROUND

On July 22, 2008, the Guam Waterworks Authority ("GWA") filed a petition for the Guam Public Utilities Commission ("GPUC") to approve GWA's proposed water and wastewater system development charges and accompanying rules ("SDC"). GWA contended that such proposed charges and rules, attached to the petition, were justified given that: (1) the "equity" or "buy-in" methodology, as proposed in its petition to calculate SDC fees and rates, is used throughout the United States and has withstood legal scrutiny in many jurisdictions; (2) the proposed charges are fair and reasonable; and (3) that the GWA need the additional revenue to cover the costs associated with expanding the water and wastewater system to accommodate growth.

On September 24, 2008, the Administrative Law Judge of the GPUC ("ALJ") issued a Scheduling Order, requiring both the GWA and the GPUC's regulatory consultant, the Georgetown Consulting Group, Inc. ("GCG") to submit briefs that address: (1) the source of P.L. 26-164, the enabling legislation for the SDC, (2) what approach should be utilized in implementing the SDC, and (3) what methodology is preferable and would best implement the intent of P.L. 26-164.

After due consideration of such briefing and related evidence submitted by the GWA and the GCG (or collectively referred to as the "parties"), the ALJ thereafter found and concluded, among others, the following: that P.L. 26-164 mandates that the GWA establish and implement an SDC; that P.L. 26-124 does not expressly require a particular methodology for implementing an SDC; and that the GWA was in the best position to determine which method is appropriate given its resources and situation.¹ The GPUC, thereafter, adopted the ALJ's findings and ordered that proceedings be held to discuss the

¹ Order, December 2, 2008.

specific SDCs to be proposed, the method of calculation, and the implementation schedule.²

On October 22, 2009, the parties entered into a stipulation, attaching a schedule of both water and wastewater SDC fees, along with their proposed SDC Rules and Regulations, which is attached and incorporated hereto as "Exhibit A" (the "Stipulation"). On October 30, 2009, the GCG provided written testimony of Larry R. Gawlik, a consulting associate of GCG, which offered that both "GWA and GCG worked in close coordination over a six-month period in the development of the proposed SDCs" and that "[d]uring this time period both parties contributed significantly to the advancement of the legislative mandate and ultimately the SDCs recommended" in the Stipulation.³

Thereafter, Notices of Public Hearing were issued by the GPUC, which allowed the public to comment on the proposed rates and fees contained in the Stipulation. Accordingly, the public was given an opportunity to comment on the proposals.

STIPULATION

Pursuant to the Stipulation filed by both the GWA and the GCG, the parties make the following recommendations.

1. GWA petitioned the PUC in accordance with the legislative mandate set forth under 12 G.C.A. § 12015.5 (established by P.L. 26-164) that calls for GWA to establish and implement system development charges ("SDC") to be assessed on developers of new construction or where the density of existing structures are increased placing a greater demand on GWA water and sanitary sewer facilities. GWA's petition for the implementation of system development charges, if granted, would have required new customers to pay approximately \$8,000 per equivalent residential meter.

2. Following extensive discussion, the Parties have agreed to utilize a hybrid methodology for the determination of SDCs that encompasses the use of the equity (buy-in) and incremental methodologies. The buy-in and incremental methodologies (as well as a hybrid of the two methods) are recognized within the water industry as acceptable approaches for the purposes of determining SDCs.

a. The equity or buy-in component is premised upon future customers buying into GWA's existing system to achieve equity between new and existing customers. This approach assesses new customers a fee to approximate the level of equity existing customers have in the system.

² Decision and Order, December 29, 2008.

³ Testimony of Larry R. Gawlik, p. 3 (October 30, 2009).

b. The incremental component is derived by considering GWA's planned capital improvement projects proposed for meeting the growth needs of its water and wastewater systems.

3. GWA and GCG collaboratively developed a detailed work plan for the development and implementation of SDCs. This work plan resulted in the proposed SDCs that were presented to the CCU and approved on October 13, 2009 by Resolution No. 01-FY2010.

4. A number of key assumptions were made or used in the development of the proposed SDCs. These are summarized as follows for the incremental and buy-in components of the proposed SDCs.

a. With respect to the incremental component of the hybrid SDCs, the most significant of these assumptions are:

1. A planning horizon of 2009-2018.
2. Water production and water system demand for the 10-year planning horizon was projected and the required water and wastewater system capacity to meet system growth over the planning horizon was determined.
3. Certain planning assumptions in the most recent water and wastewater base rate proceeding concerning water sales and capital construction projects to be funded by the 2010 and 2012 bond issues (Attachments C and D of the Stipulation) have been used in the determination of the incremental component of the proposed SDC.
4. The ongoing leak detection and pipe replacement programs should successfully reduce current system water losses to 15 percent by FY2018 and thereby substantially recapture the production and distribution capacity currently lost as a result of GWA's excessive water losses.

Capital improvement projects that GWA indicated are being constructed during the 10-year planning horizon to provide additional capacity for system growth have been considered. The cost of eligible capital projects proposed to be totally or partially bond-funded has been removed from SDC funding consideration.

b. With respect to the buy-in component of the hybrid SDCs, the most significant of these assumptions are:

1. Wastewater system values developed by GWA describe the equity that exists for current wastewater customers, which future customers will be buying into.

2. System financial equity was determined based upon GWA-audited financial statements for the period FY1999 through FY2008.

a. Equivalent residential units (ERUs) resulting from GWA's were developed for the water and wastewater systems in a manner that is consistent with AWWA standards.

b. Prior capital contributions provided by third-parties are recognized as a source of capital. To the extent these prior capital contributions have been identified and the projects and payments to GWA verified through GWA financial records and EPA grant records, they have been excluded from consideration in the development of SDCs.

c. When GWA was established under Guam law, it was capitalized by having the Public Utility Agency of Guam legally transferring to GWA the financial assets of its then existing water and wastewater systems (PUAG). The SDC analysis treats this transaction as GWA financial equity, and not contributed capital.

d. Construction work in progress ("CWIP") on GWA's financial records at September 30, 2008 is recognized as GWA equity.

e. Long-term debt is based upon GWA 2008 audited financial statements.

f. Capital contributions, debt, and CWIP have been allocated proportionately to each component of water and wastewater property based upon a weighted allocation.

5. The Parties agree that water system SDCs are greatly impacted by GWA's high water losses and leak detection activities. The ongoing leak detection and pipe replacement programs are assumed to continue to be aggressively implemented and ultimately be successful. Accordingly, GWA will recapture substantial water production and transmission capacity.

6. The Parties jointly recommend the approval of the water and wastewater SDCs shown in "Attachment A." The Parties further recommend the approval of the SDC Rules and Regulations in "Attachment B."

7. The Parties agree that all SDC revenues must be placed in a special restricted fund and shall only be used for the purposes specified in 12 G.C.A. § 12015.5. The funds received from the implementation of the SDCs shall be used for qualifying projects and will reduce the amount of external financing that would otherwise be required to fund such projects.

8. The Parties agree that the proposed SDCs should be reviewed no less than every three (3) years, which will allow for the SDCs to reflect the planning uncertainties with regard to GWA's infrastructure needs. These uncertainties include the anticipated impacts of the armed forces buildup in Guam and the resultant increases in services required and changing U.S. EPA requirements.

9. GWA shall provide a report to the PUC within 90-days prior to the end of each fiscal year, which includes a summary of all SDC revenues collected and expended to date, the current balance of the SDC fund established under 12 G.C.A. § 12015.5, a description of projects funded during the year with SDC funds, a description of projects that GWA intends to fund with SDC funds and all expenditures made on approved projects, a listing of who the contributors of the funds were, and the number of ERUs connected to the water and wastewater systems.

PUBLIC COMMENT

Public hearings were conducted on Thursday, November 5, 2009 at the offices of GPUC in Hagåtña, and on Friday, November 6, 2009 at the Community Centers in Asan and Yigo. No members of the public attended the public hearings in Asan or Yigo. Attorney Oliver Bordallo was the only member of the public that attended the public hearing at the GPUC office in Hagåtña.

Mr. Bordallo noted that there is a definition for the term "Offset" in the Guam Waterworks Authority System Development Charge Implementation Guidelines, but that the word does not appear anywhere else in the Guidelines. Mr. Bordallo also requested assurances from GWA that credits or offsets regarding SDC assessments would be permissible under appropriate circumstances. Representatives of GWA agreed that the agency had the discretion to agree to credits or offsets under appropriate circumstances.

Based upon the public comments of GCG has recommended that the "offset" definition be deleted to avoid confusion. It can be added back when and if a new guideline is proposed that uses the term.

ANALYSIS

The regulatory history of the GPUC's efforts to implement the SDC has been a protracted one, spanning over eight (8) years.⁴ The GPUC, through a memorandum, expressed that in light its "regulatory history and the proposed magnitude of the [System

⁴ Memorandum, March 29, 2008.

Development] Charge clearly establishes the need for it to undergo deliberate and careful regulatory scrutiny.”⁵

The parties herein have submitted through the Stipulation proposed water and wastewater SDC fees, along with a proposed SDC Rules and Regulations. Ultimately, the parties agreed to utilize a hybrid methodology for the determination of SDCs, which encompasses the use of the equity (“buy-in”) and incremental methodologies. The parties maintain that “[t]he buy-n and incremental methodologies (as well as a hybrid of the two methods) are recognized within the water industry as acceptable approaches for the purposes of determining SDCs.”⁶ Moreover, the GCG has provided the GPUC with written testimony, which offers that “[t]he recommended system SDCs are to be assessed on all new potable water and sanitary connections throughout the GWA service area, thereby creating equity among all new customers as well as between existing and new customers.”⁷

Upon review of the Stipulation, with the attached schedule of fees and proposed rules and regulation, the parties appear to provide fees and rates that conform to Guam’s statutory requirements, particularly Section 12015.5 of Title 12. Such fees and rates also appear fair and reasonable.⁸ As maintained by the parties, the hybrid methodology for the calculation of the SDC is recognized within the water industry as an acceptable approach in determining SDCs.

Accordingly, based on the record established in this case,⁹ the proposed implementation of the SDC, as stipulated to by both parties, has undergone deliberate and careful regulatory scrutiny. Thus, such stipulation submitted to the GPUC for its approval should be granted.

RECOMMENDATION

Based on the foregoing, the ALJ recommends that the GPUC review the Stipulation, which is attached hereto as “Exhibit A,” and approve such stipulation, but

⁵ *Id.*

⁶ Stipulation, ¶2 (October 22, 2009).

⁷ See Testimony of Larry R. Gawlik, at 5.

⁸ See Loomis v. City of Haley, 807 P.2d 1272, 1280 (Idaho 1991) (“So long as the fees and rates charged (by a regulated entity) conform to the statutory requirements and are reasonable, the fees, rates and charges will be upheld.”).

⁹ The record in this docket include all documents filed of record, administrative emails and public comments, the transcripts of the GPUC hearings, and the materials presented by the parties at the public hearings.

delete the "offset" definition in the Guam Waterworks Authority System Development Charge Implementation Guidelines. GPUC's approval will allow the GWA to establish and implement an SDC system as required by statute.

Dated this 9th day of November, 2009.

A handwritten signature in black ink, appearing to read 'D. A. Mair', written over a horizontal line.

DAVID A. MAIR
Administrative Law Judge

P098146.JRA

BEFORE THE
PUBLIC UTILITIES COMMISSION OF GUAM



PETITION OF GUAM WATERWORKS
AUTHORITY FOR APPROVAL OF WATER
AND WASTEWATER SYSTEM
DEVELOPMENT CHARGES AND
IMPLEMENTATION REGULATIONS

DOCKET 08-08

Stipulation

The Guam Waterworks Authority ("GWA") and Georgetown Consulting Group, Inc. ("GCG"), which serves as independent regulatory consultant to the Guam Public Utilities Commission ("PUC") ("The Parties"), hereby enter into this evidentiary stipulation and make the following recommendations to the PUC for its consideration:

1. GWA petitioned the PUC in accordance with the legislative mandate set forth under 12 G.C.A. 12015.5 (established by P.L. 26-164) that calls for GWA to establish and implement system development charges ("SDC") to be assessed on developers of new construction or where the density of existing structures are increased placing a greater demand on GWA water and sanitary sewer facilities. GWA's petition for the implementation of system development charges, if granted, would have required new customers to pay approximately \$8,000 per equivalent residential meter.
2. Following extensive discussion, the Parties have agreed to utilize a hybrid methodology for the determination of SDCs that encompasses the use of the equity (buy-in) and incremental methodologies. The buy-in and incremental methodologies (as well as a hybrid of the two methods) are recognized within the water industry as acceptable approaches for the purposes of determining SDCs.
 - a. The equity or buy-in component is premised upon future customers buying into GWA's existing system to achieve equity between new and existing customers. This approach assesses new customers a fee to approximate the level of equity existing customers have in the system.
 - b. The incremental component is derived by considering GWA's planned capital improvement projects proposed for meeting the growth needs of its water and wastewater systems.
3. GWA and GCG collaboratively developed a detailed work plan for the development and implementation of SDCs. This work plan resulted in the proposed SDCs that were

presented to the CCU and approved on October 13, 2009 by Resolution No. 01 -- FY2010.

4. A number of key assumptions were made or used in the development of the proposed SDCs. These are summarized as follows for the incremental and buy-in components of the proposed SDCs.

- a. With respect to the incremental component of the hybrid SDCs the most significant of these assumptions are:

1. A planning horizon of 2009-2018.
2. Water production and water system demand for the 10-year planning horizon was projected and the required water and wastewater system capacity to meet system growth over the planning horizon was determined.
3. Certain planning assumptions in the most recent water and wastewater base rate proceeding concerning water sales and capital construction projects to be funded by the 2010 and 2012 bond issues (Attachments C and D of the Stipulation) have been used in the determination of the incremental component of the proposed SDC.
4. The ongoing leak detection and pipe replacement programs should successfully reduce current system water losses to 15 percent by FY2018 and thereby substantially recapture the production and distribution capacity currently lost as a result of GWA's excessive water losses.

Capital improvement projects that GWA indicated are being constructed during the 10-year planning horizon to provide additional capacity for system growth have been considered. The cost of eligible capital projects proposed to be totally or partially bond funded has been removed from SDC funding consideration.

- b. With respect to the buy-in component of the hybrid SDCs the most significant of these assumptions are:

1. Wastewater system values developed by GWA describe the equity that exists for current wastewater customers which future customers will be buying into.
2. System financial equity was determined based upon GWA audited financial statements for the period FY 1999 through FY 2008.

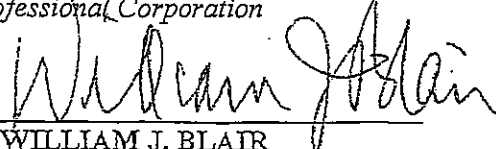
- a) Equivalent residential units (ERUs) resulting from GWA's were developed for the water and wastewater systems in a manner that is consistent with AWWA standards.
 - b) Prior capital contributions provided by third-parties are recognized as a source of capital. To the extent these prior capital contributions have been identified and the projects and payments to GWA verified through GWA financial records and EPA grant records, they have been excluded from consideration in the development of SDCs.
 - c) When GWA was established under Guam law it was capitalized by having the Public Utility Agency of Guam legally transferring to GWA the financial assets of its then existing water and wastewater systems (PUAG). The SDC analysis treats this transaction as GWA financial equity, and not contributed capital.
 - d) Construction work in progress ("CWIP") on GWA's financial records at September 30, 2008 is recognized as GWA equity.
 - e) Long-term debt is based upon GWA 2008 audited financial statements.
 - f) Capital contributions, debt, and CWIP have been allocated proportionately to each component of water and wastewater property based upon a weighted allocation.
5. The Parties agree that water system SDCs are greatly impacted by GWA's high water losses and leak detection activities. The ongoing leak detection and pipe replacement programs are assumed to continue to be aggressively implemented and ultimately be successful. Accordingly, GWA will recapture substantial water production and transmission capacity.
 6. The Parties jointly recommend the approval of the water and wastewater SDCs shown in Attachment A. The Parties further recommend the approval of the SDC Rules and Regulations in Attachment B.
 7. The Parties agree that all SDC revenues must be placed a special restricted fund and shall only be used for the purposes specified in 12 G.C.A. § 12015.5. The funds received from the implementation of the SDCs shall be used for qualifying projects and will reduce the amount of external financing that would otherwise be required to fund such projects.
 8. The Parties agree that the proposed SDCs should be reviewed no less than every three (3) years which will allow for the SDCs to reflect the planning uncertainties with regard to GWA's infrastructure needs. These uncertainties include the anticipated impacts of

the armed forces buildup in Guam and the resultant increases in services required and changing US EPA requirements.


9. GWA shall provide a report to the PUC within 90-days prior to the end of each fiscal year which includes a summary of all SDC revenues collected and expended to date, the current balance of the SDC fund established under 12 G.C.A. § 12015.5, a description of projects funded during the year with SDC funds, a description of projects that GWA intends to fund with SDC funds and all expenditures made on approved projects, a listing of who the contributors of the funds were, and the number of ERUs connected to the water and wastewater systems.

Dated this 22nd day of October, 2009.

BLAIR STERLING JOHNSON
MARTINEZ & LEON GUERRERO
A Professional Corporation

By: 
WILLIAM J. BLAIR
*Attorneys for Georgetown
Consulting Group, Inc.*

GUAM WATERWORKS AUTHORITY

By: 
SAMUEL J. TAYLOR
*Attorney for the Guam
Waterworks Authority*

SCHEDULE 1

SCHEDULE OF WATER SYSTEM DEVELOPMENT CHARGES ADOPTED BY THE GUAM PUBLIC UTILITIES COMMISSION

Actual Meter Size (inches)	SDC By Water Meter Size
5/8 X 3/4	\$2,126
3/4	\$3,190
1	\$5,316
1 ½	\$10,632
2	\$17,011
3	\$34,022
4	\$53,160
6	\$106,320
8	\$170,112
10	\$244,536

SCHEDULE OF WASTEWATER SYSTEM DEVELOPMENT CHARGES ADOPTED BY THE GUAM PUBLIC UTILITIES COMMISSION

Actual Meter Size (inches)	SDC By Water Meter Size
5/8 x 3/4	\$3,474
3/4	\$5,212
1	\$8,686
1 ½	\$17,372
2	\$27,795
3	\$55,590
4	\$86,860
6	\$173,720
8	\$277,952
10	\$399,556

GUAM WATERWORKS AUTHORITY
SYSTEM DEVELOPMENT CHARGE IMPLEMENTATION GUIDELINES

TABLE OF CONTENTS

Section 1	Short Title
Section 2	Purpose and Effect
Section 3	Authority
Section 4	Definitions
Section 5	Applicability
Section 6	SDCs as Condition of Development Approval
Section 7	Adoption of GWA's Capital Improvements Plans
Section 8	Approval of the SDCs
Section 9	Service Area
Section 10	SDC Calculations
Section 11	Assessment of SDCs
Section 12	Computation and Collection of SDCs
Section 13	Establishment of Accounts and Disbursements
Section 14	Use of Proceeds of SDC Accounts
Section 15	Refunds
Section 16	Updates to Plan and Revision of SDCs
Section 17	Agreement for Capital Improvements
Section 18	Procedures to Contest SDCs
Section 19	Amortized System Development Charges or ASDC
Section 20	Amortization of System Development Charges for Person(s) who Build or Purchase a New Single Family Home or Dwelling

Section 1. Short Title

This document shall be known and cited as the "Guam Waterworks System Development Charge Implementation Guidelines."

Section 2. Purpose and Effect

These Guidelines are intended to assure the provision of adequate public water and sanitary sewer facilities in Guam to serve new development and for changes to existing buildings or facilities where density is increased for existing buildings by requiring each development to pay its pro rata share of the costs of such improvements necessitated by and attributable to such new development. The SDCs established by these Guidelines are additional and supplemental to, and not in substitution of, any other requirements imposed by Guam law regarding the development of land, the issuance of building permits or the issuance of certificates of occupancy. Such SDCs are intended to be consistent with and in furtherance of the policies of Guam's building and subdivision laws and regulations and existing GWA Rules and Regulations relating to the provision of public water and sanitary sewer facilities in conjunction with the development of land.

Section 3. Authority

These Guidelines are adopted by the Commission pursuant to 12 G.C.A. § 12015.5, enacted into law by Public Law 26-164, and amended by Public Law 29-133, and the Commission's inherent authority. The provisions of these Guidelines shall not be construed to limit the power of GWA to utilize other methods authorized under Guam law or pursuant to other GWA powers to accomplish the purposes set forth herein, either in substitution for or in conjunction with these Guidelines. Additional policies, not inconsistent with these Guidelines, may be developed by a Resolution of the GWA Governing Board to implement and administer the requirements hereunder.

Section 4. Definitions

The following definitions shall apply under these Guidelines:

"Amortized System Development Charge" or "ASDC" means the amortized SDC made available to low and moderate income residents pursuant to Section 19 of these Guidelines.

"Assessment" means the determination of the amount of the maximum impact fee per service unit which can be imposed by GWA on new development pursuant to these Guidelines.

"Capital Improvement" means either a water facility or a sanitary sewer facility with an expected useful life of ten (10) or more years, to be owned and operated by or on behalf of GWA.

“Commission” means the Guam Public Utilities Commission.

“Facilities Expansion” means either a water facility expansion or a sanitary sewer facility expansion or the construction of any new facility designed to expand the water or sewer system for future customers. Pursuant to § 12015.5, both uses above can include system repairs servicing existing customers but which also adds additional capacity to the system that can be used to accommodate new users. For the purposes of determining the capital amount recoverable from SDCs only that portion of a water or sanitary sewer facility’s capital costs incurred to accommodate new users shall be eligible for inclusion in the SDC.

“Governing Board” means the Guam Consolidated Commission on Utilities or its legal successor.

“Island Water and Sewer Infrastructure Development Fund” means the fund created under 12 G.C.A. § 12015.5(c) and held by GWA into which all SDC funds or revenues shall be deposited. The use of all funds so deposited shall require advance approval from the Commission.

“Land Use Assumptions” means the projections of population and employment growth and associated changes in land uses and densities adopted by GWA, as may be amended by GWA’s Governing Board from time to time, upon which the SDC Capital Improvement plan is based or as contained in any Guam Master Plan or other water or sanitary sewer improvement plan that is used by GWA for the same purpose and approved by the GWA Governing Board for such use.

“New Development” means a project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation or enlargement of any structure or any use or extension of land which has the effect of increasing the requirements for capital improvements or facility expansions, measured by the number of service units to be generated by such activity and which requires either the approval of the Guam Land Use Commission, adherence to Guam’s subdivision laws and regulations, the issuance of a building permit or a substantial change in the demand or loading of such project through an existing connection to GWA’s water or sanitary sewer system, respectively .

“Offset” means the amount of the reduction of the applicable SDC designed to fairly reflect the value of area-related facilities provided by a developer pursuant to Guam’s development regulations or requirements.

“Offsite” means outside the boundaries of the property for which a new development is proposed.

“Plan Approval” means the point at which the applicant has complied with all conditions of approval set by the Guam Land Use Commission and the applicant has undertaken all steps to receive the approval by GWA that are a prerequisite to the

issuance of a building permit (and can include conditions that are required by GWA after the building permit has been issued).

“Recoupment” means the imposition of a SDC to reimburse GWA for capital improvements which GWA has previously put in place that has sufficient capacity to serve new development and new capital improvements for the purpose of serving new development.

“Sanitary Sewer Facility” means an improvement for providing sanitary sewer service, including but not limited to land or easements, treatment and pre-treatment facilities, lift stations or force mains. Sanitary sewer facility excludes sanitary sewer lines or mains which are constructed by developers, the costs of which are reimbursed from pro rata charges paid by subsequent users of the facilities. Sanitary sewer facilities exclude site-related facilities.

“Sanitary Sewer Facility Expansion” means the expansion of the capacity of any existing sanitary sewer improvement for the purpose of serving new development, but does not include the repair, maintenance, modernization or expansion of an existing sanitary sewer facility to serve existing development or accommodate existing users who are expanding the demand upon the system.

“Service Area” means either the area currently served by GWA or the area which GWA has agreed to serve as evidenced by the signature of an authorized representative from GWA on a building permit.

“Service Unit” means the applicable standard units of measure shown on the conversion table in the SDC Capital Improvements Plan as defined herein which can be converted either to three-fourths inch (3/4”) water meter equivalents, as the context indicates, which serves as the standardized measure of consumption, use or generation attributable to the new unit of development.

“Site-Related Facility” means an improvement or facility which is for the primary use or benefit of a new development and/or which is for the primary purpose of safe and adequate provision of water or sanitary sewer facilities to serve the new development, and which is not included in the SDC Capital Improvement Plan and for which the developer or property owner is solely responsible under subdivision laws or other applicable regulations (including GWA’s).

“System Development Charge,” “System Development Fee” or “Impact Fee” means either a one-time fee or charge for water facilities and/or a one-time charge for sanitary sewer facilities imposed on new development or the increasing of density of existing use by GWA imposed pursuant to these Guidelines in order to fund or recoup the costs of capital improvements or facilities expansions necessitated by and attributable to new development. SDCs do not include the dedication of rights-of-way or easements for such facilities nor the construction improvements by the developer thereon. SDCs also do not include line extension costs or other agreed upon privately funded costs that are required

under GWA rules or regulations or Guam law to accommodate development regardless of type.

“SDC Capital Improvements Plan” means either a water improvements plan formulated by GWA or other sanitary sewer improvements plan adopted or revised pursuant to this Article, including but not limited to, the GWA five year capital plan, the twenty-year Master Plan as it may be amended from time to time by GWA’s Governing Board, and any capital improvement plan approved by the Governing Board. The SDC Capital Improvements Plan refers to the aggregation of capital improvements or facilities expansions and the associated costs programmed for all service areas for a particular category of capital improvements or facilities expansions which may be financed in whole, or in part, through SDCs.

“Temporary Use” means any connection made by any person or entity for an activity not required to obtain a building permit that lasts for any period less than six (6) months. The uses contemplated herein includes but are not limited to, village fiestas, carnivals, public events or private uses where the activity has been sanctioned by the Government of Guam.

“Water Facility” means an improvement for providing water service, including but not limited to land or easements, water treatment facilities, water supply facilities or water distribution lines. Water facility excludes water lines or mains which are constructed by developers, the costs of which are reimbursed from pro rata charges paid by subsequent users of the facilities. Water facility excludes site-related facilities.

“Water Facility Expansion” means the expansion of the capacity of any existing water facility for the purpose of serving new development, and may, under certain circumstances, include the repair, maintenance, modernization or expansion of an existing water facility to serve existing development as long as such expansion adds additional capacity to serve future users to the system or accommodate existing users who are expanding the demand upon the system.

Section 5. Applicability

The provisions of these Guidelines apply to all “new development” as defined in Section 4 above aside from Temporary uses.

Section 6. SDCs as Condition of Development Approval

No application for new development shall be approved by GWA without assessment of SDCs pursuant to these Guidelines, and no building permit shall be issued unless the applicant has paid the SDCs. With respect to new development eligible for the ASDC, a building permit may be issued if the applicant has paid the initial charge required under Section 19 of these Guidelines.

Section 7. Adoption of GWA's Capital Improvements Plans

The current GWA Capital Improvements Plan, as currently stated in the GWA Master Plan, was adopted by GWA's Governing Board on March 13, 2007, via Resolution No. 11 – FY2007. The current plan will be updated and amended and new improvement plans adopted by GWA as it deems necessary.

Section 8. Approval of the SDCs

The water and wastewater SDCs set forth in Schedule I were adopted by the Consolidated Commission on Utilities on October 13, 2009 via CCU Resolution No. 01 – FY2010 as provided under 12 G.C.A. § 12015.5(b).

Section 9. Service Area

GWA's service area is where GWA currently serves its customers or where it has agreed to serve future customers as evidenced by the signature of an authorized GWA official on a building permit.

Section 10. SDC Calculations

The American Water Works Association has established guidelines for the development of SDCs for water service in their M-1 manual on Water Fees and Related Charges. There are two generally accepted methodologies that are suggested; (1) the equity method, also known as the "buy-in" method; and (2) the "incremental" method. GWA's Governing Board has chosen to implement a "hybrid" of these two methods for several reasons, including but not limited to the following:

- (1) The method results in a reasonable and equitable fee to new water customers; and
- (2) The method achieves the financial objectives of the Board.

The equity (buy-in) method achieves equity between new and existing customers in the investment of ratepayer capital into the water and wastewater systems. This approach assesses new customers a charge to approximate the average equity of the existing customers. With the equity method the new and existing customers share equally in the costs of current system and in new facilities.

The "incremental" method is similarly designed to achieve equity between new and existing customers by requiring that new customers pay for the additional capital investments needed to serve new customers. The "hybrid" method integrates into one SDC the capital due from new customers to fund new capital investment for growth while achieving equity between new and existing customers for their use of existing water and wastewater facilities. Under all methods, customers are assessed SDCs based on the size of the water meter needed to serve the customer's demand. Larger meters have the capacity to use more system assets; thus, a higher charge is necessary to establish equity between large and small users of the system. An equivalent unit of service is used to

determine the fee for each meter size. Meter sizes are expressed in terms of equivalent meters, based on the relative capacity of the various meter sizes. Larger meters are assessed the SDC based on a ratio of the larger meter's capacity to the equivalent unit's capacity. An equivalent unit is defined as a 3/4" water meter service

The SDCs due for the new development shall be collected prior to or at the time of issuance of the building permit or prior to or at the time of connection to the GWA's water or sanitary sewer system if no building permit is required.

Following the filing and acceptance of an application for a building permit or the request for connection to GWA's water or sanitary sewer system, GWA shall compute the SDCs due for the new development in the following manner:

1. The amount of each SDC due shall be determined by multiplying the number of service units generated by the new development or expanded by the SDC due per service unit using Schedule 1 below.
2. If appropriate, and as condition precedent to connection to GWA's water or sanitary sewer line, GWA may adjust the assessment if the developer has expanded the required number of service units beyond that contained in the original assessment from GWA.

Section 11. Assessment of SDCs

- A. The approval of any new development shall include as a condition the assessment of the SDCs applicable to such development.
- B. Assessment of the SDCs for any new development shall occur as follows:
 1. For a development which is submitted for approval pursuant to Guam's subdivision laws and regulations, assessment shall be at the time of final subdivision approval and shall be the amount of the SDCs per service unit then in effect, as set forth in Schedule 1 below.
 2. For land which is not surveyed or subdivided and which is not required to be submitted to the Guam Land Use Commission as a condition of issuing a building permit, the assessment shall occur at the time application is made for the building permit or utility connection based upon the types of plans submitted to GWA for approval of a building permit, provided however, that a new assessment may be undertaken by GWA, if for any reason, the plans are modified in any manner which causes GWA to change the size of the meter. All assessments under this provision shall be pursuant to Schedule 1 below.
- C. Following the lapse or expiration of approval for a particular development, a new assessment shall occur at the time of final approval of a new development on the same tract of land.

Section 12. Computation and Collection of SDCs

- A. All SDCs assessed under the provisions of Section 11 of these Guidelines shall be collected by GWA prior to the issuance of any building permit.
- B. The SDCs collected by GWA shall be deposited within two (2) business days into the Island Water and Sewer Infrastructure Development Fund which shall be created and maintained by GWA as provided in Section 13 of these Guidelines.
- C. If the building permit for which an SDC has been paid has expired, and a new application is thereafter filed, the SDCs due shall be recomputed.
- D. Whenever the property owner proposes to increase the number of service units for a development, the additional SDCs collected for such new service units shall be determined at the time the new application is filed in the same manner as required for an original building permit.

Section 13. Establishment of Accounts and Disbursements

- A. The Chief Financial Officer for GWA shall establish an account entitled "The Island Water and Sewer Infrastructure Development Fund" (the "IWSIDF") as required under 12 G.C.A. § 12015.5(d). All SDCs collected under these Guidelines shall be deposited in said account.
- B. GWA shall select the banking institution licensed on Guam that provides the best rates for deposit in relation to its fee structure and which also provides an opportunity for GWA to invest the funds into short-term guarantee investment contracts or other such investments with no penalty. The rates for such deposits shall be reviewed annually.
- C. Fees to the bank to service the IWSIDF shall be agreed upon by GWA and the lending institution selected by GWA to hold such funds.
- D. GWA shall ensure that the banking institution provides an annual report of on all transactions on the IWSIDF to the Commission and monthly reports to GWA.
- E. Interest earned on the account shall be considered funds of the account and shall be used solely for the capital improvement projects provided for under these Guidelines.
- F. Disbursement of funds shall be authorized by GWA at such times as are reasonably necessary to carry out the purposes and intent of these Guidelines, provide that such withdrawals must have been authorized by the Commission in accordance with 12 G.C.A. § 12015.5.
- G. All SDCs collected by GWA shall be expended within a reasonable period of

time, not to exceed ten (10) years from the date the SDCs were deposited into the account.

- H. Execution of a design or construction contract by GWA shall be considered to be expenditure of funds of the account.
- I. GWA shall maintain and keep financial records for all SDCs collected and for all expenditures made under these Guidelines. The records of the account for which the SDCs are deposited shall be open for public inspection and copying during ordinary business hours. GWA may assess fees for copying services in accordance with the Guam Sunshine Act of 1999.

Section 14. Use of Proceeds of SDC Accounts

The SDCs collected by GWA pursuant to these Guidelines may be used to finance or to recoup all or a portion of the costs of any capital improvement or facility expansion identified in GWA's applicable capital improvements plan, including the construction contract price, surveying and engineering fees, land acquisition costs (including land purchases, court awards and costs, attorney's fees and expert witness fees), and the fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the SDC capital improvements plan who is not an employee of the political subdivision. SDCs may also be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of GWA to finance such capital improvements or facilities expansions or renovations.

Section 15. Refunds

- A. Any SDC or portion thereof collected pursuant to these Guidelines, which has not been expended within the service area within ten (10) years from the date full payment was received by GWA, shall be refunded, upon application, to the record owner of the property at the time the refund is paid; or if the fee was paid by another governmental entity, to such governmental entity, together with interest calculated from the date of collection to the date of refund at the average fee of interest earned on the deposited funds.
- B. All amounts collected under these Guidelines shall be considered expended on a first-in, first out basis.
- C. If a refund is due and a portion of an assessed amount has been expended, GWA shall pro-rate the refund by subtracting the amount expended from the total paid and then adding the interest earned on the unexpended amount in the same manner as in Section 2980A above.
- D. If the building permit for a new development for which an SDC has been paid has expired, and a modified or new application has not been filed within six (6)

months of such expiration, GWA shall, upon written application, refund the amount of the SDCs to the applicant. If no such application is made within 5 years from the date the permit has expired, no application for refund may be made.

Section 16. Updates to Plan and Revision of SDCs

- A. GWA shall update its SDC Capital Improvement Plan in accordance with a schedule set by the GWA board. Regardless of whether such plans are modified, GWA shall at a minimum present annual requests for capital expenditures from the IWSIDF pursuant to 12 G.C.A. § 12015.5(c).
- B. The Governing Board, with the approval of the Commission, may amend the tables in Schedule 1 if it deems it necessary.

Section 17. Agreement for Capital Improvements

Owners of any new development(s) may construct or finance a capital improvement or facility expansion designated in the SDC Capital Improvements Plan, if required or authorized by GWA by entering into an agreement with GWA prior to the issuance of any building permit for the development. The agreement shall be on a form approved by GWA and shall identify the estimated cost of the improvement or expansion, the schedule for initiation and completion of the improvement or expansion, a requirement that the improvement be designed and completed to GWA standards and such other terms and conditions as deemed necessary by GWA. All such agreements shall require at a minimum that the project be bonded in GWA's favor at a minimum of 100%.

Section 18. Procedures to Contest SDCs

- A. Any person may file a written protest at any time prior to the issuance of a building permit. However, until the protest is resolved as provided herein, no building permit shall issue.
- B. All protests shall be prepared in the form prescribed by GWA and be hand-delivered to either GWA's legal counsel or to GWA's General Manager
- C. The written protest shall contain information that GWA may reasonably require, including but not limited to, a detailed summary of the grounds upon which the person is disputing the assessment. The protest must also contain the following information:
 - 1. General description of development, including lot number and village.
 - 2. All approved plans for the development.
 - 3. Appraised value of the land and off-site facilities.
 - 4. Total estimated SDCs that the owner feels is appropriate.
 - 5. Approvals from the Guam Land Use Commission if required by law.

6. Name, address, fax and phone number for owner and owner's representative.
- D. GWA shall provide a written response to the protest within thirty (30) days following the receipt of such protest which either rejects the protest outright (for cause, deficiency in the protest or other valid reason) or grants an adjustment to the assessed amount. No assessment shall be waived in its entirety if the construction is for "new development" as defined in these Guidelines.
- E. If a party is dissatisfied with GWA's response, within 30 days from the receipt of GWA's response, they may file a Petition of Review with the Commission asking the Commission to review GWA's findings. A copy of the Petition must also be filed with GWA on the same date the Petition is filed with Commission.

Section 19. Amortized System Development Charges or ASDC

- A. Pursuant to 12 GCA 12015.5(b), eligible persons constructing or purchasing a single family dwelling intended for their personal residence may be entitled to amortize the cost of the applicable SDCs. The schedule of Amortized System Development Charges is shown on Schedule II attached to these Guidelines. The applicable ASDC shall be added to the monthly GWA bill for the dwelling.
- B. To qualify for an ASDC, a person must meet the eligibility and qualifying criteria established by the Guam Housing Corporation ("GHC") for low or moderate income borrowers, as such criteria may be amended from time to time. An applicant for an ASDC must show that he or she satisfies the various criteria. Certification of eligibility and qualification by GHC shall be sufficient. Otherwise, GWA shall require proof satisfactory to GWA of eligibility and qualification. A person whose application for an ASDC is denied can file a written protest in the manner provided by Section 18 of these Guidelines, and, if dissatisfied with GWA's response to the protest, file a Petition for Review with the Commission.
- C. The ASDC shall not apply to any commercial development or the construction of multi-family dwellings.
- D. The ASDC is not transferable. Prior to selling or conveying title to the affected dwelling to any person who is not an immediate family member or who is not himself or herself eligible for an ASDC, a person paying an ASDC shall be required to pay in full the entire unpaid balance of the ASDC, including any accrued interest, prior to selling or conveying the title. An applicant for an ASDC must sign and acknowledge a Notice, in the form of Exhibit ____ to these Guidelines, evidencing this requirement, as a condition to approval of the application. This statement shall be recorded by GWA. No water or wastewater account shall be transferred to a new owner or occupant of the residence until the balance of the ASDC has been paid in full.

SCHEDULE 1

SCHEDULE OF WATER SYSTEM DEVELOPMENT CHARGES ADOPTED BY THE GUAM PUBLIC UTILITIES COMMISSION

Actual Meter Size (inches)	SDC By Water Meter Size
5/8 X 3/4	\$2,126
3/4	\$3,190
1	\$5,316
1 ½	\$10,632
2	\$17,011
3	\$34,022
4	\$53,160
6	\$106,320
8	\$170,112
10	\$244,536

SCHEDULE OF WASTEWATER SYSTEM DEVELOPMENT CHARGES ADOPTED BY THE GUAM PUBLIC UTILITIES COMMISSION

Actual Meter Size (inches)	SDC By Water Meter Size
5/8 x 3/4	\$3,474
3/4	\$5,212
1	\$8,686
1 ½	\$17,372
2	\$27,795
3	\$55,590
4	\$86,860
6	\$173,720
8	\$277,952
10	\$399,556

SCHEDULE II

AMORTIZED SYSTEM DEVELOPMENT CHARGES

WATER:

INITIAL CHARGE--\$500

MONTHLY CHARGE FOR 96 MONTHS (8 YEARS)--\$22.58

WASTEWATER:

INITIAL CHARGE--\$500

MONTHLY CHARGE FOR 96 MONTHS (8 YEARS)--\$41.29

Section 20. Amortization of System Development Charges for Person(s) who Build or Purchase a New Single Family Dwelling or Home.

A. The Guam Public Utilities Commission has determined that person(s) who build or purchase a new single family home or dwelling for use as a primary residence should also be eligible to amortize System Development Charges. SDCs are only assessed when there is "new development" as defined herein. Such right or option to amortize the SDCs shall apply to those person(s) who build a single family dwelling or home (which home or dwelling constitutes a "new development") and which will be occupied by such person(s) as a primary residence. Eligible person(s) building or purchasing a single family dwelling intended for their personal residence are entitled to amortize the cost of the applicable SDCs. The same schedule of Amortized System Development Charges ("ASDC") applicable to low or moderate income borrowers under Section 19 of these Guidelines shall also be applicable to eligible persons under this Section. The schedule of Amortized System Development Charges is shown on Schedule II attached to these Guidelines. The applicable ASDC shall be added to the monthly GWA bill for the dwelling.

B. Eligible person(s) building or purchasing a new home or single family dwelling shall have the option to amortize SDCs in accordance with the requirements of this Section. Persons desiring to amortize the SDCs shall so indicate when application is made for new development. An applicant who desires to amortize SDCs hereunder must show that he or she satisfies the criteria of this Section. GWA shall require proof satisfactory to GWA of eligibility and qualification. A person whose application for amortization of SDCs is denied can file a written protest in the manner provided by Section 18 of these Guidelines, and, if dissatisfied with GWA's response to the protest, file a Petition for Review with the Commission.

C. Eligible persons hereunder may exercise the option to amortize SDCs but are not required to do so. The option to amortize SDCs hereunder shall not apply to any commercial development or the construction of multi-family dwellings.

D. Any right to amortize SDCs hereunder is not transferable. Prior to selling or conveying title to the affected dwelling to any person who is not an immediate family member or who is not himself or herself eligible for amortization of SDCs, a person paying amortized SDCs shall be required to pay in full the entire unpaid balance of the the amortized SDC, including any accrued interest, prior to selling or conveying the title. An applicant for amortization of the SDC must sign and acknowledge a statement, in the form of Schedule III to these Guidelines, evidencing this requirement, as a condition to approval of the application. This statement shall be recorded by GWA. No water or wastewater account shall be transferred to the new owner or occupant of the residence until the balance of the amortized SDC has been paid in full.

E. GWA may terminate water or wastewater service for non-payment of an amortized SDC in accordance with applicable procedures.

SCHEDULE III

(SPACE ABOVE LINE FOR RECORDER'S USE ONLY)

NOTICE OF OBLIGATION TO PAY AMORTIZED
SYSTEM DEVELOPMENT CHARGE

Notice is hereby given that [Names of Property Owners] ("Owner") was/were eligible for the Amortized System Development Charge ("ASDC") provided for under 12 GCA 12015(b), as amended by Guam P.L. 29-133, or pursuant to Section 20 of the Guam Waterworks Authority SDC Implementation Guidelines, in connection with the construction of a single-family residence on

[Property Description] (the "Property").

The ASDC is not transferable. Pursuant to 12 GCA 12015(b), and Section 20 of the Guam Waterworks Authority SDC Implementation Guidelines, prior to the sale or transfer of the title to the Property to any person other than an immediate family member or a person also eligible to receive the benefit of the ASDC, the entire remaining balance of the ASDC, including any accrued and unpaid interest, must be paid in full.

Date: _____

GUAM WATERWORKS AUTHORITY

BY: _____

NAME: _____

ITS: _____

[OWNER/OWNERS)

GUAM, U.S.A. }
CITY OF HAGATNA } ss:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal
the day and year first above written.

2

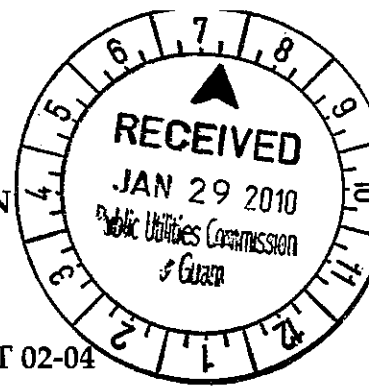
ON THIS day of _____, 2009, before me, a notary public in and for Guam, personally appeared _____ known or identified to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same as his/her free and voluntary act and deed for the uses and purposes therein contained.

(official signature and seal of notary)

ON THIS day of _____, 2009, before me, a notary public in and for Guam, personally appeared _____ known or identified to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same as his/her free and voluntary act and deed for the uses and purposes therein contained.

(official signature and seal of notary)

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



GUAM POWER AUTHORITY
LEVELIZED ENERGY ADJUSTMENT
CLAUSE [LEAC]

DOCKET 02-04

ORDER

In accordance with the protocol established by Guam Public Utilities Commission [PUC] Order dated January 29, 1996, as amended by Order dated March 14, 2002, Guam Power Authority [GPA], by Filing dated December 18, 2009, requested that the current LEAC factor [\$0.12967 per kWh] for its civilian customers be increased to \$0.14213 per kWh for meters read on and after February 1, 2010 and continuing until July 31, 2010. ¹

After conducting a review of GPA's Filing, and engaging in communications with GPA, PUC Regulatory Consultant Georgetown Consulting Group, Inc. [GCG] filed its Report Re: GPA Request for a LEAC Factor Effective February 1, 2010. ² During GCG's investigation, it became aware of upward pressure on the price of oil since the time when GPA had prepared its Petition. ³ Based upon updated Morgan Stanley fuel price forecasts for both No. 2 and No. 6 oil, the January 12, 2010 price forecasts were higher than those projected by GPA in its December Petition. ⁴

Thus, in its Summary of LEAC Calculations [Table 1], GCG has updated the total fuel costs for the 6 month period ending July 31, 2010. ⁵ GCG also examined "Fuel Handling Costs", which includes various costs utilized in the computation of the LEAC Factor. With regard to Fuel Hedging, GCG found that, as a result of the higher price forecast, GPA is required to credit back to customers the difference between the higher ceiling price and the market for the hedged volumes of oil that it will receive as a result of the hedge: "using the higher price forecasts results in a higher credit." ⁶

¹ The basis for GPA's LEAC filing is that there is a projected under recovery of \$4.27M as of January 31, 2010, and that the projected fuel costs of \$76.00/bbl for RFO represent a 17% increase in the fuel costs from the prior LEAC period.

² GCG Report re GPA Request for a LEAC Factor Effective February 1, 2010, filed January 21, 2010, in Docket 02-04.

³ Id. at p. 1.

⁴ Id. at pgs. 3-4.

⁵ Id. at p. 2.

⁶ Id. at p. 5.

GCG also considered another aspect of Fuel Handling Costs, which is the inventory valuation cost. In essence, GPA is allowed to recover the increase in inventory growth during the LEAC period. With the update of prices recommended by GCG, the inventory growth to be recovered during this LEAC period has increased from \$789,790 (as filed by GPA) to \$4,051,117.⁷

GCG has also raised concerns regarding the fuel hedging program of GPA.⁸ Prior hedging contracts required GPA to provide a margin call reserve where it was apparent that the price of oil would be below the floor of fuel contracts. GPA's exposure to margin calls created liquidity problems for it. GCG raises the concern that GPA may have entered into a current hedge where the provider may require a margin call. According to GCG, GPA is still considering other possible options for hedging its fuel supply, such as using a "call on the supply" similar to what an investor would use in calls for stock investment.⁹ In light of the prior problems caused by such margin calls, GCG recommends that GPA not be permitted to include any costs for a standby letter of credit for such margin calls in future LEAC computations unless GPA reaffirms in the next LEAC filing that future hedges which require margin calls are in the interest of rate payers and GPA.¹⁰

GPA strongly disagrees with GCG's recommendation to remove GPA's assurance of reimbursement for future hedge losses from the LEAC. According to GPA, if PUC accepted the position that GPA enters into future hedge contracts "at its own peril", such position would effectively terminate GPA's hedging program. GPA further requests that it be given until May 2010 for completion of its Transmission Study. Finally, GPA wishes to continue to reserve its right to petition PUC to recover funds related to the PUC allowance to recover carrying costs of GPA's fuel inventory.¹¹

With regard to "line losses", GCG supports the request of GPA that the PUC continue the interim standard of 7% as an interim standard for line losses.¹² An extension should be granted to GPA for the filing of its Transmission study (in order to incorporate the results of new forecasts relating to the armed forces buildup) until March 31, 2010.¹³

⁷ Id. at p. 8.

⁸ Id. at p. 6.

⁹ Id. at p. 6.

¹⁰ Id. at pgs. 9-10.

¹¹ Letter from Joaquin Flores, General Manager of GPA, to PUC Legal Counsel dated January 25, 2010, Re: GPA Request for a LEAC Factor Effective February 1, 2010.

¹² Id. at p. 9.

¹³ Id. at pgs. 9-10.

Based upon the changes which it recommends to GPA's December 18, 2009 LEAC Filing, GCG recommends that the current LEAC factor [\$0.12967 per kWh] for GPA's civilian customers be increased to \$0.15046 per kWh for meters read on and after February 1, 2010 and continuing until July 31, 2010.¹⁴

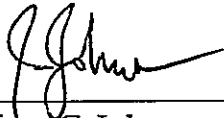
After carefully reviewing the record in this proceeding and the January 21, 2010 Report of GCG, and after discussion at a duly noticed public meeting held on January 29, 2010 for good cause shown and on motion duly made, seconded and carried by affirmative vote of the undersigned Commissioners, the Guam Public Utilities Commission hereby **ORDERS THAT:**

1. A LEAC factor of \$0.15046 per kWh shall be used by GPA for all civilian customer bills, for meters read on and after February 1, 2010 to recover its forecasted fuel and related expenses, in accordance with the Tables and Schedules set forth in the GCG Report dated January 21, 2010, which is made *Attachment A* hereto. This change reflects a 10.5% increase in the total bill, or \$20.79, for a residential customer utilizing an average of 1,000 kilowatt hours per month.
2. On or before March 15, 2010, GPA should submit a report to the PUC concerning the current status of its fuel hedging program. Specifically, GPA should indicate therein the extent to which its current hedging contracts require margin calls, the feasibility of hedging some or all of GPA's fuel oil volumes by using a call (or calls) on the supply, and whether the PUC should continue to include any additional costs incurred by GPA in obtaining a standby Letter of Credit for use in providing margin calls relating to hedges (and interest incurred relating to the use of the LOC funds if applicable) in the LEAC computation.
3. GPA should file its next LEAC adjustment filing on or before June 15, 2010.
4. GPA should submit its Transmission study, which study incorporates the results of new forecasts relating to the armed forces buildup, on or before May 15, 2010. Therein, GPA should propose the use of an appropriate line loss target and measurement therefore in that study for use in the June 15, 2010 LEAC filing.

¹⁴ Id at p. 9; this recommendation represents an increase in the original factor requested in GPA's December 18, 2009 Petition.

5. GPA continues to preserve its right to petition GPA to recover funds related to the PUC allowance for GPA's recovery of carrying costs of fuel inventory for previous LEAC periods.
6. 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.

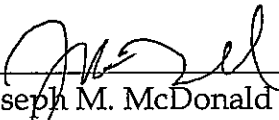
Dated this 29th day of January, 2010.



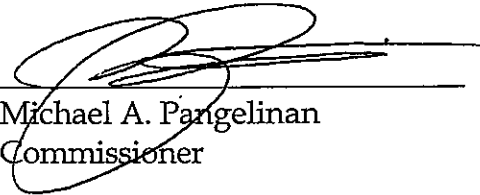
Jeffrey C. Johnson
Chairman



Rowena E. Perez
Commissioner



Joseph M. McDonald
Commissioner



Michael A. Pangelinan
Commissioner



Filomena M. Cantoria
Commissioner



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:

DOCKET 94-04

The Application of the Guam Power Authority
to Approve the Procurement of Supply of
Diesel Engine Cylinder Lubricating Oil to
GPA.

ORDER

This matter comes before the Guam Public Utilities Commission upon the Application of the Guam Power Authority [GPA] for approval of its Contract for the supply of Diesel Engine Cylinder Lubricating Oil to GPA.¹ Previously, the Commission approved the Petition of GPA to issue invitation for bids for the supply of diesel engine cylinder oil and reviewed the form of the proposed contract.² In its July Order, the PUC requested that GPA submit its final contract to the PUC for review and approval, as the final price for the cylinder lubricating oil contract would only be known after the contractor is selected and the contract executed.³

Subsequent to the Commission's July 27 Order, GPA issued IFB No. GPA 019-09 for the supply of Diesel Engine Cylinder Lubricating Oil. Shell, Guam Inc., was selected as the lowest and most responsive bidder.⁴ According to the CCU Resolution, the award of the award of the Contract to Shell and the estimated supply quantities will amount to approximately \$1,600,000.00 per year.⁵ GPA indicates that the contract will be effective on the first day of the month after approval by the PUC and continue for a three year term, with options to extend for two (2) additional one (1) year terms.⁶ The CCU has authorized the General Manager of GPA to enter into such contract with Shell, Guam Inc.⁷

The contract also provides that GPA can exercise three "options" for oil delivery under the contract (including MEC delivery and additional delivery) which could increase the cost of the contract to as much as \$3.3 million per year.⁸

¹ GPA Petition for Contract Review, filed in Docket No. 94-04 on January 18, 2010.

² PUC Order in Docket 94-04, in the matter of the Application of the Guam Power Authority to Approve the Procurement of Supply of Diesel Engine Cylinder Lubricating Oil to GPA, dated July 27, 2009.

³ Id. at p. 1.

⁴ Consolidated Commission on Utilities Resolution No. 2009-47 adopted on October 27, 2009, at p. 1.

⁵ Id. at p. 1.

⁶ Id. at p. 2; see also email from Cora Montellano to PUC Legal Counsel dated January 25, 2010.

⁷ Id. at p. 2.

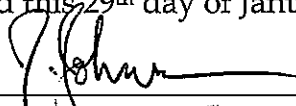
⁸ See Enclosure A to CCU Resolution No. 2009-47.

Attachment "D"

GPA's Petition establishes that the executed contract for Supply of Diesel Engine Cylinder Lubricating Oil between GPA and Shell, Guam Inc. is essential to the operation of the Cabras Power Plants, and that the contract is reasonable, prudent, and necessary.⁹ Upon consideration of the record herein, the Petition of GPA, and for good cause shown, upon motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS that:

1. The January 18, 2010 Application of GPA to approve the Contract for Supply of Diesel Engine Cylinder Lubricating Oil to GPA is hereby approved.
2. The Contract for the Supply of Diesel Engine Cylinder Lubricating Oil between GPA and Shell, Guam Inc. is reasonable, prudent, and necessary for the operation of the Cabras Power Plants.
3. The contract price was obtained by GPA after a competitive bid, and the contract was awarded to the lowest responsible and responsive bidder.
4. 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.

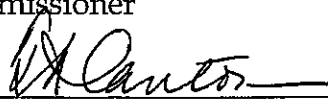
Dated this 29th day of January, 2010.



Jeffrey C. Johnson
Chairman



Rowena E. Perez
Commissioner



Filomena M. Cantoria
Commissioner

Joseph M. McDonald
Commissioner



Michael A. Pangelinan
Commissioner

⁹ GPA Petition for Contract Review in Docket 94-04, filed January 18, 2010 at p. 2.



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

ARBITRATION OF INTERCONNECTION
DISPUTES BETWEEN PACIFIC DATA
SYSTEMS, INC. AND GTA TELEGUAM LLC

Docket No. 08-11

ORDER

This matter comes before the Guam Public Utilities Commission [PUC] upon the ORDER issued by Administrative Law Judge [ALJ] David A. Mair on January 20, 2010 which is made *Attachment A* hereto. ¹ This proceeding, concerning the arbitration of interconnection disputes between Pacific Data Systems, Inc. [PDS] and GTA Teleguam LLC [GTA] has been the subject of numerous prior orders of the Commission. ² In his prior recommendations of April 13, 2009 and July 20, 2009 [which were subsequently adopted by the PUC], the ALJ found that GTA had failed to provide dark fiber in "guaranteed good working order" and was in violation of the Interconnection Agreement. ³ Subsequently, on October 9, 2009, the ALJ issued a Scheduling Order for the parties to present testimony and evidence at the hearing as to what repairs were necessary to bring the dark fibers provided by GTA to PDS into compliance with the prior Orders, and what damages PDS should be entitled to. ⁴ The parties appeared for the hearing on November 19, 2009 and presented testimony and evidence on the issues before the ALJ. ⁵

In his January 20, 2010 Order, the ALJ traces the history of these arbitration proceedings. He finds that PDS and GTA agreed to the standard that GTA would provide dark fiber to PDS "in good working condition", and that such fiber would meet various technical and professional standards. ⁶ GTA and PDS mutually agreed that Mr. John Limtiaco should conduct tests to determine whether the dark fibers provided by

¹ Order issued by ALJ David A. Mair on January 20, 2010 in Docket No. 08-11, *Attachment A* hereto.

² See PUC Orders issued in Docket No. 08-11 on April 20, 2009 and July 27, 2009 respectively. Said Orders are incorporated herein by reference.

³ See Orders of the ALJ issued on April 13, 2009 and July 20, 2009, respectively, in Docket No. 08-11, which orders are also incorporated herein by reference.

⁴ ALJ Scheduling Order in Docket No. 08-11, issued on October 9, 2009

⁵ See *Attachment A* hereto, p. 2.

⁶ *Attachment A*, pgs. 3-4.

GTA to PDS complied with industry standards, which standards were specifically identified in the letter submitted by the parties to the PUC.⁷

In a report dated June 7, 2008, Mr. Limtiaco concluded that nine (9) of the fourteen (14) routes failed to meet those mutually acceptable industry standards. In a letter dated July 8, 2008, GTA stated that it did not dispute the findings of Mr. Limtiaco.⁸ The ALJ rejected GTA's defense that it was only required to provide PDS with the dark fibers that are "equal in quality" to those which it provided to itself; such defense is not applicable, since GTA had contractually agreed to provide dark fiber to PDS that met specific standards.

Based upon the testimony of the President of PDS during the most recent hearing, the ALJ concludes that, even if the "equal in quality" defense was not contractually inapplicable, GTA could not successfully assert it because in general GTA has not provided PDS with dark fiber of equal quality with that which it has provided to itself.⁹ At the hearing, GTA also attempted to question the validity of the findings of Mr. Limtiaco; however, the ALJ rejected the testimony of the witnesses proffered by GTA and found that the President of PDS and Mr. John Limtiaco, the expert mutually agreed to between the parties on April 30, 2008, were the more credible witnesses regarding the quality of dark fiber provided by GTA to PDS.¹⁰

The ALJ also rejects other arguments which GTA tendered at the hearing, including that the Limtiaco standards were "restricted to campus environments" and that the dark fiber strands provided by GTA to PDS were "useable." The ALJ points out that GTA had agreed in the ICA to provide dark fiber strands that were "in guaranteed good working condition", not merely ones that were "useable."¹¹

The ALJ finds that, as of the date of the hearing on November 19, 2009, only two (2) dark fiber routes remained in dispute, the Talofoto-Inarajan and Agat-Piti routes.¹² The parties were attempting to resolve the dispute about the remaining two dark fiber routes. With regard to its failure to provide the quality of dark fibers agreed to by the parties, the ALJ found that GTA violated numerous provisions of the ICA, IIRs and Guam Law.¹³

⁷ Attachment A, pgs. 4-5.

⁸ Id. at p. 6.

⁹ Id. at p. 7.

¹⁰ Id. at p. 8.

¹¹ Id. at pgs. 9-10.

¹² Id. at p. 13.

¹³ Id. at p. 18.

The ALJ then proceeds to determine applicable damages to which PDS is entitled. Based upon his review of the applicable law and provisions of the Interconnection Agreement, the ALJ finds that PDS was entitled to be reimbursed for amounts that it paid to GPA for routes that did not meet applicable standards, plus pre-judgment and post-judgment interest; "cover damages" and rental costs incurred by PDS when it rented EELs from GTA when required dark fiber was not provided. As to requests by PDS for lost profits and revenues, as well as regulatory fees and costs, the ALJ indicated that no award was authorized under law.¹⁴ It was further determined that simple interest at six (6) percent per annum, both pre-judgment and post-judgment, would be awarded upon amounts paid by PDS to GTA; however, for "cover costs", only post-judgment interest from the date of an PUC Order would be approved.¹⁵

With regard to attorneys fees, the ALJ indicates that applicable law, 12 GCA §12107(d) allows the PUC to impose attorneys' fees against a telecommunications company if, after notice and opportunity for a hearing, it is found that the telecommunications company has "failed to act in good faith." The ALJ makes the factual determination that, as a consequence of its conduct since October 22, 2008, GTA should be required to pay the attorneys' fees incurred by PDS. The ALJ's conclusion is based upon the following grounds: (a) the failure of GTA to repair or replace a dark fiber which it agreed to replace until over one year later; (b) the provision of dark fiber strands to itself of a higher quality than provided to PDS; (c) GTA did not, until November 4-6, 2009, swap PDS strands for strands of a higher quality; (d) GTA did not make any efforts between May 2009 and late August 2009 to provide the agreed upon dark fiber; (e) as of the date of the hearing on November 19, 2009, GTA still had not obtained any estimates to repair the dark fibers provided to PDS despite prior PUC Orders affirming the ALJ's findings; (f) GTA's failure to provide the contractually agreed upon dark fibers since October 22, 2008 which required PDS to acquire EELs from GTA, increased monetary costs to PDS, and placed it at a competitive disadvantage with GTA. Based upon these findings, the ALJ authorizes an award of attorneys fees to PDS.¹⁶

Presently, the ALJ recommends that penalties should not be assessed against GTA pursuant to 12 GCA §12108, and that the PUC regulatory fees of the proceeding should be paid by both GTA and PDS.¹⁷

On January 27, 2010, ALJ Mair issued a SUPPLEMENTAL ORDER, which is made *Attachment B* hereto, ordering GTA to pay PDS the amount of \$25,780.00 as attorneys fees not later than February 1, 2010.¹⁸

¹⁴ Id. at pgs. 21-22.

¹⁵ Id. at p. 23.

¹⁶ Id. at pgs. 23-25.

¹⁷ Id. at p. 26.

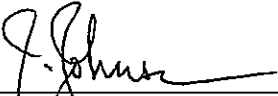
Having considered the record of the proceedings herein, the pleadings of the parties, and the Order of the ALJ issued on January 20, 2010, and good cause appearing, the Guam Public Utilities Commission hereby Orders as follows:

1. The ORDER issued by the ALJ on January 20, 2010 is hereby adopted and approved.
2. The Findings of Fact and Conclusions of Law of the ALJ, as set forth in the ORDER annexed hereto as *Attachment A*, are also adopted and approved.
3. GTA is ordered to pay PDS the sum of \$68,158.71 which represents the amount paid by PDS to GTA for dark fiber that failed to comply with the Limtiaco Standards, plus pre-judgment and post-judgment interest;
4. GTA is ordered to pay PDS the sum of \$16,158.71 as cover costs, plus post-judgment interest;
5. PDS is not awarded any damages for lost profits.
6. The ALJ is hereby authorized to commence appropriate proceedings to solicit comments and testimony from the telecommunications companies and thereafter propose a "financial incentive" or "remedy provision" to the PUC for consideration, which will automatically assess fines or fees to be paid to CLECs when service failures occur;
7. PDS is ordered to accept the dark fiber routes provided by GTA for Talofoto-Inarajan and Agat-Piti, even though "each route still contains some events with loss levels that are above the allowable splice losses defined in the Limtiaco Standards"; should PDS subsequently conclude, during the term of the ICA, that the performance standards on those routes have further deteriorated, GTA will be obligated to provide PDS with dark fiber that complies with the Limtiaco Standards or, if no such dark fiber is available, then the best dark fiber that is available on those routes;
8. All pre-judgment and post-judgment interest ordered herein shall be calculated based on simple interest of six (6) percent per annum;

¹⁸ SUPPLEMENTAL ORDER issued by ALJ Mair on January 27, 2010, in Docket No. 08-11.


9. The SUPPLEMENTAL ORDER of ALJ Mair issued January 27, 2010, is also adopted and approved. PDS is awarded its attorneys' fees incurred in this action in the amount of \$25,780.00, and GTA is ordered to pay PDS such amount no later than February 1, 2010.
10. Penalties are not imposed against GTA pursuant to 12 GCA §12108.
11. GTA and PDS are ordered to pay for the PUC's regulatory fees and expenses incurred in this Docket, including, without limitation, consulting and counsel fees and expenses, and the fees and expenses for conducting the hearing process. Pursuant to Rule 1(b)(iii) of the PUC's July 27, 2005 Rules Governing Regulatory Fees for Telecommunications Companies, GTA and PDS will each pay one-half of PUC's regulatory fees and expenses in this docket. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12002(b), 12024(b), 12104, 12109, the Rules Governing Regulatory fees for Telecommunications Companies, and Rule 40 of the Rules of Practice and Procedure before the PUC.

Dated this 29th day of January, 2010.

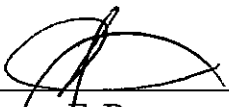


Jeffrey C. Johnson
Chairman

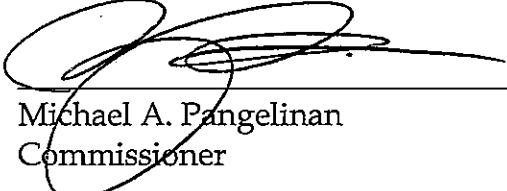
Joseph M. McDonald
Commissioner



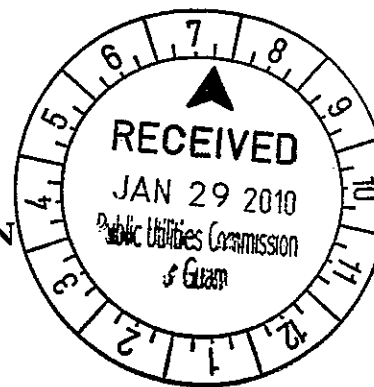
Filomena M. Cantoria
Commissioner



Rowena E. Perez
Commissioner



Michael A. Pangelinan
Commissioner



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

The Port Authority Of Guam
[PAG] Request For PUC Investigation
of Rates and Tariffs

Port Docket 09-02

ORDER APPROVING INTERIM TARIFFS AND
RATES FOR THE PORT AUTHORITY OF GUAM

The background of this matter is set forth in the Administrative Law Judge Report filed herein on January 29, 2010.¹ This proceeding arose pursuant to the statutory duty of the PUC, pursuant to Public Law 30-52, to commence proceedings with the Jose D. Leon Guerrero Commercial Port [PAG]. The PUC is obligated to review and modify or establish rates and charges for the use of Port facilities or appliances. Pursuant to Public Law 30-52, the PUC is further authorized, until December 31, 2010, to establish "interim rates and charges" for the use of Port Facilities or appliances that may be necessary for the estimated operation or maintenance costs, required capital improvements, or other reasonable costs of the Port.²

On October 27, 2009, the PAG requested that the PUC conduct an investigation into the rates and tariffs of the Port and consider the adequacy of the Port's container charges or cargo handling charges, Bunkering/Fuel Throughput/Waste Oil Fees, Wharfage Rates for Transshipment, Easement Lease Rates, Facility Maintenance Fees, and Marina Fees for Boat Slips.³ On November 13, 2009, the PUC issued an Order Approving an Investigation of Rates and Tariffs of PAG.⁴ The PUC directed its own Consultant Slater, Nakamura & Co. LLC [SN] to provide a review and analysis of the rates and tariffs referred to in PAG's request for investigation, and to provide recommendations to the PUC concerning the establishment of interim "just" and "reasonable" rates and tariffs for PAG.⁵

On January 25, 2010, SN submitted its Report of the Interim Tariff Investigation for the Port Authority of Guam.⁶ On January 27, 2010, SN filed Amendment 1 to its Report.⁷ Furthermore, on January 25, 2010 and January 26, 2010, PUC conducted public hearings

¹ Administrative Law Judge Report, filed in Port Docket 09-02 on January 29, 2010.

² Public Law 30-52, enacted July 14, 2009, Section 7.

³ Letter from PAG General Manager Glenn A. Leon Guerrero to PUC Chairman Jeffrey C. Johnson dated October 27, 2009, pgs. 2-4.

⁴ PUC Order dated November 13, 2009, filed in Port Docket 09-02.

⁵ Id. at p. 3.

⁶ Slater & Nakamura Report on the Interim Tariff Investigation for the Port Authority of Guam, filed in Port Docket 09-02, January 25, 2010.

⁷ Slater & Nakamura Report Amendment 1, filed in Port Docket 09-02, January 27, 2010.

concerning its investigation of Port interim tariffs and charges. A summary of the public comments received is set forth in the Administrative Law Judge Report.⁸

The Guam Public Utilities Commission duly considered the record in these proceedings, which includes the Consultant Reports filed by the Port Authority [PB International Inc. and Captain, Hutapea & Associates], other pleadings and documents filed herein, the Recommendations of Slater, Nakamura & Co. LLC, and the Administrative Law Judge Report. Based upon the PUC investigation of interim tariffs and rates for PAG, and the public testimony given at the three scheduled public hearings, for good cause shown and on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission makes the following determinations:

Determinations

1. Due and proper notice of scheduled public hearings was issued in accordance with law. The PAG filed evidence that it served approximately 100 of its customers with notice of the proposed tariff and rate increases; however, it does not appear that the Agana boat slip lessees all received adequate notice.
2. Based upon the record herein it has been affirmatively established, by a preponderance of the evidence, that there should be an interim increase for Port tariffs, rates and charges. PUC hereby determines, on its own initiative, and pursuant to its powers in Public Law 30-52 and 12 GCA §12004, that an increase in tariffs and rates should be granted to the Port Authority of Guam. Pursuant to Public Law 30-52, the PUC is authorized, until December 31, 2010, to establish "interim rates and charges" for the use of Port Facilities or appliances as may be necessary for the estimated operation or maintenance costs, required capital improvements, or other reasonable costs of the Port.
3. A current PAG terminal tariff was established in 1993, and cargo handling charges have not been increased since that time. Other rates have been unchanged since 1983.
4. The Port facilities were designed and placed into service in 1969, but have not undergone a major modernization since that time.
5. The PAG Consultant, PB International Inc. established that the Port needs an increase in its container charges and cargo handling fees in order to meet the task of refurbishing and modernizing its facilities and preparing

⁸ ALJ Report dated January 29, 2010, and filed in Port Docket 09-02, pgs. 5-6.

for the massive expansion of port operations needed to handle the increased container load resulting from the anticipated military buildup. The appraisal reports of Captain, Hutapea & Associates, as well as the recommendations of the PUC Consultant, Slater, Nakamura, established that the tariff and rate increases requested by the Port are "just" and "reasonable". Tariff increases are justified based upon increases in the consumer price index and an analysis of market comparables.

6. Cargo handling charges (including labor charges) should be increased by 3.4%.
7. Fuel Storage, Throughput and Bunkering Fees, should be increased in the amounts requested by the Port in accordance with the appraisal reports prepared by Captain, Hutapea & Associates, and the recommendations of Slater, Nakamura. Although such increase approximates 150%, the bunkering fees of the Port, after such increase, will still be on the low side of market comparables.
8. Pipeline easement rates shall be set at 25% of market value for pipelines on land with existing easement rights of way and 50% for those not within current easements.
9. The increases in the boat slip charges for the Agana Marina requested by PAG to bring the same up to the level of charges assessed for the Agat Marina, should not be granted due to the notice and other issues referenced in the ALJ Report and the Recommendations of Slater, Nakamura.
10. PAG should be authorized to implement a proposed facility maintenance fee of \$25.00 for each bill of lading. Such fee is "just" and "reasonable", and many other ports impose such a fee. Prior to implementation of the Facilities Maintenance fee of \$25 per bill of lading, the PAG should develop a process and policy for exempting cargo from this fee when the total value of the cargo covered by the bill of lading is valued at \$2,500 or less. Included in the policy would be a provision to allow shippers who frequently ship items below the \$2,500 threshold to be exempt from the fee. The policy should also include a provision for shippers to apply for a refund from the PAG for cargo whose bill of lading is less than \$2,500.
11. The Commission should approve the PORT AUTHORITY OF GUAM TARIFF RATE TABLE made *Attachment A* hereto; the tariffs and rates set forth therein are "just" and "reasonable and in conformance with public

law." "Just" and "reasonable" rates must enable a public utility such as PAG to cover its operating expenses. 12 GCA §12017.

Ordering Provisions

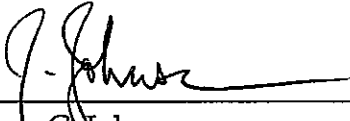
After careful review and consideration of the above determinations, for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission HEREBY ORDERS that:

1. PAG is awarded a 3.4% increase in cargo handling charges (including labor charges) effective February 1, 2010.
2. All increases in tariffs, rates, charges, and fees, as set forth herein, shall be effective on February 1, 2010.
3. Bunkering/Fuel Throughput/Waste Oil Fees, and related fees, shall be increased in accordance with the amounts set forth in the PORT AUTHORITY OF GUAM TARIFF RATE TABLE made *Attachment A* hereto.
4. PAG is authorized to set pipeline easement rates at 25% of market value for pipelines on land with existing easement rights of way and 50% for those not within current easements.
5. The request by PAG to increase the boat slip charges for the Agana Marina to the same level of charges assessed for the Agat Marina is denied. Prior to approving any interim tariff increase for the Agana Marina fees, PUC requires PAG to develop and conduct a public outreach effort to citizens who will be impacted by the requested fee increase. PAG shall develop a marina facilities improvement plan with a budget and detailed timeline. The public should have an opportunity to review and comment upon such plan. Thereafter PAG shall submit a report to the PUC.
6. PAG is authorized to implement a proposed facility maintenance fee of \$25.00 for each bill of lading. Prior to implementation of the Facilities Maintenance fee of \$25 per bill of lading, the PAG shall develop a process and policy for exempting cargo from this fee when the total value of the cargo covered by the bill of lading is valued at \$2,500 or less. Included in the policy will be a provision to allow shippers who frequently ship items below the \$2,500 threshold to be exempt from the fee. The policy will also include a provision for shippers to apply for a refund from the PAG for

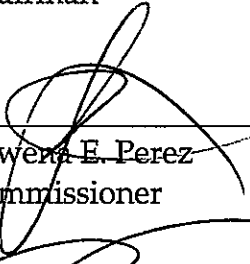
cargo whose bill of lading is less than \$2,500. Such policy shall become effective only upon approval of PUC.

7. All tariffs, rates, charges and other fees set forth in the PORT AUTHORITY OF GUAM TARIFF RATE TABLE made *Attachment A* hereto are hereby approved and adopted.
8. PAG shall amend its rate and tariff schedules in accordance with this Order and file the same with the Commission.
9. All tariffs, rates, charges and fees approved herein are "interim" in nature, and may be amended or altered by the Commission upon appropriate action on or before December 31, 2010, or in a full rate proceeding.
10. PAG 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.

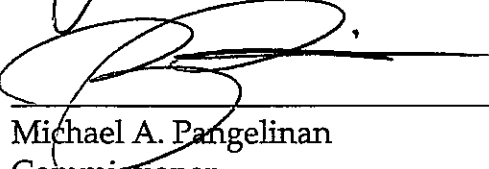
Dated this 29th day of January, 2010.



Jeffrey C. Johnson
Chairman




Rowena E. Perez
Commissioner



Michael A. Pangelinan
Commissioner

Joseph M. McDonald
Commissioner



Filomena M. Cantoria
Commissioner

**PORT AUTHORITY OF GUAM
TARIFF RATE TABLE**

CHARGE DESCRIPTION	CHARGE RATE	% INCREASE	PROPOSED RATE
CHASSIS RATE (20',40',&45')			
CHASSIS IMPORT/EXPORT/REHANDLE CONT STUFF - HANDLING	80.00	3.4%	82.72
CHASSIS IMPORT/EXPORT/REHANDLE CONT STUFF - STEVEDORE	105.00	3.4%	108.57
TOTAL	185.00		191.29
GROUNDING RATE (20',40',&45')			
GROUNDING IMPORT/EXPORT/REHANDLE/EMPTY CONTAINER STUFF - HANDLING	150.00	3.4%	155.10
GROUNDING IMPORT/EXPORT/REHANDLE/EMPTY CONTAINER STUFF - STEVEDORE	105.00	3.4%	108.57
TOTAL	255.00		263.67
BREKBUK			
BREKBUK EXPORT - HANDLING	6.80	3.4%	7.03
BREKBUK EXPORT - STEVEDORING	13.90	3.4%	14.37
TOTAL	20.70		21.40
UNITIZED			
UNITIZED CARGO IMPORT/EXPORT - STEVEDORE	5.65	3.4%	5.84
UNITIZED CARGO IMPORT/EXPORT - HANDLING	7.00	3.4%	7.24
TOTAL	12.65		13.08
LIFT OFF/ON			
LIFT OFF/ON AUTO IMPORT/EXPORT - HANDLING	6.80	3.4%	7.03
RO/RO LIFT OFF/ON AUTO IMPORT/EXPORT - STEVEDORE	13.90	3.4%	14.37
TOTAL	20.70		21.40
RO/RO			
RO/RO IMPORT/EXPORT/TRANSHIPMENT - HANDLING	25.00	3.4%	25.85
RO/RO IMPORT/EXPORT/TRANSHIPMENT - STEVEDORING	10.00	3.4%	10.34
TOTAL	35.00		36.19
RO/RO VEHICLE (VEHICLE OVER 6,000 LBS)			
RO/RO VEHICLE IMPORT/EXPORT/TRANSHIPMENT - HANDLING	7.00	3.4%	7.24
RO/RO VEHICLE IMPORT/EXPORT/TRANSHIPMENT - STEVEDORE	5.65	3.4%	5.84
TOTAL	12.65		13.08
DEVANNING/STUFFING AUTO SPECIAL RATE			
DEVANNING	150.00	3.4%	155.10
STUFFING	150.00	3.4%	155.10
HEAVYLIFT			
HEAVYLIFT REGULAR IMPORT/EXPORT/TRANSHIPMENT - HANDLING	2.10	3.4%	2.17
HEAVYLIFT REGULAR IMPORT/EXPORT/TRANSHIPMENT - STEVEDORE	2.10	3.4%	2.17
TOTAL	4.20		4.34
LONGLENGTH			
LONGLENGTH IMP/EXP > 45' & =< 50'	16.30	3.4%	16.85
LONGLENGTH IMP/EXP > 50' & =< 60'	38.15	3.4%	39.45
LONGLENGTH IMP/EXP > 60' & =< 70'	49.15	3.4%	50.82
LONGLENGTH IMP/EXP > 70' & =< 80'	59.30	3.4%	61.32
LONGLENGTH IMP/EXP > 80' & =< 90'	69.45	3.4%	71.81
LONGLENGTH IMP/EXP > 90' & =< 100'	79.60	3.4%	82.31
LONGLENGTH IMP/EXP > 100' & =< 110'	89.75	3.4%	92.80
LONGLENGTH IMP/EXP > 110' & =< 120'	99.90	3.4%	103.30
LONGLENGTH IMP/EXP > 120' & =< 130'	110.05	3.4%	113.79

**PORT AUTHORITY OF GUAM
TARIFF RATE TABLE**

<u>CHARGE DESCRIPTION</u>	<u>CHARGE RATE</u>	<u>% INCREASE</u>	<u>PROPOSED RATE</u>
LONGLENGTH IMP/EXP > 130' & =< 140'	120.20	3.4%	124.29
PRESLUNG IMPORT/EXPORT/TRANSHIPMENT			
PRESLUNG IMPORT/EXPORT/TRANSHIPMENT - HANDLING	6.80	3.4%	7.03
PRESLUNG IMPORT/EXPORT/TRANSHIPMENT - STEVEDORING	8.20	3.4%	8.48
TOTAL	15.00		15.51
TRANSHIPMENT STUFF (20',40'&45') 1ST CARRIER - SCALE			
IMPORT CONT TRANSHIPMENT STUFF LESS THAN 10 CONTAINERS	235.00	3.4%	242.99
IMPORT CONT TRANSHIPMENT STUFF 10-29 CONTAINERS	230.00	3.4%	237.82
IMPORT CONT TRANSHIPMENT STUFF 30-69 CONTAINERS	225.00	3.4%	232.65
IMPORT CONT TRANSHIPMENT STUFF 70-99 CONTAINERS	220.00	3.4%	227.48
IMPORT CONT TRANSHIPMENT STUFF 100-129 CONTAINERS	215.00	3.4%	222.31
IMPORT CONT TRANSHIPMENT STUFF 130-149 CONTAINERS	210.00	3.4%	217.14
IMPORT TRANSHIPMENT CONT STUFF 150+ CONTAINERS	195.00	3.4%	201.63
IMPORT EMPTY TRANSHIP FR-2ND CARR (20',40'&45')	100.00	3.4%	103.40
IMPORT EMPTY TRANSHIP FR-2ND CARR (20',40'&45') - DOMESTIC	140.00	3.4%	144.76
OVERSTOW CONTAINER (20',40'&45')			
IMPORT/EXPORT OVERSTOW CONTAINER (20',40'&45')	50.00	3.4%	51.70
SHIFTED CONTAINER (20',40'&45')			
IMPORT/EXPORT SHIFT CONTAINER (20',40'&45')	50.00	3.4%	51.70
SPECIAL RIGGING (20',40'&45')			
IMPORT/EXPORT ALL SPECIAL RIGING OF CNTR	35.00	3.4%	36.19
WHARFAGE RATES			
WHARFAGE EMPTY CONT IMPORT <25 (20' CONTAINER)	2.60	3.4%	2.69
WHARFAGE EMPTY CONT IMPORT >25 (40' & 45' CONTAINER)	3.50	3.4%	3.62
WHARFAGE TRANSHIPMENT TUNA	3.50	3.4%	3.62
WHARFAGE BREAKBULK IMPORT	3.50	3.4%	3.62
WHARFAGE BREAKBULK EXPORT/ALL OTHER CARGO	1.75	3.4%	1.81
WHARFAGE EXPORT CONTAINER STUFF (20' CONTAINER)	32.60	3.4%	33.71
WHARFAGE EXPORT CONTAINER STUFF (40' & 45' CONTAINER)	55.50	3.4%	57.39
WHARFAGE IMPORT CONTAINER STUFF (20' CONTAINER)	62.60	3.4%	64.73
WHARFAGE IMPORT CONTAINER STUFF (40' & 45' CONTAINER)	107.50	3.4%	111.16
WHARFAGE RATES-TRANSHIPMENT OF OTHER CARGO UTILIZING PIPELINES AND /OR HOSES			
INBOUND	3.50		8.75
OUTBOUND	1.75		4.38
BUNKERING/FUEL THROUGHPUT/WASTE OIL			
IMPORT THROUGHPUT	0.16		0.40
EXPORT THROUGHPUT	0.075		0.19
FROM TRUCK TO VESSEL WHEN SERVICED AT PORT PIERS	0.16		0.40
DIRECT TO OR FROM VESSEL THRU PRIVATELY OWNED PIPELINE LOCATED ON PORT PROPERTY	0.14		0.35
VESSEL TO VESSEL	0.16		0.40
FUEL STORAGE	0.40		0.90
BUNKERING	0.21		0.53

**PORT AUTHORITY OF GUAM
TARIFF RATE TABLE**

<u>CHARGE DESCRIPTION</u>	<u>CHARGE RATE</u>	<u>% INCREASE</u>	<u>PROPOSED RATE</u>
MARITIME SECURITY FEE			
MARITIME SEC. BB/PRESLUNG/UNITIZED	0.10	3.4%	0.10
MARITIME SEC. FEE BUNKERING	0.02	3.4%	0.02
MARITIME SEC. FEE STUFFED IMPORT/EXPORT	2.00	3.4%	2.07
MARITIME SEC. PASSENGER VESSEL	1.00	3.4%	1.03
MARITIME SEC. FEE RO/RO	1.00	3.4%	1.03
MARITIME SEC. SAND/SCRAP/AGGRE	0.02	3.4%	0.02
MARITIME SEC. VESSEL DOCKAGE	0.05	3.4%	0.05
DEMURRAGE			
DEMURRAGE- GREATER THAN 20' (40' & 45')	42.00	3.4%	43.43
DEMURRAGE CONTAINER EMPTY	7.00	3.4%	7.24
OUTSIDE WAREHOUSE DEMURRAGE BREAKBULK	10.00	3.4%	10.34
INSIDE WAREHOUSE DEMURRAGE BREAKBULK	15.00	3.4%	15.51
REFRIGERATED CT DEMURRAGE	70.00	3.4%	72.38
DEMURRAGE 20' CONTAINER	21.00	3.4%	21.71
REISSUE OF EMPTIES			
CHASSIS EMPTY CT DEMURRAGE	25.00	3.4%	25.85
GROUNDING EMPTY CT DEMURRAGE	50.00	3.4%	51.70
OTHER RATES			
CLAIMS FEE	25.00	3.4%	25.85
BULK SCRAP METAL	12.50	3.4%	12.93
BULK SCRAP METAL (SPECIALRATE)	2.50	3.4%	2.59
BULK SAND STEVEDORING IMPORT	3.50	3.4%	3.62
PASSENGER FEE ARRIVAL	3.50	3.4%	3.62
PASSENGER FEE DEPARTURE	1.50	3.4%	1.55
BUNKER LABOR COST OT/HOLIDAY	27.50	3.4%	28.44
BUNKER LABOR COST ST	25.00	3.4%	25.85
PRE-TRIP POWER SURCHARGE	49.00	3.4%	50.67
LCOR - LINE HANDLING O/T 6 MEN	450.00	3.4%	465.30
LCOR - LINE HANDLING O/T 8 MEN	600.00	3.4%	620.40
LCOR - LINE HANDLING S/T 6 MEN	300.00	3.4%	310.20
LCOR - LINE HANDLING S/T 8 MEN	400.00	3.4%	413.60
CHASSIS CHANGE	30.00	3.4%	31.02
METERED WATER RATE	54.47	3.4%	56.32
WATER CONNECT/DISCONNECT HOLID	80.00	3.4%	82.72
WATER CONNECT/DISCONNECT REGUL	35.00	3.4%	36.19
WATER FIXED RATE	6.00	3.4%	6.20
REGULAR WATER CHARGE	12.32	3.4%	12.74
EXPORT EMPTY CONTAINER	150.00	3.4%	155.10
IMPORT EMPTY CONTAINER	150.00	3.4%	155.10
TUNA SERVICES	10.25	3.4%	10.60
PORT ENTRY FEE	25.00	3.4%	25.85

**PORT AUTHORITY OF GUAM
TARIFF RATE TABLE**

<u>CHARGE DESCRIPTION</u>	<u>CHARGE RATE</u>	<u>% INCREASE</u>	<u>PROPOSED RATE</u>
EQUIPMENT RENTAL			
Forklift, rated capacity below 20,000 lbs	30.00	3.4%	31.02
Forklift, rated capacity 20,000 lbs but less than	50.00	3.4%	51.70
Forklift, rated capacity 40,000 lbs or greater	56.00	3.4%	57.91
Top Lifter	60.00	3.4%	62.04
Side Lifter	35.00	3.4%	36.19
Tractor	34.00	3.4%	35.15
Rubber Tired Gantry Crane	170.00	3.4%	175.78
Manitowoc, 140 tons	315.00	3.4%	325.71
Crane, Gantry, Heavy Lifts	394.00	3.4%	407.39
Pick-up Truck, 3/4 ton capacity or less	20.00	3.4%	20.68
Truck, Dump	23.00	3.4%	23.78
Welding Machine	34.00	3.4%	35.15
Dock Mule	11.50	3.4%	11.89
Dock Dolly, rated 2,000 lbs	2.50	3.4%	2.59
Dolly Trailer, rated capacity 20 tons	11.50	3.4%	11.89
DIRECT LABOR			
<u>STRAIGHT TIME</u>			
Stevedoring	34.47	3.4%	35.64
Crane Operator	33.90	3.4%	35.05
Equipment Operator	32.11	3.4%	33.20
Auto Mechanics	33.58	3.4%	34.72
Diesel Mechanic	33.99	3.4%	35.15
Crane Mechanic	37.82	3.4%	39.11
Riggers	33.86	3.4%	35.01
Electrician	34.98	3.4%	36.17
Cargo Checkers	31.02	3.4%	32.07
Security Guard	34.40	3.4%	35.57
Carpenters	34.55	3.4%	35.72
Plumbers	34.55	3.4%	35.72
Painters	30.74	3.4%	31.79
Preventive Maint. Mechanic	34.55	3.4%	35.72
Welders	36.76	3.4%	38.01
Clerks	24.64	3.4%	25.48
<u>OVERTIME</u>			
Stevedoring	51.70	3.4%	53.46
Crane Operator	50.86	3.4%	52.59
Equipment Operator	48.19	3.4%	49.83
Auto Mechanics	50.37	3.4%	52.08
Diesel Mechanic	50.99	3.4%	52.72
Crane Mechanic	56.74	3.4%	58.67
Riggers	50.78	3.4%	52.51
Electrician	52.47	3.4%	54.25
Cargo Checkers	46.54	3.4%	48.12
Security Guard	51.60	3.4%	53.35
Carpenters	51.84	3.4%	53.60

**PORT AUTHORITY OF GUAM
TARIFF RATE TABLE**

<u>CHARGE DESCRIPTION</u>	<u>CHARGE RATE</u>	<u>% INCREASE</u>	<u>PROPOSED RATE</u>
Plumbers	51.84	3.4%	53.60
Painters	46.12	3.4%	47.69
Preventive Maint. Mechanic	51.84	3.4%	53.60
Welders	55.14	3.4%	57.01
Clerks	36.94	3.4%	38.20
<u>OT DIFFERENTIAL</u>			
Stevedoring	17.24	3.4%	17.83
Crane Operator	16.95	3.4%	17.53
Equipment Operator	16.07	3.4%	16.62
Auto Mechanics	16.79	3.4%	17.36
Diesel Mechanic	17.01	3.4%	17.59
Crane Mechanic	18.91	3.4%	19.55
Riggers	16.92	3.4%	17.50
Electrician	17.49	3.4%	18.08
Cargo Checkers	15.52	3.4%	16.05
Security Guard	17.22	3.4%	17.81
Carpenters	17.28	3.4%	17.87
Plumbers	17.28	3.4%	17.87
Painters	15.38	3.4%	15.90
Preventive Maint. Mechanic	17.28	3.4%	17.87
Welders	18.38	3.4%	19.00
Clerks	12.32	3.4%	12.74
<u>HD DIFFERENTIAL</u>			
Stevedoring	27.34	3.4%	28.27
Crane Operator	26.87	3.4%	27.78
Equipment Operator	25.45	3.4%	26.32
Auto Mechanics	26.61	3.4%	27.51
Diesel Mechanic	26.94	3.4%	27.86
Crane Mechanic	29.96	3.4%	30.98
Riggers	26.82	3.4%	27.73
Electrician	27.72	3.4%	28.66
Cargo Checkers	24.59	3.4%	25.43
Security Guard	27.25	3.4%	28.18
Carpenters	27.39	3.4%	28.32
Plumbers	27.39	3.4%	28.32
Painters	24.35	3.4%	25.18
Preventive Maint. Mechanic	27.39	3.4%	28.32
Welders	29.13	3.4%	30.12
Clerks	19.51	3.4%	20.17
<u>NIGHT DIFFERENTIAL</u>			
Stevedoring	2.75	3.4%	2.84
Crane Operator	2.71	3.4%	2.80
Equipment Operator	2.58	3.4%	2.67
Auto Mechanics	2.70	3.4%	2.79
Diesel Mechanic	2.71	3.4%	2.80
Crane Mechanic	3.01	3.4%	3.11
Riggers	2.71	3.4%	2.80
Electrician	2.79	3.4%	2.88
Cargo Checkers	2.48	3.4%	2.56

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TARIFF RATE TABLE**

<u>CHARGE DESCRIPTION</u>	<u>CHARGE RATE</u>	<u>% INCREASE</u>	<u>PROPOSED RATE</u>
Security Guard	2.74	3.4%	2.83
Carpenters	2.75	3.4%	2.84
Plumbers	2.75	3.4%	2.84
Painters	2.46	3.4%	2.54
Preventive Maint. Mechanic	2.75	3.4%	2.84
Welders	2.92	3.4%	3.02
Clerks	1.98	3.4%	2.05
PIPELINE EASEMENT LEASE RATES			
a. Within Existing Right of Way			25% of Fair Market Rent
b. Not Within the Right of Way			50% of Fair Market Rent