

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

GUAM WATERWORKS AUTHORITY  
PETITION FOR RATE RELIEF

DOCKET 05-5



FY06 RATE ORDER

*Background*

On December 13, 2005, Guam Waterworks Authority [GWA] petitioned the Guam Public Utilities Commission [PUC] for an 8% rate increase over current revenues effective February 1, 2006 and for approval of the rate elements in its proposed sewer hookup fund rule, which will provide financing to enable persons to connect to its wastewater system.

Under an expedited schedule, Georgetown Consulting Group [GCG] examined the petitions and filed its report on January 13, 2006. In furtherance of prehearing conferences, GWA and GCG resolved differences between GWA's petition and GCG's report and joined in a January 25, 2006 stipulation, which is made *Attachment A*.

On January 25 and 26, 2006, PUC conducted duly noticed public hearings on GWA's petitions. After carefully considering the Stipulation, the record herein and the January 31, 2006 report of its administrative law judge [ALJ], for good cause shown and on motion duly made, seconded and carried by the affirmative vote of the undersigned commissioners, the Guam Public Utilities Commission makes the following determinations:

*Determinations*

1. By this Rate Order, PUC concludes regulatory activities under the Interim Financial Plan, as approved by PUC's March 31, 2004 [March Order] and October 14, 2004 [October Order] Rate Orders in Docket 04-01.
2. Future GWA rate petitions will be considered within the context of its Final Financial Plan, which under section 30 of the *Stipulated Order*<sup>1</sup> must be finalized and submitted for PUC approval during this fiscal year. GWA must comply with the prefiling notice requirements of 12 GCA 12001.2 before filing its next rate petition with PUC.

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<sup>1</sup> Stipulated Order For Preliminary Relief in United States District Court – Territory of Guam No. 02-35 [USA v. Guam Waterworks Authority and Government of Guam].

3. An integral part of the Final Financial Plan will be a restructured user fee system, which under the Stipulated Order must be based on actual water usage, estimated wastewater generation and actual costs of services. Pursuant to the mandate of P.L. 26-124, this user fee system must include a system development charge.
4. Consistent with the principles under which PUC established a Rate Stabilization Plan in the October Order, GWA should be awarded a 3% rate increase on current revenues *[excluding the Navy-GPA Surcharge, Supplemental Annuities Surcharge and lifeline revenues]* effective for services rendered on and after the date of this Rate Order. Revenues produced by this rate increase, except as provided in determination #6 below, should be subject to the requirements and restrictions set forth in the October Order regarding the Rate Stabilization Trust Account *[Account]*.
5. In order to simplify the Account's administration, GWA should commencing March 2006 deposit into the Account 11.3% of its collected water and wastewater revenues *[excluding Supplemental Annuities Surcharge and Navy-GPA Surcharge revenues]* in satisfaction of the requirement that revenues produced by the October Order rate increase and by the 3% rate increase in this Order be deposited into the Account. It is estimated that this will result in annual deposits of about \$3.6 million dollars.
6. GWA should be authorized to utilize not to exceed \$2 million dollars in the Account as a temporary source of working capital to meet operational and maintenance expenses. Any such withdrawal should be replaced before the end of the fiscal year in which it is made. This authorization should be conditioned upon GWA filing an Account reconciliation report for the period October 2004 through December 2005, in form and content approved by ALJ. GWA should not withdraw funds under this determination until it receives ALJ's approval of the reconciliation report. GWA should file quarterly status reports on the Account, including details of any withdrawals, in form and content required by ALJ.
7. Pursuant to section 1(f) of the GWA Contract Review Protocol<sup>2</sup>, the ceiling for GWA's FY06 internally funded capital improvement projects should be set at \$3.6 million dollars.
8. In furtherance of PUC's October 27, 2005 Order in Docket 05-10, GWA should be authorized to utilize not to exceed \$4.751 million dollars from the Contingency Reserve established by the Order to fund distribution line upgrades.

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<sup>2</sup> See PUC Order dated October 27, 2005 in Docket 00-04.

9. As an adjunct to the requirements of Stipulated Order section 31, GWA should file with PUC annual five year projection reports, in form established by ALJ, which detail all amounts projected to be expended by year within the period for construction projects by line item and identified by funding source [bond, grant, internal funding]. The reports should also present comparisons between projected and actual amounts. The reports should be filed with PUC within 60 days of the close of each fiscal year. The FY05 report should be due on or before May 1, 2006.
10. The Supplemental Annuities Surcharge, as established by the March Order, should be amended to increase the surcharge rate from 2.59% to 4.13% on current revenues including the increase approved by this Order, but excluding the Navy-GPA Surcharge and lifeline revenues. This increase will enable GWA to recover, over a 5 year period, GWA's historic \$1.6 million dollar legislatively mandated obligation to pay for its retiree's supplemental retiree benefits, including supplemental annuities and life, dental and health insurance premiums. The increase will also fund GWA's current legislatively mandated obligation for these expenses [*the Mandate*]. This increase should be reviewed by PUC during its summer 2006 regulatory session, within the context of the status of PUC's pursuit of a declaratory ruling on the Mandate's legality. PUC should reserve the right after such review to abolish or reduce the surcharge amount.
11. In the March Order, PUC determined, after review of the February 27, 2004 opinion of Klemm Blair Sterling and Johnson, that there are substantial questions regarding the Mandate's legality. GWA has been unable to comply with the requirement in the March Order that it seek a declaratory ruling on this issue. After further review, PUC determines that it should pursue a declaratory ruling from a court of competent jurisdiction on this issue, which has an impact on GPA and GWA ratepayers in excess of \$1 million dollars per year.
12. Within 90 days of this Rate Order, GWA should: a) file with PUC an opinion from its auditors whether it is required to record an allowance for funds used during construction [AFUDC] and an opinion from bond counsel regarding whether AFUDC impacts the debt service coverage calculation; and b) post its service rules on its website.
13. The rate elements of GWA's wastewater revolving loan fund rule should be approved.
14. GWA should be required under ALJ's oversight to update the debt retirement and receivables collection plans, which were required by the March Order.

### *Order*

After careful review and consideration of the above determinations, the report and recommendations of its ALJ, the stipulation and record herein, for good cause shown, on motion duly made, seconded, and carried by the undersigned commissioners, the Guam Public Utilities Commission **HEREBY ORDERS THAT:**

1. All rulings and orders of the ALJ during the course of this proceeding are confirmed and ratified. All motions not heretofore granted or denied are denied. No other matters currently require discussion.
2. A 3% rate increase on current revenues [excluding the Navy-GPA Surcharge, the Supplemental Annuities Surcharge and lifeline revenues] is hereby awarded for services rendered on and after the date of this Order. Revenue resulting from this increase shall, except as provided in section 4 below, be subject to the requirements and restrictions established in the October Order regarding the Account.
3. In order to simplify the Account's administration, GWA shall commencing March 2006 deposit into the Account 11.3% of its collected water and wastewater revenues *[excluding Supplemental Annuities Surcharge and Navy-GPA Surcharge revenues]* in satisfaction of the requirement that revenues produced by the October Order rate increase and by the 3% rate increase in this Order be deposited into the Account.
4. GWA is authorized, subject to the following condition, to utilize not to exceed \$2 million dollars from the Account as a temporary source of working capital to meet operational and maintenance expenses. Any withdrawal, which is made pursuant to this authorization, shall be replaced before the end of the fiscal year in which the withdrawal is made. This authorization is strictly conditioned upon GWA filing an Account reconciliation report for the period October 2004 through December 2005, in form and content approved by ALJ. GWA shall have no authority to withdraw funds until it receives ALJ's approval of the reconciliation report. GWA shall file quarterly reports on the Account, including details of any withdrawals, in form and content required by ALJ.
5. GWA's FY06 internally funded capital improvement project ceiling is set at \$3.6 million dollars.
6. GWA is authorized to utilize not to exceed \$4.751 million dollars from the Contingency Reserve established in PUC's October 27, 2005 Order in Docket 05-10 to supplement approved bond funding for distribution line upgrades.

7. GWA shall file annual five year projection reports, in form established by ALJ, which detail all amounts projected to be expended by year within the period for construction projects by line item and identified by funding source [bond, grant, internal funding]. The reports shall also present comparisons between projected and actual amounts. The reports shall be filed with PUC within 60 days of the close of each fiscal year. The FY05 report shall be due on or before May 1, 2006.
8. The Supplemental Annuities Surcharge, as established and governed by the March Order, is hereby amended to increase the surcharge rate from 2.59% to 4.13% on current revenues including the increase approved by this Order, but excluding the Navy-GPA Surcharge and lifeline revenues. This increase shall be reviewed by PUC at its summer 2006 regulatory session. PUC reserves the right, after such review, to abolish or reduce the surcharge amount.
9. PUC's chairman is hereby authorized to retain counsel to seek, under ALJ oversight, a declaratory ruling from a court of competent jurisdiction on Mandate's legality and appropriate relief as it applies to GPA and GWA. GPA and GWA shall bear the expense of this effort.
10. Within 90 days of this Rate Order, GWA shall: a] file with PUC an opinion from its auditors whether it is required to record an allowance for funds used during construction [AFUDC] and an opinion from bond counsel regarding whether AFUDC impacts the debt service coverage calculation; and b] post its service rules on its website.
11. The rate elements of GWA's wastewater revolving loan fund rule are approved.
12. GWA shall under ALJ's oversight update the debt retirement and receivables collection plans, which were required by the March Order.
13. GWA shall pay for PUC's expenses, including without limitation, consulting and counsel fees and expenses and the expenses of conducting the hearing process.

Dated this 2<sup>nd</sup> day of February 2006.

  
Terrence M. Brooks

  
Edward C. Crisostomo

  
Joseph M. McDonald

  
Rowena E. Perez



**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF GUAM**

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PETITION OF GUAM WATERWORKS )  
AUTHORITY FOR FY06 RATE RELIEF )  
AND RELATED MATTERS )  
\_\_\_\_\_ )

DOCKET 05-05



*Stipulation*

Guam Waterworks Authority [GWA] and Georgetown Consulting Group, Inc. [GCG], which serves as independent regulatory consultant to the Guam Public Utilities Commission [PUC], hereby enter into this stipulation and request PUC's favorable consideration of the following points:

1. This rate proceeding will conclude regulatory activities under the Interim Financial Plan [IFP], as approved by PUC's March 31, 2004 and October 14, 2004 Rate Orders in Docket 04-01. Future GWA rate proceedings will be considered under the parameters of GWA's Final Financial Plan [FFP], which is expected to undergo regulatory review prior to the next rate proceeding. Both the IFP and the FFP are mandated by the Stipulated Order For Preliminary Relief in United States District Court – Territory of Guam Civil Case No. 02-35 [USA v. Guam Waterworks Authority and Government of Guam] [Stipulated Order].
2. Under Section 30 of the Stipulated Order, GWA is ordered to submit the FFP to PUC for its review and approval. The FFP, which is being prepared for GWA in consultation with the firm Brown and Caldwell, is expected to be ready in draft form on or about April 2006. GWA agrees to file a copy of the draft FFP with PUC and to participate in administrative discussions about the draft in anticipation of GWA's petition for regulatory review of the final FFP.
3. In furtherance of the Rate Stabilization Plan established by PUC's October 14, 2004 Rate Order in Docket 04-01, which is designed gradually to increase rates to a level necessary to enable GWA to meet its anticipated future financial and legal obligations, including GWA's obligations under GWA's 2005 bonds and the Stipulated Order, and consistent with PUC's

commitment to provide needed rate relief to GWA, GWA and GCG recommend that GWA be awarded a 3% rate increase on current water and wastewater revenues, excluding the Navy-GPA surcharge and lifeline revenues, effective for services rendered on and after the date of the order approving this stipulation. The overall increase in revenues shall be collected from all non-lifeline tariff categories. For the water system this will result in a 3.57% increase in all non-life line tariffs. For the wastewater system this will result in a 4.89% increase in all non-lifeline tariffs. Consistent with section 4 of PUC's October 14, 2004 Rate Order, the revenues produced by this rate increase should be deposited into the Rate Stabilization Trust Account ("Account") and should be subject to the regulatory controls imposed on this Account, subject to the changes recommended below. In order to simplify the administration of the Account, GWA and GCG recommend that GWA be required to deposit 11.3% of its collected water and wastewater revenues per month into the Account commencing March 2006. Based on the test year projections in this rate case, this should result in an annual deposit into the Account of \$3,600,000. GWA should be allowed to petition the PUC for the authorization to use funds deposited in the Account either to support certification of the availability of funds to pay for or to pay for capital improvement projects as may be necessary and approved by the CCU. In addition, GCG and GWA recommend that GWA be allowed, without the need to seek prior PUC approval, to access up to \$2,000,000 in the Account as a temporary source of working capital to meet ongoing operational and maintenance expenses, in the event of temporary shortfalls in GWA's regular cash flow. Funds withdrawn from the Account by GWA to meet temporary cash flow shortfalls should be replaced by GWA as soon as cash becomes available. All withdrawals made from the account for working capital will be replaced not later than the end of the fiscal year within which the withdrawal was made. GWA shall not withdraw or make any use of funds in the Account until and unless the quarterly report for the period ending December 31, 2005, as required under Paragraph 4 below, is filed with PUC.

4. GWA should continue to be required to report to PUC on a quarterly basis the status of the Account, and any temporary borrowings from it made pursuant to this limited authorization must be reported within 30 days from the date of withdrawal. GWA will file, not later than February 28, 2006, a quarterly report for the period ending December 31, 2005. This report shall include, in addition to the information already required to be included, the following:

- a. GWA shall provide an explanation of how the amounts deposited in the Account were determined or calculated. If GWA takes the position that the amounts deposited in the Account are consistent with the PUC order or orders establishing the account, GWA should so state. If GWA agrees that there is a deficiency in the amount deposited in the Account, as of December 31, 2005, then GWA should explain the reasons for the deficiency and provide a plan as to how that deficiency will be made up.
  - b. GWA shall provide a report on the status of its ongoing collection efforts and policies.
  - c. GWA shall provide a summary of its outstanding accounts payable and its plan to reduce those accounts payable. The plan should include a report on GWA's efforts to reduce or collect its aged accounts receivable.
5. GWA and GCG recommend that PUC approve an FY06 internally funded capital improvement projects ceiling of \$3.6 million in accordance with Section 1(f) of the GWA Contract Review Protocol [*PUC Order dated October 27, 2005 in Docket 00-04*].
6. GWA shall file a schedule that details all of the amounts projected to be expended for construction projects by line item segregated by bond funded, grant funded and internally funded for the next 5 years within 90 days. Fiscal Year comparisons between projected and actual amounts should be provided to the PUC within 60 days of the close of the fiscal year.
7. Under the terms of PUC's October 27, 2005 Order in Docket 05-10, GWA is required to obtain prior regulatory approval for utilizing bond revenues from the Contingency Reserve established in paragraph 1(e) of the Order. GWA and GCG recommend that GWA be authorized to utilize up to \$4.751 million from the Contingency Reserve to fund distribution line upgrades resulting in a total use from the bond construction fund for this purpose of \$12.951 million.
8. GWA and GCG recommend that the Legislative Surcharge, as established by PUC's March 31, 2004 Order in Docket 04-01, be amended to increase the surcharge rate from 2.59% to 4.13% on current revenues, excluding the Navy-GPA surcharge and lifeline revenues. This increased rate would enable GWA to recover, over a 5 year period, GWA's historic \$1.6 million legislatively-mandated obligation to pay for supplemental retiree benefits,

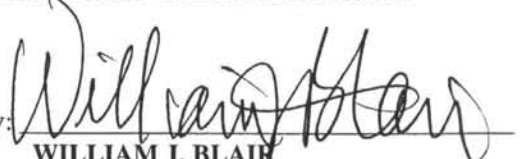


including the cost of supplemental annuities, and life, dental and health insurance premiums, as well as the current supplemental retiree benefits. With regard to the continued uncertainty as to the lawfulness of the Legislature's imposition of this unfunded mandate on GWA, as discussed in the March 31, 2004 Order, GWA understands that in the event PUC decides to seek a declaratory ruling on the lawfulness of the Legislature's mandate that GWA pay these expenses, GWA may be assessed for the incident regulatory expenses.

9. GWA will request an opinion from its auditors regarding whether it is required to record an allowance for funds used during construction [AFUDC]. GWA will also request an opinion from bond counsel regarding whether AFUDC impacts the debt service coverage calculations. These opinions will be provided to PUC within 90 days.
10. GWA agrees within the next 90 days to post its service rules on its website.
11. GWA and GCG recommend that PUC approve the interest rate provisions of GWA's proposed Wastewater Revolving Loan Fund Rule pursuant to 12 GCA 12004.

Dated this 25<sup>th</sup> day of January 2006.

**BLAIR STERLING JOHNSON**  
**MOODY 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 Guam Waterworks Authority*

**GUAM WATERWORKS AUTHORITY**  
Impact of Rate Changes

**Residential Customer**  
**3/4 Inch Pipe**

		<u>Current</u>	<u>Current</u>	<u>Proposed</u>	<u>Proposed</u>	
		<u>Rate</u>	<u>Bill</u>	<u>Rate</u>	<u>Bill</u>	
Water Service Charge/mo.			\$ 7.20		\$ 7.46	
First 5000 GAL per month	5,000 x	2.40	12.00	2.40	12.00	
Over 5000 GAL per month	3,400 x	3.43	11.66	3.55	12.08	
Sewer Service Charge			22.00		22.00	
GPA/Navy Surcharge	9.51%		1.79	9.51%	1.86	
Legislative Surcharge	2.59%		0.49	4.13%	0.81	
TOTAL BILL			\$ 55.14		\$ 56.20	1.91%

**Commercial Customer**  
**3/4 Inch Pipe**

		<u>Current</u>	<u>Current</u>	<u>Proposed</u>	<u>Proposed</u>	
		<u>Rate</u>	<u>Bill</u>	<u>Rate</u>	<u>Bill</u>	
Water Service Charge/mo.			\$ 7.20		\$ 7.46	
28000 GAL per month	28,000 x	4.27	119.56	4.42	123.82	
Sewer Service Charge	22,400 x	2.19	49.06	2.30	51.46	
GPA/Navy Surcharge	9.51%		16.72	9.51%	17.38	
Legislative Surcharge	2.59%		4.55	4.13%	7.55	
TOTAL BILL			\$ 189.89		\$ 200.20	5.43%