

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



GUAM WATERWORKS AUTHORITY
REGULATORY MATTERS

[Miscellaneous Dockets]

ORDER

By this Order, duly considered at the Commission's April 10, 2003 meeting and by the affirmative vote of at least four Commissioners, the Commission takes action on a number of regulatory matters concerning Guam Waterworks Authority [GWA]. This Order addresses the following regulatory subjects:

1. GWA Staffing Study [Docket 01-07].

On April 2, 2003 the Commission conducted a public hearing to consider Georgetown's staffing study of GWA. The study is mandated by P.L. 26-23 and by the Commission's September 13, 2001 Order. GWA filed no comments regarding the study. After discussion and on motion duly made, seconded and carried, the Commission orders that the study be approved. ALJ is authorized and directed to cause the publication of the study results in accordance with P.L. 26-23. For the record, the Commission notes advice from the Consolidated Commission on Utilities [CCU] that it intends to pursue legislation, which will relieve GPA and GWA from the staffing study requirements of P.L. 26-23.

2. GWA/Navy Settlement [Docket 00-01].

CCU has informed the Commission that it is in the final stages of negotiations with Navy regarding the settlement of litigation for amounts owed by GWA to Navy for water services. Under the proposed settlement, GWA would pay Navy \$9 million over 105 months with interest. CCU has proposed and requested that the surcharge, which was established by Commission order dated September 13, 2001; then placed under a one year moratorium by P.L. 26-81; and which is subject to automatic reactivation on May 6, 2003, be amended to permit its use to fund the Navy settlement in addition to regulatory fees and amounts owed to GPA. The Commission has informed CCU that at its request, the Commission would, on its own initiative, commence proceedings to consider this concept during the June 2003 regulatory session. In the event such a request is filed [which may request consideration of other collateral rate issues], ALJ is authorized and directed to oversee prehearing activities, which will lead to June hearing.

3. USA v. GWA [District Court Civil Case 02-035] [Docket 02-02]

Federal EPA and GWA are currently negotiating the terms of a stipulated order [*Stipulated Order*], by which GWA, under EPA oversight, will undertake a broad initiative to restore its facilities and to provide safe, reliable, lawful service to the island. A copy of the proposed 37-page draft Stipulated Order was provided to the Commission for comment. Commission comments were submitted to the party litigants by Chairman Brooks' March 27, 2003 letter. EPA has since conferred with the Commission regarding the important role the Commission will serve under the Stipulated Order.

An issue raised by the Stipulated Order is the extent to which the Commission should be involved, under 12 GCA 12004 [*contract review authority*], in reviewing and issuing prior approval of substantial GWA procurements, which are required by the Stipulated Order. After considering Georgetown's position on this issue [*GCG letter dated April 4, 2003*] and after discussion with its ALJ, on motion duly made, seconded and carried, the Commission finds that the essential purpose of section 12004 [*Commission review of reasonableness and prudence of proposed procurement*] is satisfactorily addressed by the history of the EPA litigation, the depth and scope of the Stipulated Order, and by the fact that EPA will serve a significant oversight role in the crafting and implementation of the various procurements. Accordingly, the Commission finds and orders that procurements required by the Stipulated Order shall not require Commission review and approval under its contract review protocol. The Commission wants to make a clear distinction, under the Stipulated Order between these procurements and the interim and final financial plans, which shall undergo a thorough Commission review and approval process. This Commission decision is part of a broader initiative to reduce regulatory expense and to redefine the necessary scope of its regulatory authority, given the presence of the publicly elected CCU.

For the record, the Commission renews its commitment, as made in its March 14, 2002 Order, that it will provide GWA in a timely manner with adequate rate relief to enable it to comply with an EPA approved strategic plan to restore the utility and bring it into compliance with Federal law.

4. GWA Water Service Charge.

By CCU email inquiry dated March 3, 2003, the Commission was made aware of controversy relating to GWA's practice of assessing a basic service fee for water service, without regard to whether water service is available to a customer. By his March 13, 2003 letter, ALJ posed to GWA and Georgetown questions

regarding this practice and required responses by April 8. ALJ is authorized and empowered after reviewing these responses to determine whether this issue should be included as a matter for Commission consideration during the anticipated June rate hearing.

5. GWA Regulatory Compliance.

GWA is not in compliance with its obligations under the Commission's contract review protocol [*Commission Order dated February 20, 2000*].

Under separate order and as part of a reduction in regulatory work and expense, the Commission has announced a protocol under which it will attempt to rely on GWA reports in lieu of Georgetown studies regarding GWA accounts receivable, payables, financial condition and significant management initiatives. The

Commission has emphasized to CCU the importance of GWA providing this information in a complete and timely manner so that the Commission can discharge its surveillance duty under law.

GWA has also been reminded of the Commission's December 17, 1999 Administrative Order, which provides that a utility will not be awarded regulatory relief unless its regulatory account with the Commission is current. [*Pursuant to the terms of the surcharge established by Commission Order dated September 13, 2001 in Docket 00-01, Commission fees are to be paid from the surcharge proceeds. Accordingly, availability of funds is not an issue regarding the timely payment of regulatory fees.*]

GWA is cautioned that it must bring itself into full regulatory compliance in advance of the June regulatory session.

In light of the Stipulated Order discussed in paragraph 3 above, Commission order regarding GWA compliance with the terms and recommendations of the Commission's revenue cycle audit [*see Commission Consolidated Order dated December 11, 2001*] is abated until further notice. GWA is nevertheless encouraged to consider the audit recommendations as part of its reorganization activities.

Dated this 10th day of April 2003.


Terrence Brooks


Joseph McDonald


Filomena Cantoria


Edward Crisostomo


Gerald Woo