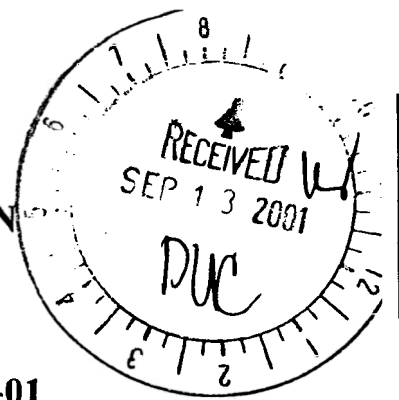


**BEFORE THE PUBLIC UTILITIES COMMISSION
OF GUAM**



**GUAM WATERWORKS AUTHORITY)
RATE APPLICATION)**
_____)

DOCKET 00-01

**GUAM WATERWORKS AUTHORITY)
COLLECTION POLICY)**
_____)

DOCKET 01-08

Decision and Order

This Decision and Order addresses the following regulatory matters regarding Guam Waterworks Authority [GWA], which have been considered by the Commission during the September 2001 regulatory session:¹

1. Establishment of a regulatory surcharge to enable GWA to retire its obligations to Guam Power Authority and Guam Telephone Authority.
2. Establishment of permanent lifeline rates for GWA water and wastewater services to residential customers.
3. Georgetown's recommendation that the Commission undertake a focused management audit of GWA's revenue cycle.
4. Establishment of a regulatory protocol under which the Commission would oversee:
 - a. GWA's expeditious implementation of the BOT legislation;
 - b. GWA's preparation of the financial plan mandated by United States Environmental Protection Agency's August 6,

¹ At Georgetown's recommendation and given the substantial list of GWA regulatory matters currently under review, Commission consideration of the following rate matters has been deferred until the February 2002 regulatory session: 1. private water well rates; 2. fire hydrant rate; 3. multi-residence wastewater tariff; 4. rate design issues flowing from the Deloitte Touche cost of service study; and 5. Tariff E arrearages.

2001 Administrative Order On Consent in Docket No.
CWA-402-9-01-19.

1. Regulatory Surcharge.

Discussion

During the March 2001 regulatory session, the Commission directed ALJ to initiate proceedings to propose a regulatory surcharge to enable GWA to retire its arrearages to GPA and GTA. As of June 1, 2001 this arrearage had grown to over \$18 million dollars. Pursuant to this directive, public hearings were held on August 30, 2001, September 7 and 10, 2001 to consider a Georgetown proposal² [the "Georgetown Proposal"] that a surcharge be established according to the following principles³:

- . A 11.5 % regulatory surcharge should be established and imposed on all non-lifeline charges for meters read after October 1, 2001. The surcharge would cause a 5.1% increase on residential water rates. This surcharge would retire GWA's obligations to GPA and GTA, with interest at the five year T-Bill rate, in seven years.
2. GWA should establish a separate interest bearing bank account for deposit of surcharge revenues on a weekly basis.⁴ GWA should be required to file its monthly bank statement for this account with the Commission to evidence its deposit and transmittal of funds pursuant to this Order.
3. Surcharge revenues should be used solely to retire arrearages to GPA and GTA as of September 30, 2001 and to pay the outstanding and ongoing regulatory fees and charges assessed by the Commission.

² See Georgetown Report On GWA Obligations, dated August 2001. At the August 30, 2001 public hearing, GPA and GWA supported the Georgetown proposal.

³By ALJ order, GTA and GPA were authorized to intervene as parties in this docket.

⁴ GWA by its August 30, 2001 letter expresses doubt over its ability to separately account for the surcharge. Georgetown should be directed to examine this problem and to recommend a solution.

4. Georgetown should be directed to determine the September 30, 2001 balances owed by GWA to GTA and GPA.
5. Commencing on November 1, 2001 and on the first of each month thereafter until further Commission order, GWA should disburse the surcharge revenues in accordance with the following protocol:
 - i. \$50,000 should be paid each month to GTA until its account balance, as of September 30 2001, is paid in full.
 - ii. The Commission's annual administrative assessment should be paid in full when due.
 - iii. Commission invoices in excess of 60 days should be paid; provided, however, that in no event should GPA be paid less than \$75,000 per month. After Commission invoices in excess of 60 days have been retired, its invoices should be paid on an ongoing basis, subject to the \$75,000 rule.
 - iv. All residual funds after the above payments have been made should be paid to GPA until GWA's obligation to GPA has been paid in full. The surcharge revenues should not be used to pay current bills from GTA and GPA, which should be paid from base rate revenues.
 - v. GWA should file a quarterly reconciliation report of surcharge proceeds and disbursements, in form approved and under deadlines established by ALJ. ALJ should be authorized to issue such administrative orders as may be useful or necessary to implement the surcharge.

Determinations

At a duly convened Commission meeting, which was held on September 12, 2001, the Commission, after reviewing and considering the testimony and argument of the parties during the public hearings, the record in this docket, the report of its administrative law judge, dated September 11, 2001, for good cause shown and by the affirmative vote of five Commissioners, makes the following determinations.

The Commission has the statutory duty under 12 GCA 12004 to establish and maintain GWA rates, which are adequate to enable it to pay its contractual obligations. The Commission has no discretion to ignore this statutory mandate.

- 2 GWA owes GPA for power and billing services an estimated balance of \$17.6 million and owes GTA an estimated balance of \$300,000.⁵
- 3 By P.L. 26-15, the Guam Legislature assumed the responsibility for establishing GWA's FY02 budget. There is no provision in this budget for payment of the GWA arrearage to GPA and GTA.
- 4 GPA's auditor, Ernst & Young has advised the Commission that unless the Commission promptly establishes a revenue stream to fund the payment of GWA's arrearage to GPA, it will be required under generally accepted accounting standards, to require GPA to accrue these arrearages as doubtful debts, which could put GPA in default under its bond covenants, impair GPA's bond rating and restrict its ability to access financial markets.⁶
- 5 GTA has been in default of its RUS TIER bond covenant for the past five years. RUS has cautioned that unless this default is promptly cured by rate relief, it will be forced to pursue its

See Joint Georgetown, GPA, GTA & GWA Hearing Exhibit [Attachment A].

⁶See Ernst & Young letter dated March 1, 2001. This advice was reiterated by E&Y partner Richard Boice in sworn testimony on August 30, 2001 in this docket.

enforcement powers under the bond.⁷ GWA's \$300,000 arrearage to GWA must be addressed in response to this RUS demand.

6. The Georgetown Proposal is a prudent way for the Commission to discharge its statutory responsibility to establish adequate rates to enable GWA to retire its arrearage to GPA and GTA.
7. An essential aspect of the Commission's independent regulatory authority is its power under 12 GCA 12024 to directly assess regulated utilities for its regulatory expenses. This authority would be unacceptably compromised if the Legislature established the Commission's GWA regulatory budget under P.L. 26-15, which would necessarily include legislative control of whether funds are budgeted to enable the Commission to conduct rate proceedings.⁸ Accordingly, the Commission should fund its regulatory expenses through the surcharge.

2. GWA Lifeline Rates.

During the aforementioned public hearings in this combined docket proceeding, Georgetown and GWA recommended that the interim residential water lifeline rate, as established by Commission Order dated February 25, 2000 and the interim residential wastewater lifeline rate, as established by Commission Order dated June 2, 2000 be approved as permanent rates. The interim rates are reasonably consistent with the Deloitte & Touche cost of service study, dated February 26, 2001.⁹ The action of making these lifeline rates permanent is significant because under 12 GCA 12004, they cannot be increased until GWA's total actual overall cost of providing service to all classes of customers, increases by no less than twenty percent.

⁷ See RUS letter to Vincent Arriola dated June 18, 2001 and RUS letter to Chairman Brooks dated August 28, 2001.

⁸ See 12 GCA 12024. The Legislature has pledged in Section 6.20 of the GPA Bond Indentures dated December 1, 1992 [1992 Series A Bonds] that it will take no action to substantially impair the Commission's independent regulatory authority.

⁹ See Georgetown Report on GWA Obligations dated August 2001 at p. 9.

3. Focused Management Audit.

By its August 23, 2001 report on GWA collection policy, Georgetown has made the following findings and recommendations:

- a. The level of GWA's accounts receivable is unacceptable and should be reduced.
- b. An interim target for GWA's account receivable should be no more than 60 days on an average weighted basis.
- c. The Commission should require an explanation from GWA as to why its auditor has concluded that its \$1.1 million receivable for services to Tiyan is uncollectible.
- d. GWA should be required to prepare and submit for Commission review and approval a comprehensive collection and disconnection policy.
- e. GWA should be required, under ALJ oversight, to provide the six quarterly reports listed in the Georgetown August report.
- f. Georgetown should be authorized and directed, under ALJ oversight, to undertake a focused management audit of GWA's billing and collection practices [revenue cycle].

GWA has agreed with these recommendations by its August 30, 2001 letter to the Commission.

4. BOT and EPA Order.

The Georgetown Report, dated August 27, 2001, recommends that the Commission immediately take pro-active measures to enable GWA to implement the BOT law. The Report also expresses concern over GWA's ability to prepare the \$40.6 million dollar financial plan required by the United States Environmental Protection Agency's August 8, 2001 Administrative Order on Consent in Docket No. CWA-402-9-01-19 [the "EPA Order"].

Consistent with Georgetown's recommendations, ALJ has recommended in his September 11, 2001 report that the Commission should, in the exercise of its audit powers under P.L. 25-05:12, authorize ALJ to oversee GWA's implementation of the BOT law at the earliest possible date and the development of the financial plan required by the EPA Order.

The Commission is aware that the Legislature in Bill 133 [GWA FY02 Budget Act] is considering administrative provisions, which would provide the Commission with express authority regarding BOT implementation and the GWA financial plan. This Decision and Order should anticipate this delegation of authority.

Order

The Commission, in the exercise of its judgment and regulatory authority, having carefully reviewed and considered the matters discussed above, arguments, reasoning and position of the parties and the public comments received during public hearings and for good cause shown, hereby **ORDERS THAT:**

1. The Georgetown Proposal for the establishment of a GWA regulatory surcharge, effective for meters read after October 1, 2001, to fund the payment of its arrearages to GPA and GTA is hereby approved. The Commission's ALJ is hereby authorized and directed to oversee the implementation of the Georgetown Proposal, including, without limitation, the computation of amounts due and the installment amount, the collection and disbursement of surcharge proceeds and GWA's reporting requirements under the Georgetown Proposal. ALJ is also authorized, consistent with this Order, to make such rulings and orders as may be necessary and appropriate to facilitate the implementation and administration of the surcharge and GWA's compliance with this Order.
2. The GWA interim residential wastewater lifeline rate, as established by Commission Order dated February 25, 2000 and its interim residential wastewater lifeline rate, as established by

Commission Order dated June 2, 2000 are hereby approved and established as permanent rates.

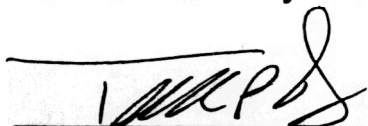
3. Georgetown is authorized and directed, under ALJ oversight, to undertake a focused management audit of GWA's revenue cycle.

4. ALJ is authorized and directed to oversee GWA's compliance with the recommendations contained in Georgetown's August 23, 2001 GWA collection report, including the preparation of a comprehensive collection policy, the six quarterly reports recommended in the report and an analysis of the write-off of the \$1.1 million GWA Tiyan receivable.

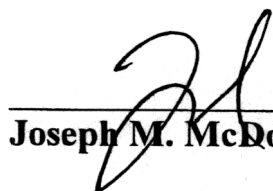
5. ALJ is authorized and directed to oversee GWA's expeditious implementation of the BOT legislation and its preparation of the financial plan mandated by the EPA Order, including the exercise of any authority regarding these matters as may be conferred upon the Commission by Bill 133 [currently under consideration by the Legislature].

5. GWA is ordered to pay the Commission's expenses in this combined docket proceeding, including all expenses as may be incurred pursuant to this Decision and Order, including without limitation, consulting and counsel fees and expenses and the expense of conducting hearing proceedings.


Dated this 13th day of September 2001



Terrence M. Brooks



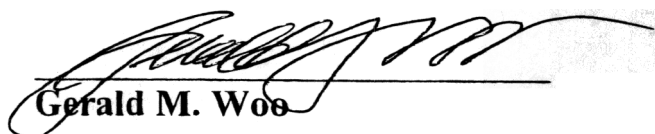
Joseph M. McDonald



Filomena M. Cantoria



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