

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

GWA DOCKET 19-08

**IN RE: PETITION FOR APPROVAL OF)
GWA'S THIRD FIVE-YEAR)
FINANCIAL PLAN (BASE RATE)
INCREASES))
_____)**



**FINDINGS OF FACT
AND CONCLUSIONS
OF LAW FOR PHASE 2
PROCEEDINGS**

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1. February 27, 2020 Rate Decision and January 17, 2020 Stipulation

Pertinent to these proceedings, the Guam Public Utilities Commission's ("PUC" or the "Commission") February 27, 2020 Rate Decision, provided that Guam Waterworks Authority ("GWA") and Georgetown Consulting Group ("GCG") agreed to certain "*pro forma*" rates for fiscal years 2022, 2023, and 2024; and that the final rates for such fiscal years would be based upon the results of certain analytical studies.¹ Such studies included: Demand Forecasting; a comprehensive system-wide Water Loss Reduction program; a Cost of Service/Rate Design Study, an Affordability Study (concerning the ability of low-income rate payers to afford the rapidly increasing water and wastewater rates); Financing and Alternatives to Bond Issuance; a review of the Capitalized Labor Expense protocol; and a study designed to connect more rate payers to the wastewater system and cesspool septic tank elimination.² Such studies were due on March 31, 2021.³

The PUC further required that GWA file a FY2022 Comprehensive Review and Update to its Five-Year Financial Plan by no later than May 1, 2021.⁴ This update had to compare GWA's "forecast to actual performance of GWA revenues and expense categories"; and, it had to include "an analysis of how the Demand Forecast, Water Loss Reduction, Cost of Service study, Affordability study, Financing study and other analyses . . . incorporated into the Five-Year Financial Plan."⁵

¹ FY20 Rate Decision, GWA Docket 19-08, p. 7 (Feb. 27, 2020).

² FY20 Rate Decision, GWA Docket 19-08, p. 7 (Feb. 27, 2020).

³ FY20 Rate Decision, GWA Docket 19-08, p. 7 (Feb. 27, 2020).

⁴ FY20 Rate Decision, GWA Docket 19-08, p. 8 (Feb. 27, 2020).

⁵ FY20 Rate Decision, GWA Docket 19-08, p. 7 (Feb. 27, 2020).

Among other provisions, the FY2020 Rate Decision also required GWA to “investigate the availability and relative cost of alternative debt instruments such as letters of credit and surety bonds to fund debt service”⁶; and “investigate the availability and relative cost of the use of commercial paper and lines of credit to finance the ongoing capital construction program following issuance of its Series 2020 revenue bonds.”⁷ Further, the Decision required both GWA and GCG to support “policy changes that create one standard for debt service coverage at 1.40x debt service coverage”⁸; and that “GWA’s Five-Year Financial Plan will be based on a projected fund balance target of not less than \$3 million and a debt service coverage ratio of 1.40x-1.50x.”⁹

Moreover, the January 17, 2020 Stipulation indicated that GWA has been tasked with entering into a zero-cost “water exchange” program with the Navy; otherwise, absent a zero-cost exchange program, GWA must reduce the amount of water purchased from the Navy or undertake the necessary construction to eliminate its Navy water purchases.¹⁰ Further, through 2024, GWA will reduce its water losses by 20%.¹¹

Other parts of the Stipulation included reporting on GWA’s Consent Decree negotiations with the U.S. E.P.A., furnishing the PUC with a detailed briefing on any spending commitments that would impact GWA’s rates.¹² Finally, GCG and GWA both agreed that this Update would

⁶ FY20 Rate Decision, GWA Docket 19-08, p. 8 (Feb. 27, 2020).

⁷ FY20 Rate Decision, GWA Docket 19-08, pp. 8-9 (Feb. 27, 2020).

⁸ FY20 Rate Decision, GWA Docket 19-08, p. 9 (Feb. 27, 2020).

⁹ FY20 Rate Decision, GWA Docket 19-08, p. 9 (Feb. 27, 2020).

¹⁰ Stipulation, p. 11 (Jan. 17, 2020).

¹¹ Stipulation, p. 11.

¹² Stipulation, p. 11.

“not constitute a new rate application”¹³; and would be “an abbreviated proceeding designed to take into consideration all the required studies”¹⁴

2. GWA’s May 1, 2021 Updated Financial Plan and Rate Application

On May 1, 2021, GWA filed its Updated Financial Plan. According to GWA, the rate plan submitted in these proceedings was “reworked” “to incorporate the results of the Analytical Studies.”¹⁵ According to GWA’s General Manager, Mr. Miguel Bordallo, the “placeholder” rates that were assigned in the first phase of this rate case were not viable and would result in GWA defaulting on its bonds.¹⁶ He maintained that such rates were “untenable” “in light of pandemic-induced economic hardships.”¹⁷ The Updated Financial Plan, however, would allow GWA to “meet bond indenture requirements and minimum operational needs, and the relaxation of prescribed targets for debt service coverage.”¹⁸ It also proposed a new water affordability program to replace GWA’s Lifeline Rates as a means to provide “targeted relief to Guam’s economically disadvantaged customers.”¹⁹ It further proposed new water and sewer rate “design adjustments” that would “simplify rate administration.”²⁰

Accordingly, the Rate Application reflected proposed rate revenue increases of “10% in FY2022 and FY2023 and 7% in FY2024 without adjustment for potential receipt of Rescue Act Funds”²¹; along with increases to GWA’s Legislative Surcharge of 3.7% in FY2022, 3.5% in

¹³ Stipulation, p. 7.

¹⁴ Stipulation, p. 12.

¹⁵ Bordallo Testimony, p. 4 (May 1, 2021).

¹⁶ Bordallo Testimony, p. 4 (May 1, 2021).

¹⁷ Bordallo Testimony, p. 4 (May 1, 2021).

¹⁸ Bordallo Testimony, p. 4 (May 1, 2021).

¹⁹ Bordallo Testimony, p. 4 (May 1, 2021).

²⁰ Bordallo Testimony, p. 4 (May 1, 2021).

²¹ CCU Resolution, p. 3 (Apr. 27, 2021).

FY2023, and 3.4% in FY2024 applied against all rate components.²² The update also included \$24.5 million dollars of capital improvement projects, which GWA intends to fund internally instead of obtaining financing.²³ Further, GWA requested a temporary reduction of its debt service coverage ratio to 1.3x;²⁴ and, it intends on obtaining a Letter of Credit, supported by a Commercial Paper program, to fund \$200 million in projects related to a Consent Decree, water loss reduction, and other necessary GWA projects.²⁵ GWA also intends on extending sewer lines and developing programs to encourage rate payers to connect to the sewer system and eliminate cesspools and septic tanks.²⁶ It plans to use \$5.3 million in its Rate Stabilization Fund and federal ARPA monies to mitigate needed rate increases.²⁷

In support of its Updated Financial Plan, GWA attached the required revenue schedules and financial models, specifically models on: operating cash flow under existing rates; operating cash flow under existing rates and modified assumptions; operating cash flow under requested rates and modified assumptions; system revenues by customers class for fiscal years 2022 through 2024; operating expenses by major cost categories; operating expenses by business units, such as information technology, fleet maintenance, finance, wastewater treatment and pump stations; Navy water purchases; sources and uses of funds for capital projects; proposed rate adjustment; and customer impact, just to name a few. In addition, GWA provided seven (7) Analytical Studies, required under the Stipulation, and a Resolution by the Consolidated Commission on Utilities (“CCU”), in support of its Updated Rate Plan.

²² CCU Resolution, p. 3 (Apr. 27, 2021).

²³ CCU Resolution, p. 3 (Apr. 27, 2021).

²⁴ CCU Resolution, p. 3 (Apr. 27, 2021).

²⁵ CCU Resolution, p. 5 (Apr. 27, 2021).

²⁶ CCU Resolution, p. 4 (Apr. 27, 2021).

²⁷ CCU Resolution, p. 4 (Apr. 27, 2021).

3. October 22, 2021 GCG's Review

In these proceedings, GCG served as “Staff” for the PUC and provided testimony that memorialized its findings and recommendations to the Commission concerning its investigation into the water and wastewater rates and other changes proposed in GWA’s rate filings. The testimony, in the form of a report, was based on information provided by GWA contained in its submissions to the PUC as well as information exchanged in several rounds of discovery over the course of several months.

On October 22, 2021, GCG submitted its review of GWA’s Updated Rate Plan. In its review GCG found that GWA generally satisfied the filing requirements ordered in Phase 1.²⁸ It noted that GWA’s update reflects the large impact the current Covid-19 pandemic has had on the agency.²⁹ Specifically, GCG found that “[t]he rate request for Test-Year FY 2022 made by GWA is to increase operating revenues by \$12.024 million,” with “a projected use of \$3.5 million of RSF funds that produces a DSCR of 1.306x, the coverage proposed by GWA to moderate any rate impact.”³⁰

GCG submitted, however, that it had adjustments to make to GWA’s models. For instance, GCG found that the Government of Guam intends on providing GWA with \$14.4 million in federal relief from American Rescue Act funds, of which GWA will apply \$5.6 million for FY2022.³¹ GCG submits that this \$5.6 million will directly offset GWA’s proposed increase of \$12 million.³²

²⁸ GCG Report, p. 10 (Oct. 22, 2021).

²⁹ GCG Report, p. 1 (Oct. 22, 2021).

³⁰ GCG Report, pp. 16-17 (Oct. 22, 2021).

³¹ GCG Report, p. 17 (Oct. 22, 2021).

³² GCG Report, p. 17 (Oct. 22, 2021).

Additionally, GCG recommended against considering any impact of GWA's Affordability Program in FY2022. To GCG, "charging ratepayers \$5.2 million annually to provide a subsidy to some undetermined number of yet undefined class of low-income customers has not been vetted," along with other reasons against its implementation.³³ GCG therefore submitted that deferral of the program reduces GWA's request further by \$5.25 million.³⁴

Further, GCG maintained that expenses for FY2022 should be "adjusted downward" as follows: less \$2.473 million for Navy Water expenses; less \$2.625 million for Salaries and Benefits; and less \$2.542 million for contractual expenses.³⁵ Accordingly, GCG concluded that with these adjustments, GWA should net over \$18 million in FY2022. Therefore, it did not recommend any rate increase.³⁶

4. Public Hearings

While not necessarily required by statute, rules, or other authorities binding these proceedings, the PUC held three public hearings in an ongoing effort to keep ratepayers apprised of any possible changes in the water and wastewater rates. In keeping with the spirit of the Ratepayers Bill of Rights, the PUC held hearings in the northern, southern, and central villages of Guam, in 2021 on November 3, 4, and 5, respectively.

For all three public hearings, representatives from GWA were present to give presentations concerning the material contained in its filings and to answer possible questions from the public. No one from the public presented any testimony at these public hearings.

³³ GCG Report, p. 17 (Oct. 22, 2021).

³⁴ GCG Report, p. 17 (Oct. 22, 2021).

³⁵ GCG Report, pp. 16-17 (Oct. 22, 2021).

³⁶ GCG Report, p. 18 (Oct. 22, 2021).

5. No Stipulation

Because GCG and GWA were unable to reach any compromise regarding any of the outstanding issues, an evidentiary hearing, as opposed to a stipulation, was held.

6. November 2021 Evidentiary Hearing

On November 8, 2021, the Administrative Law Judge (“ALJ”) held a virtual evidentiary hearing, via Zoom video conferencing, to take testimony related to GWA’s filings supporting its application for rate relief. Present during the proceedings were representatives and witnesses for GWA, GCG, and the Navy, along with their respective counsel. PowerPoint presentations, testimony, and exhibits were presented before the ALJ, where examination of witnesses was allowed.

On November 9, 2021, the second day of the evidentiary hearing, GWA presented testimony and evidence on what was styled as GWA’s Revised Rate Application and Modified Financial Plan. GWA presented information indicating a modification to its initial request, for rate increases. In general, GWA indicated that since it would be receiving federal funding due to the American Rescue Plan Act (“ARPA”), GWA requested relief in the form of rate increases of 8%, 6.5%, and 6.5%, for fiscal years 2022, 2023, and 2024, respectively.

GCG was also given an opportunity to present its findings, and did so during the second day of the evidentiary hearings, arguing essentially that GWA was proceeding in bad faith, presenting new information that GCG did not have an opportunity to review. GCG vehemently objected to the introduction of what were revisions to GWA’s rate application. The Navy also presented arguments concerning its wastewater rate. On November 18, 2021, GCG memorialized its objections to GWA’s testimony.

Thereafter, the ALJ ordered GWA to formally submit its Revised Rate Application and Modified Financial Plan, to include appropriate testimony and narratives, any supporting data and documents, along with revisions to a fully executable Rate Application Model by December 3, 2021. The ALJ also permitted another round of discovery, and ordered GCG to provide a supplemental report indicating any new findings and recommendations based on its review of GWA's Revised Rate Application and Modified Financial Plan by January 15, 2022.

7. Clarification to Modified Financial Plan and Revised Rate Application

GWA's December 3, 2021 "Modified Financial Plan" was supported by the testimonies of Miguel Bordallo, Eric Rothstein, Chris Budasi, and Thomas Chestnutt. According to Mr. Bordallo, "[t]he Updated Rate Plan is based on the ALJ-requested RAM version 1.4, with a limited number of adjustments made in response/rebuttal to the GPUC's consultants and Navy final testimony."³⁷ "It incorporates reasonable and just adjustments to revenues and expenses and presents a path to compromise between GWA's initial May 1st 2021 filing and the final testimony of the GPUC consultant and Navy intervenor."³⁸

Mr. Bordallo indicated that GWA's Updated Rate Plan aligns with the "intent and requirements of the FY20 Rate Decision . . . in presenting a rate path for FY2022 through FY2024, and appropriately considers required revenue generation to meet GWA debt obligations in FY2025 and beyond, which the GPUC's consultant has testified under oath that they did not consider."³⁹ Mr. Bordallo further submitted that GCG's proposed 'adjustments and testimony

³⁷ Bordallo Testimony, p. 9 (Dec. 3, 2021).

³⁸ Bordallo Testimony, p. 9 (Dec. 3, 2021).

³⁹ Bordallo Testimony, p. 9 (Dec. 3, 2021).

intentionally avoid the potential 27-33% rate increase in FY 2025 that would be required if the GPUC chooses to follow their recommendation.”⁴⁰

Mr. Rothstein indicated in his testimony that “[n]otwithstanding Georgetown Consulting Group’s unsubstantiated claim that GWA has not adequately supported its filing with testimony and supporting documentation, GWA has provided more information for this ‘enhanced annual rate review’ than, to my understanding, has ever been required to support a new Five-Year GWA rate application.”⁴¹

According to Mr. Rothstein:

GWA has completed 7 Analytical Studies with accompanying technical models, provided 1 enhanced Rate Application Models that, as a matter of course, generates all PUC required schedules. GWA conducted multiple workshops with Intervenors to review in progress Analytical Studies and the development of the RAM. After the studies and RAM were submitted timely, GWA conducted additional workshops with Intervenors to review the results of analytical studies and demonstrate the analytical functionality and reporting available through the RAM. GWA has further responded to over 130 Requests for Information and has provided a presentation to support its oral testimony at the Evidentiary Hearings held on November 8-9, 2021.⁴²

Mr. Budasi indicated in his testimony again that the pandemic has significantly impacted Guam’s tourism industry, affecting Guam’s labor force and increasing Guam’s population who live “below the federal poverty line.”⁴³ In addition, according to Mr. Budasi, “senior citizens on fixed incomes are unable to keep up with the rising cost of living that is primarily driven by

⁴⁰ Bordallo Testimony, p. 9 (Dec. 3, 2021).

⁴¹ Rothstein Testimony, p. 7 (Dec. 3, 2021).

⁴² Rothstein Testimony, p. 7 (Dec. 3, 2021).

⁴³ Budasi Testimony, p. 6 (Dec. 3, 2021).

Guam's import economy and the cost of oil.”⁴⁴ Mr. Budasi also identified water leaks as another area that affects lower income customers since these customers are typically unable to hire private plumbers.⁴⁵ He maintained that the new Affordability Program, the Customer Assistance Program, should be implemented to assist the “economically disadvantaged” and that its implementation would create a “mechanism to receive and disperse any future federal grants and aid made available to low-income residents for water utility services.”⁴⁶

8. Revised Rates

Initially, GWA requested the following rate increases: 10% for FY2022; 10% for FY2023; and 10% for FY2024. However, in its December 3, 2021 Modified Financial Plan, GWA amended its application, requesting instead the following: 8.1% for FY2022; 6.5% for FY2023; and 6.5% for FY2024. Based on the Modified Financial Plan, GWA updated its rate application to reflect “(1) the confirmation that the Governor would allocate \$14.4 million of American Rescue Plan Act (ARPA) funds to GWA to mitigate the rate impacts of GWA's original rate filing; and (2) to be responsive to ALJ scheduled Intervenor testimony and discovery.”⁴⁷

According to Mr. Rothstein, “GWA's financial plan therefore was developed to enable a smooth and consistent pattern of rate increases through the period when refinancing of short-term Commercial Paper is scheduled in FY2025.”⁴⁸ Mr. Rothstein submitted that the requested “[r]evenue increases in FY2022 of 8.1 percent with residential bill impacts moderated through

⁴⁴ Budasi Testimony, p. 6 (Dec. 3, 2021).

⁴⁵ Budasi Testimony, p. 6 (Dec. 3, 2021).

⁴⁶ Budasi Testimony, pp. 6-7 (Dec. 3, 2021).

⁴⁷ Rothstein Testimony, p. 15 (Dec. 3, 2021).

⁴⁸ Rothstein Testimony, p. 16 (Dec. 3, 2021).

rate design reform and CAP implementation are complimented by 6.5 percent revenue increases in FY2023 and FY2024, with debt service coverage rising to 1.40x by the final year of the rate application period”; and that GWA will seek “a similar 6.5 percent revenue increase requirement is projected for FY2025 when Commercial Paper notes are refinanced with take-out revenue bonds.”⁴⁹

Mr. Rothstein indicated that where GWA is not provided the relief requested, the following would be the result:

“Bond rating agencies and investors—already chastened by pandemic impacts—will (appropriately) gauge GWA’s credit worthiness based on whether GWA can articulate a cohesive, sensible long term financing strategy. EPA’s enforcement action that precipitated Consent Decree negotiations was based on concerns regarding GWA’s commitment to infrastructure reinvestment.”⁵⁰

He added that “[i]nadequate rate relief in the face of general and pandemic induced declining revenues, and scheduled increases in debt service payments runs the disconcerting risk of a bond rating downgrade, as well as complications in securing a line-of-credit to support the planned Commercial Paper program.”⁵¹

Mr. Rothstein indicated that the “proposed modifications” are “quite limited,” respond to the Navy’s and ALJ’s requests, and further “rely on information” already in the record.⁵² The revisions include the following: (1) an Update of forecasted FY2022 through 2024 water demand; (2) Revised Navy wastewater rates; (3) Reduction in Navy water purchase expenses; (4) Reduction in GWA’s Salaries and benefits expenses; (5) FY2022 CAP expense revision; (6)

⁴⁹ Rothstein Testimony, p. 16 (Dec. 3, 2021).

⁵⁰ Rothstein Testimony, p. 17 (Dec. 3, 2021).

⁵¹ Rothstein Testimony, p. 17 (Dec. 3, 2021).

⁵² Rothstein Testimony, p. 23 (Dec. 3, 2021).

Application of ARPA funds; and (7) Elimination of the water lifeline volumetric rate increase in FY2024.⁵³ The required rate filing schedules based on GWA's Modified Financial Plan, including proposed uses of ARPA funds and RSF reserves, were attached to Mr. Rothstein's testimony.⁵⁴

In response, GCG stated that based on an "overall analysis," its "position and recommendations in this supplemental filing have not changed"; indicating that "[t]here is nothing filed in GWA's December 3, 2021, supplemental testimony that would compel Staff to change its position."⁵⁵ GCG indicated that GWA's revision were "not significant"; and that, therefore, it reached "the same conclusions."⁵⁶

Specifically, based on its analyses, GCG stated that it has "examined the data for FY2021 and determined that even if the GWA analysis was adopted there would be no change in the recommendation by Staff that no rate relief for FY2022 is warranted and that a Rate Path with no rate increases in FY2023 and FY2024 would be sufficient to produce a [debt service] coverage of 1.3x."⁵⁷ GCG further found that, absent any rate increases, and instead implementing "adjustments that have been supported in [GCG's] October 21, 2021, testimony, GWA does achieve its target coverage of 1.3x in each one of the remaining years in the 5-Year Rate Plan—FY2022, FY2023, and FY2024."⁵⁸ Accordingly, GCG concluded that "[n]o rate increase is required over the remainder of the 5-Year Rate Plan (FY2020 through FY2024)."⁵⁹

⁵³ Rothstein Testimony, pp. 23-24 (Dec. 3, 2021).

⁵⁴ Rothstein Testimony, p. 29 (Dec. 3, 2021).

⁵⁵ GCG Report, p. 18 (Jan. 15, 2022).

⁵⁶ GCG Report, p. 30 (Jan. 15, 2022).

⁵⁷ GCG Report, p. 17 (Jan. 15, 2022).

⁵⁸ GCG Report, p. 30 (Jan. 15, 2022).

⁵⁹ GCG Report, p. 30 (Jan. 15, 2022).

9. Cost of Service Analysis

Based on GWA's Cost of Service Analysis, it determined that at least for FY2022 proposed rates, GWA's water system rates collect approximately 6.9% more than the water rate revenue requirement.⁶⁰ With respect to wastewater, the FY2022 proposed rates would collect nearly 15% less than the wastewater rate revenue requirement.⁶¹

GWA found that "some water customer classes are projected to pay more than their cost of service."⁶² For instance, GWA's Commercial, Hotels (separated from Commercial II), Government (separated from the Government and Federal cluster), and GIAA (also separated from the Government and Federal cluster) customers pay more than their cost of service, according to GWA.⁶³ On the other hand, GWA's Residential, Agriculture, and Irrigation customers pay less than their cost of service.⁶⁴

With respect to wastewater, some wastewater customer classes are projected to pay more than their cost of service, such as GWA's Commercial II, Commercial III, Hotels, Government, Navy (also separated from the Government and Federal cluster) and new Leachate customers.⁶⁵ However, some wastewater customer classes pay less than their cost of service, such as GWA's Residential, Commercial I, and new Septage customers.⁶⁶

⁶⁰ GWA Cost of Service Analysis, p. xiv (May 15, 2021).

⁶¹ GWA Cost of Service Analysis, p. xiv (May 15, 2021).

⁶² GWA Cost of Service Analysis, p. xiv (May 15, 2021).

⁶³ GWA Cost of Service Analysis, p. xiv (May 15, 2021).

⁶⁴ GWA Cost of Service Analysis, p. xiv (May 15, 2021).

⁶⁵ GWA Cost of Service Analysis, p. xiv (May 15, 2021).

⁶⁶ GWA Cost of Service Analysis, p. xiv (May 15, 2021).

10. Proposed New Residential and Sewer Rate Charges

In these proceedings, GWA requested implementation of water and sewer rate design changes that “include rendering more substantial and targeted assistance to economically disadvantaged customers, while staunching the degree of subsidy provided to higher volume and (generally) higher income residential users.”⁶⁷ The new design protects residential users from assuming “a larger share of the overall cost burden in the FY2022 through 2024 period, or to require stressed non-residential users to further subsidize residential use.”⁶⁸ Instead, it imposes relatively “higher increases to rates and charges of governmental users (including accounts associated with the military build-up) to enable imposition of lower increases across customer classes most impacted by the pandemic, most notably hotels and selected general commercial classes.”⁶⁹

For instance, GWA proposed the following:

- (a) Adoption of meter-size scaled base charge increases for water services, and new meter-size scaled base charges for wastewater service applicable across all customer classes.⁷⁰
- (b) Adoption of inverted 3-tiered residential rates with usage tier thresholds at 3kgals, 10kgals, and above.⁷¹
- (c) Establishment of an affordability program operating expense to enable provision of monthly bill assistance in amounts up to 20% of usage-related charges for income-qualified families.⁷²
- (d) Adoption of a new residential sewer volumetric rate and revised non-residential sewer rates.⁷³

⁶⁷ Bordallo Testimony, p. 11 (May 1, 2021).

⁶⁸ Bordallo Testimony, p. 11 (May 1, 2021).

⁶⁹ Bordallo Testimony, p. 12 (May 1, 2021).

⁷⁰ CCU Resolution, pp. 3-4 (Apr. 27, 2021).

⁷¹ CCU Resolution, pp. 3-4 (Apr. 27, 2021).

⁷² CCU Resolution, pp. 3-4 (Apr. 27, 2021).

⁷³ CCU Resolution, pp. 3-4 (Apr. 27, 2021).

According to testimony by Eric Rothstein, this proposal is intended to “reform several problematic aspects of GWA’s existing customer classifications and rate designs.” Specifically, “[t]hese reforms will provide for more consistent pricing of services, eliminate historical anomalies, facilitate future movement to cost-of-service pricing, and complement GWA’s proposed Customer Assistance Program”⁷⁴

As an example, Mr. Rothstein added that:

GWA’s existing residential water rate design features meter-size scaled base water charges, a discounted lifeline water rate applicable to usage below 5,000 gallons per month, and a volumetric rate for all usage above 5,000 gallons. The lifeline rate is applicable to just over 50 percent of average residential usage and benefits all residential customers irrespective of income level. Residential sewer service is charged through a \$27.54 per month flat base charge irrespective of household water usage, income level, or service meter size. While GWA’s legislative surcharge is currently applied to all non-residential rate components, the surcharge is not imposed against the lifeline rate nor the flat wastewater base charge for residential customers.⁷⁵

In response, GCG contended that since it believed there is no need to increase rates, then correspondingly there is “no reason to create confusion among GWA’s customers with a change in rate structure”⁷⁶ GCG submitted that “[a]ny change in rate structure and rate design will increase bills for some customers and decrease bills for others”; and, therefore, it recommended review of any new rate structure later in time.⁷⁷ GCG recommended consideration of the revisions identified above during GWA’s next filing, presumably in Phase 3.

⁷⁴ Rothstein Testimony, p. 9 (Dec. 3, 2021).

⁷⁵ Rothstein Testimony, p. 12 (Dec. 3, 2021).

⁷⁶ GCG Report, p. 62 (Oct. 22, 2021).

⁷⁷ GCG Report, p. 62 (Oct. 22, 2021).

11. Navy Rate

In these proceedings, the Navy submitted the written testimony of Brian Collins, who contended that Navy's wastewater rate should set to a "cost of service rate" of \$12.18 per kgal.⁷⁸ Mr. Collins submitted that the Navy's rate should be set to a "cost of service" rate because "each customer class should, to the extent practicable, produce revenues equal to the cost of serving that particular class, no more and no less."⁷⁹ In addition, Mr. Collins maintained that a cost of service rate is what is required pursuant to a 1972 Utility Service Contract between the Navy and GWA.⁸⁰ Mr. Collins indicated in his testimony that the contract states: "the rates set forth herein shall be renegotiated based on actual costs . . . provided that any rates so negotiated shall not be in excess of rates to any other customer of [the utility provider] under similar conditions of service."⁸¹

In the second day of the evidentiary hearing, GWA submitted that its "modified" rate application "accepts" the Navy's recommendation to align wastewater rates with other Guam government accounts. In particular, GWA indicated that its Modified Financial Plan reflects "the Navy's request to align their wastewater rates to those of Guam government and airport accounts."⁸² Accordingly, in its Revised Rate Application, "the Navy's volumetric wastewater rate was changed from \$12.80 to \$12.65"⁸³

⁷⁸ Collins Testimony, p. 3 (Nov. 5, 2021).

⁷⁹ Collins Testimony, p. 3 (Nov. 5, 2021).

⁸⁰ Collins Testimony, p. 3 (Nov. 5, 2021).

⁸¹ Collins Testimony, p. 3 (Nov. 5, 2021).

⁸² Rothstein Testimony, p. 23 (Dec. 3, 2021).

⁸³ Rothstein Testimony, p. 23 (Dec. 3, 2021).

12. Affordability and GWA's Proposed Customer Assistance Program

In its Affordability/Rate Design Study, GWA introduced a Customer Assistance Program (also known as “CAP”) that would provide “water and wastewater bill assistance for those households income-qualified through other Guam social service programs.”⁸⁴ According to GWA, this new program would either modify or eliminate GWA’s current Lifeline water and wastewater rates⁸⁵, and would “render assistance to GWA’s most economically disadvantaged customers, streamline eligibility screening and administrative requirements to minimize associated costs, and provide water use efficiency support for those low-income customers plagued by relatively high metered water use.”⁸⁶

Specifically, the program is intended to provide “limited supplemental bill assistance for special circumstances as well as provision of water audits and plumbing repairs for qualifying low-income customers with unusually high water usage patterns.”⁸⁷ In some detail, the Affordability/Rate Design Study addressed the design of the program, including eligibility criteria and forms of assistance, administrative procedures, and possible funding options.⁸⁸

According to the testimony submitted by Mr. Christopher Budasi, while “[t]here are several components,” “[t]he largest allocation of assistance is for administratively qualified bill assistance that provides a 20% discount to residential customers monthly volumetric water and wastewater charges.”⁸⁹ In addition, the program would provide “limited” assistance to customers scheduled for disconnection but who are undergoing a hardship. In such instance, GWA would

⁸⁴ GWA Affordability/Rate Design Analytical Study, p. 2 (Mar. 2021).

⁸⁵ GWA Affordability/Rate Design Analytical Study, p. 2 (Mar. 2021).

⁸⁶ Bordallo Testimony, p. 13 (May 1, 2021).

⁸⁷ GWA Affordability/Rate Design Analytical Study, p. 2 (Mar. 2021).

⁸⁸ GWA Affordability/Rate Design Analytical Study, pp. 13-18 (Mar. 2021).

⁸⁹ Budasi Testimony, p. 7 (Dec. 3, 2021).

allow a “one-time payment” “capped at \$500” to the customer’s account that would make the account current.⁹⁰ Further, GWA would provide a wide variety of other services, such as a water audit, bill assistance, leak detection, and repair services.⁹¹

According to Mr. Budasi, GWA estimated that the program will cost “\$5 million with modest annual adjustments upward for program growth.”⁹² This cost will fund direct assistance through the reduction of customers’ water and wastewater bill; leak detection, water audits, and program administration.⁹³

In its initial review, GCG recommended that the PUC deny implementation of the proposed program.⁹⁴ It submitted that the program was not completely designed; that the price was unreasonable; and that Legislative approval may be required.⁹⁵

In contrast, Mr. Budasi indicated that “[t]here is nothing in GWA’s or the GPUC’s enabling legislation that prohibits or places restrictions on a revenue funded customer assistance program.”⁹⁶ Mr. Budasi added that “Title 12, G.C.A. §12116 states the GPUC ‘may prohibit rebates and discrimination between localities, or between consumers, under substantially similar conditions.’”⁹⁷ However, according to Mr. Budasi, the agency’s existing subsidies were the result of “policy decisions approved by both the CCU and GPUC and set a clear precedent that subsidization of GWA rates is an accepted practice and allowable.”⁹⁸

⁹⁰ Budasi Testimony, p. 7 (Dec. 3, 2021).

⁹¹ Budasi Testimony, p. 7 (Dec. 3, 2021).

⁹² Budasi Testimony, p. 8 (Dec. 3, 2021).

⁹³ Budasi Testimony, p. 9 (Dec. 3, 2021).

⁹⁴ GCG Report, p. 70 (Oct. 22, 2021).

⁹⁵ GCG Report, p. 70 (Oct. 22, 2021).

⁹⁶ Budasi Testimony, p. 10 (Dec. 3, 2021).

⁹⁷ Budasi Testimony, p. 10 (Dec. 3, 2021).

⁹⁸ Budasi Testimony, pp. 10-11 (Dec. 3, 2021).

Moreover, at the evidentiary hearing, GWA maintained that the proposed program is consistent with the intent of ARPA legislation and is permissible under existing Guam law. However, GWA indicated that it would pursue legislative measures to reinforce GWA's authority concerning the implementation of its proposed program; and that it would seek clarification concerning any statutory requirements related to implementation.

In January, GCG again recommended deferring implementation of the proposal.⁹⁹ It suggested that GWA more “fully define its Affordability Program (Program) and hold public hearings about the program so its customers understand: the reason for the Program; provide an overview of Program benefits and costs, seek input on how the program could be modified to better provide assistance to its economically challenged citizens, review the program considering Guam Law that requires all members of a customer [class] be treated equally.”¹⁰⁰ Further, according to GCG, deferral of the program saves GWA \$5.25 million.¹⁰¹

13. GCG's Proposed Adjustments to GWA' Expenses

As discussed above, in its analyses, GCG identified three expense adjustments: (1) Navy water purchases; (2) Salary and benefits; (3) Contractual expenses; and (4) GWA's proposed Affordability Program.

A. Navy Water Expenses

Regarding GWA's purchases of Navy water, GCG submitted that GWA's increases in its purchases of Navy water appeared inconsistent with GWA's purchases in recent years.¹⁰² According to GCG, GWA did not provide any data to support a projected 30% increase in Navy

⁹⁹ GCG Report, p. 69 (Oct. 22, 2021).

¹⁰⁰ GCG Report, p. 24 (Jan. 15, 2022).

¹⁰¹ GCG Report, p. 37 (Jan. 15, 2022).

¹⁰² GCG Report, p. 42 (Oct. 22, 2021).

water purchases.¹⁰³ Instead, GCG noted that the Official Statement of the 2020A Bond Indenture indicated the following: 531,000 kgals in FY2022; 505,000 kgals in FY2023; and 480,000 kgals in FY2024.¹⁰⁴ GCG cited to language in the Official Statement, which states:

Projections for Fiscal Years 2020 through 2025 assume purchases will be impacted by stipulated assumptions of annual and compounding water loss reductions of 2% in Fiscal Year 2020 (adjusted for partial-year (7/12) implementation of stipulated measures), 2.75% in Fiscal Year 2021, 5% for Fiscal Years 2022, 2023 and 2024, and no further reduction in Fiscal Year 2025.¹⁰⁵

Accordingly, GCG proposed adjusting this expense to mirror the data indicated in the Official Statement of GWA's 2020A Bond Indenture, lowering the purchased Navy water expense to: \$6.159 million in FY2022; \$5.858 million in FY2023; and \$5.568 million in FY2024.¹⁰⁶

At the evidentiary hearing, GWA admitted that it overstated its Navy water purchases, but maintained that GCG's proposed adjustment to Navy water purchases, "corrected for purchase volumes reduced through the Water Loss Reduction program, should be implemented" instead. GCG disagreed and indicated that "GWA's proposed Purchased Water Expense should be rejected," substituting as an alternative its values: \$6,159,600 for FY2022 (as opposed to \$8,333,122); \$5,858,000 for FY2023 (as opposed to \$8,287,651); and \$5,568,000 for FY2024 (as opposed to \$8,268,710).¹⁰⁷

¹⁰³ GCG Report, p. 43 (Oct. 22, 2021).

¹⁰⁴ GCG Report, p. 43 (Oct. 22, 2021).

¹⁰⁵ GCG Report, pp. 43-44 (*quoting* Official Statement for Guam Waterworks Authority Series 2020A \$134,000,000 Bond Issue, p. 24) (Oct. 22, 2021).

¹⁰⁶ GCG Report, pp. 44-45 (Oct. 22, 2021).

¹⁰⁷ GCG Report, p. 28 (Jan. 15, 2022).

B. Salary and Benefits Expenses

The next adjustment concerned GWA's request for \$29.6 million for salaries and benefits, which GCG contends is "double the average level of increases over the previous four fiscal years."¹⁰⁸ GCG submitted that staffing is "far above" comparable mainland utilities "by a factor of five."¹⁰⁹ Staffing, according to GCG, remains a "serious concern" because it represents close to forty percent (40%) of GWA's operating expenses.¹¹⁰

According to GCG, "[n]o explanation was offered by GWA as to why this 14.7% increase was so much larger than the average increase of 7% for the period 2017 through 2021."¹¹¹ With respect to capitalized labor costs, according to GCG, this too "significantly increased from \$3.6 million to \$4.5 million in one year."¹¹²

Instead, GCG developed its own estimates, by adding two employees each year; and increasing Salaries and Benefits by 4%; and for capitalized labor, GCG applied an increase of 14.17% for FY2022 through FY2024.¹¹³ It rejected GWA's proposal, citing that there was testimony to support any such proposed increase; and substituted, as an alternative, its values: \$27,014,248 for FY2022 (as opposed to \$29,139,507); \$28,245,058 for FY2023 (as opposed to \$31,363,157); and \$29,531,110 for FY2024 (as opposed to \$31,950,457).¹¹⁴

In response, GWA rejected "the notion that reduced staffing levels, accomplished through GWA's cost containment measures, may be sustained with minimal (2 positions per

¹⁰⁸ GCG Report, p. 29 (Oct. 22, 2021).

¹⁰⁹ GCG Report, p. 65 (Oct. 22, 2021).

¹¹⁰ GCG Report, p. 65 (Oct. 22, 2021).

¹¹¹ GCG Report, p. 37 (Oct. 22, 2021).

¹¹² GCG Report, p. 37 (Oct. 22, 2021).

¹¹³ GCG Report, pp. 40-41 (Oct. 22, 2021).

¹¹⁴ GCG Report, pp. 25-26 (Jan. 15, 2022).

year) adjustment through the FY2022 – FY2024 period as proposed by GCG.”¹¹⁵ GWA contended that sustaining “current staffing levels effectively ignores the fact that new positions are required to provide staffing at the Northern District Wastewater Treatment Plant.”¹¹⁶ GWA further noted that GCG’s analysis amounted to a mere “extrapolation of FY2021 expenses—devoid of any attempt to understand GWA’s staffing needs—despite their having conducted a staffing study.”¹¹⁷ It added that “the salaries expense estimate included in GWA’s May 1 rate filing already included a \$2.5 million per year reduction from the CCU-approved budget amount.”¹¹⁸

GCG further recommended that the PUC undertake a “focused management audit” of GWA’s personnel levels to “define” staffing levels for fiscal years 2023 and 2024, and to do so prior to the FY2024 rate review.¹¹⁹

C. Contractual Expenses

Regarding contractual expenses, GCG maintained that such expenses should be based on FY2021 actual values, with a 3% annual increase for inflation for years FY2022 through FY2024.¹²⁰ GCG submitted that GWA did not provide any testimony or documentation supporting the increase in its contractual expenses.¹²¹ Accordingly, GCG found this expense to be unreasonable.¹²² Instead, GCG maintained that GWA’s contractual expense should increase

¹¹⁵ Rothstein Testimony, p. 21 (Dec. 3, 2021).

¹¹⁶ Rothstein Testimony, p. 21 (Dec. 3, 2021).

¹¹⁷ Rothstein Testimony, p. 21 (Dec. 3, 2021).

¹¹⁸ Rothstein Testimony, pp. 21-22 (Dec. 3, 2021).

¹¹⁹ GCG Report, p. 65 (Oct. 22, 2021).

¹²⁰ GCG Report, p. 29 (Jan. 15, 2022).

¹²¹ GCG Report, p. 29 (Jan. 15, 2022).

¹²² GCG Report, p. 48 (Oct. 22, 2021).

annually by only 3%,¹²³ which is a little over \$100,000 per year; and substituted, as an alternative, its values: \$3,761,277 for FY2022 (as opposed to \$6,304,122); \$3,874,116 for FY2023 (as opposed to \$7,141,301); and \$3,990,339 for FY2024 (as opposed to \$7,519,569).

GWA rejected GCG's position that the level of contractual expenses in FY2021 can be sustained another three years.¹²⁴ GWA contended that such action would significantly impact its service levels.¹²⁵

D. Affordability Program Expenses

As discussed in Section 12 above, GCG recommended deferring implementation of GWA's proposed Customer Assistance Program.¹²⁶ It suggested that GWA more "fully define its Affordability Program (Program) and hold public hearings about the program so its customers understand: the reason for the Program; provide an overview of Program benefits and costs, seek input on how the program could be modified to better provide assistance to its economically challenged citizens, review the program considering Guam Law that requires all members of a customer calls be treated equally."¹²⁷ Again, deferral of the program will save GWA \$5.25 million, according to GCG.¹²⁸

14. American Rescue Plan Act and GWA's Rate Stabilization Funds

Next, GCG maintained that it had one revenue adjustment to GWA's financial models, specifically the availability of American Rescue Plan Act ("ARPA") funds of \$14.4 million. GCG submitted that "[t]he ARP funds should be used ahead of [Rate Stabilization Fund] funds

¹²³ GCG Report, p. 48 (Oct. 22, 2021).

¹²⁴ Rothstein Testimony, p. 22 (Dec. 3, 2021).

¹²⁵ Rothstein Testimony, p. 22 (Dec. 3, 2021).

¹²⁶ GCG Report, p. 69 (Oct. 22, 2021).

¹²⁷ GCG Report, p. 24 (Jan. 15, 2022).

¹²⁸ GCG Report, p. 37 (Jan. 15, 2022).

to achieve the DSCR needed in each fiscal year”; and that RSF funds can be added as needed and the details of the implementation should be left largely to GWA management.”¹²⁹ GCG further submitted that \$5.3 million of ARPA funds could be used in FY2022, reducing GWA’s revenue requirement.¹³⁰

Moreover, according to GCG, it performed a *pro forma* calculation illustrating how “the RSF and APR funds can be used to provide the 1.30x coverage proposed by GWA for this proceeding and not require any rate increase through FY2024.”¹³¹ GCG found that “depending on the use of the RSF and APR funds discussed previously, sufficient revenues would be provided to meet the minimum level of DSC for . . . FY2022 and . . . FY2023 with no change in existing rates considering Staff adjustments.”¹³² In its analysis, GCG applied ARP and RSF funds for FY2022 through FY2024, “with a priority on using APR funds to achieve 1.30s DSC”; and the result, according to GCG, was zero “revenue deficiency from current rates” through FY2024.¹³³

GWA indicated that while ARPA funding and RSF reserves “may be used to buy-down near-term rate increases”, GWA contended that such use would be “short sighted in that it would leave GWA without adequate RSF reserves to respond to financial emergencies, to meet minimum debt service coverage thresholds, to pay for scheduled increases in debt service just outside the rate application window, or to survive the potential prolonged financial impacts of

¹²⁹ GCG Report, p. 36 (Jan. 15, 2022).

¹³⁰ GCG Report, p. 36 (Jan. 15, 2022).

¹³¹ GCG Report, p. 31 (Jan. 15, 2022).

¹³² GCG Report, p. 31 (Jan. 15, 2022).

¹³³ GCG Report, p. 31 (Jan. 15, 2022).

the pandemic.”¹³⁴ GWA expressed that its Updated Rate Plan “uses all ARPA funds within the rate application window to mitigate rate increases (as directed by the Governor), builds revenue capacity through proposed rate structure changes, and preserves RSF reserves to mitigate the FY2025 financial impact of the Commercial Paper take-out bonds”; and additionally results in a “smooth increase” by avoiding any “FY2025 rate shock.”¹³⁵

GCG recommended that GWA provide the PUC with semi-annual financial reports concerning its use of the RSF, to include both deposits and withdrawals.¹³⁶

15. Debt Service Coverage Ratio

In its submissions, GWA proposed a temporary relaxation of the PUC and CCU policies related to targeted debt service coverage ratio as a response to “the financial impacts of the pandemic.”¹³⁷ Specifically, GWA contended that decreasing the target ratio of 1.40x to 1.30x would “help ensure GWA does not fall into technical default while significantly moderating pressure on rate revenue requirements.”¹³⁸

In response, GCG indicated that it indeed recognized the “benefit” of relaxing the current debt service coverage ratio proposed by GWA.¹³⁹ In fact, GCG indicated that with no change in rates, GWA is projected to achieve a debt service coverage ratio of 1.3x for FY2022 through FY2024.

¹³⁴ Rothstein Testimony, p. 18 (Dec. 3, 2021).

¹³⁵ Rothstein Testimony, p. 18 (Dec. 3, 2021).

¹³⁶ GCG Report, p. 34 (Jan. 15, 2022).

¹³⁷ Bordallo Testimony, pp. 9-10 (May 1, 2021).

¹³⁸ Bordallo Testimony, pp. 9-10 (May 1, 2021).

¹³⁹ GCG Report, p. 11 (Oct. 22, 2021).

16. GWA's Rate Application Model

In these proceedings, there was much controversy related to GWA's Rate Application Model ("RAM"). GCG has argued throughout these proceedings that GWA's password protection of the RAM "limited" GCG's use.¹⁴⁰ GCG maintained that in other jurisdictions, such financial models are provided with "unrestricted access"; and it indicated that it was dissatisfied with GWA's presentation of the RAM.¹⁴¹ GWA maintained that "there is no user manual or narrative describing the effort, substituting instead comments in thousands of cells as a replacement for the manual" and recommended that "user manual be developed."¹⁴² GCG added that where the RAM is used in future proceedings, the Commission should require that documentation be provided with a "user manual", along with "specific testimony as to how the model was used to develop each section of the testimony."¹⁴³

GCG therefore requested that GWA remove "all proprietary interests in the RAM other than to GWA"; and that the Commission confirm that the RAM is the property of GWA on behalf of its customers.¹⁴⁴ GCG further requested that GWA's RAM be provided to those who request it, subject to the approval of the Commission and input from GWA management.¹⁴⁵ GCG contended that in the absence of these conditions, then the cost of developing the RAM should not be recovered as a regulatory asset.¹⁴⁶ GCG also recommended that GWA collaborate with the PUC's consultants to possibly enhance the features of the RAM.¹⁴⁷

¹⁴⁰ GCG Report, p. 21 (Oct. 22, 2021).

¹⁴¹ GCG Report, p. 21 (Oct. 22, 2021).

¹⁴² GCG Report, p. 20 (Jan. 15, 2022).

¹⁴³ GCG Report, p. 20 (Jan. 15, 2022).

¹⁴⁴ GCG Report, p. 37 (Jan. 15, 2022).

¹⁴⁵ GCG Report, p. 37 (Jan. 15, 2022).

¹⁴⁶ GCG Report, p. 37 (Jan. 15, 2022).

¹⁴⁷ GCG Report, p. 71 (Oct. 22, 2021).

17. Water Loss

In GWA's Water Loss Study, GWA set forth its Water Loss Control Program, which is comprised of an island-wide "DMA-based water loss control approach with a view to providing a long-term . . . approach to monitoring and managing water losses within the GWA water supply and distribution network."¹⁴⁸ According to GWA, a DMA (or District Metered Area) "is a discrete area of a water distribution network into which the flow of water entering or leaving the DMA is measured by flow meters. The DMA is typically formed by closing valves or disconnecting interconnections with the surrounding network such that all of the water entering or leaving the DMA can be measured at the DMA meter points."¹⁴⁹ For instance, "[t]he net inflow volume into the DMA can be compared against the volume of metered sales to customers in the DMA to directly calculate the Non-Revenue Water (NRW) volume in the DMA"; and the same inflow volume can be examined "to quantify the volume of real, physical losses (leakage) within the DMA."¹⁵⁰ Based on the data, GWA can "direct the leak detection and repair resources to those parts of the network where they will have most benefit."¹⁵¹

According to GWA, the plan involves the installation of 36 DMAs that would cover "594 miles of main and 42,000 customer service connections."¹⁵² These DMAs would "closely monitor" the level of water losses that could then be used to "direct proactive leak detection action into those DMAs where the level of losses is above the target level."¹⁵³ GWA intends on utilizing DMAs to provide complete island-wide coverage of the entire water distribution

¹⁴⁸ GWA Phase 3 Water Loss Control Program Development, p. 1 (Mar. 2021).

¹⁴⁹ GWA Phase 3 Water Loss Control Program Development, p. 1 (Mar. 2021).

¹⁵⁰ GWA Phase 3 Water Loss Control Program Development, pp. 1-2 (Mar. 2021).

¹⁵¹ GWA Phase 3 Water Loss Control Program Development, p. 2 (Mar. 2021).

¹⁵² GWA Phase 3 Water Loss Control Program Development, p. 2 (Mar. 2021).

¹⁵³ GWA Phase 3 Water Loss Control Program Development, p. 2 (Mar. 2021).

network.¹⁵⁴ It intends on implementing a DMA monitoring and control system that would provide it with automated information on water loss levels for active leakage control.¹⁵⁵

Other activities include the implementation of a Proactive Leak Detection program that would survey the entire water distribution network for leaks 4 times a year.¹⁵⁶ GWA also intends on contracting technical assistance with a water loss control specialist company experienced in implementing DMAs.¹⁵⁷ This contractor would provide supervision of GWA's implementation of the DMA monitoring system, training for GWA's staff in comprehensive leak detection, and supervision of the water loss control program.¹⁵⁸

In its review of GWA's Water Loss study, GCG noted that the study presented encouraging strategies for reductions in water loss,¹⁵⁹ but that water losses have been "chronic and continue."¹⁶⁰ GCG stated that GWA's has certainly provided the PUC with an "approach" developed by its consultant; and that the "proposal" shows "significant improvements in results compared to the past efforts."¹⁶¹ GCG added that GWA should be supported for implementing this plan and "if GWA follows the guidelines WSO has outlined carefully . . . the Commission can expect to see improvements."¹⁶²

GCG recommended that GWA should provide the PUC with a quarterly report, to include the following: (1) quantity of non-revenue water and percentage for the quarter and the previous 12 months; (2) water loss programs that are underway and their status; (3) upcoming water loss

¹⁵⁴ GWA Phase 3 Water Loss Control Program Development, p. 75 (Mar. 2021).

¹⁵⁵ GWA Phase 3 Water Loss Control Program Development, p. 75 (Mar. 2021).

¹⁵⁶ GWA Phase 3 Water Loss Control Program Development, p. 75 (Mar. 2021).

¹⁵⁷ GWA Phase 3 Water Loss Control Program Development, p. 75 (Mar. 2021).

¹⁵⁸ GWA Phase 3 Water Loss Control Program Development, p. 75 (Mar. 2021).

¹⁵⁹ GCG Report, p. 12 (Oct. 22, 2021).

¹⁶⁰ GCG Report, p. 56 (Oct. 22, 2021).

¹⁶¹ GCG Report, p. 58 (Oct. 22, 2021).

¹⁶² GCG Report, p. 58 (Oct. 22, 2021).

programs that are scheduled; (4) any problems, delays, or other issues with any of the programs and proposed solutions for corrections; and (5) any barriers that could possibly negatively affect projected water loss targets.¹⁶³ GWA indicated in these proceedings that it should be permitted to proceed with the projects and programs indicated in the Water Loss study, including implementation of the DMA program; and that GWA and GCG should collaborate to develop and Water Loss Control reporting format consistent with industry standards.

18. Capital Financing Alternatives

In GWA's Capital Financing Alternatives Study ("Financing Study"), GWA indicated that its Water Resources Master Plan "calls for capital improvement spending over the FY2018 to FY2037 . . . on the order of \$1.6 billion"¹⁶⁴ GWA submitted that this spending will be driven in "large part by prospective Consent Decree compliance requirements, along with water system improvements to address water losses and efforts to connect currently unserved populations."¹⁶⁵ GWA further submitted that "[f]uture capital financing requirements may be conservatively estimated to warrant GWA securing approximately \$200 million in new money bond authorization from the Guam legislature for the 5-year period, FY2022 through FY2026."¹⁶⁶ To support these activities, GWA's Financing Study provides a comprehensive review of alternatives for capital financing.¹⁶⁷ In particular, the Financing Study examined credit

¹⁶³ GCG Report, p. 60 (Oct. 22, 2021).

¹⁶⁴ GWA GWA's Capital Financing Alternatives Final Report, p. 1 (Mar. 2021).

¹⁶⁵ GWA GWA's Capital Financing Alternatives Final Report, p. 1 (Mar. 2021).

¹⁶⁶ GWA GWA's Capital Financing Alternatives Final Report, p. 1 (Mar. 2021).

¹⁶⁷ GWA GWA's Capital Financing Alternatives Final Report, p. 1 (Mar. 2021).

enhancements, construction financing, and long-term debt instruments; and opportunities to enhance yields on invested debt issuance proceeds.¹⁶⁸

According to GWA, the Financing Study “affirmed” the “practice of funding the Bond Indenture required Debt Service Reserve Fund through bond proceeds rather than through a third-party instrument (*e.g.* Surety or Letter of Credit).”¹⁶⁹ “The Study also notes the need to secure a recommended \$200 million of additional debt authorization to facilitate financing of GWA’s capital improvement program.”¹⁷⁰ GWA submitted, therefore, that legislation is needed to secure the \$200 million debt and Commercial Paper authority; and that it will need to continue to fund the required Debt Service Reserve Fund through bond proceeds and to improve investment performance; and that it should avoid capitalizing interest in structuring future bonds.¹⁷¹

In response, GCG found that GWA’s report illustrated that “the commercial paper program does have the potential to produce reduced interest expenses during the period it is in use.”¹⁷² GCG noted that currently GWA is authorized to “initiate the planning process” regarding the implementation of “a commercial paper program for the next bond financing,” which will certainly require legislative approval.¹⁷³ GCG ultimately recommended that GWA provide the PUC with “an update on the status of obtaining the necessary approvals to allow GWA to employ commercial paper for prospective capital financing.”¹⁷⁴

¹⁶⁸ GWA GWA’s Capital Financing Alternatives Final Report, p. 2 (Mar. 2021).

¹⁶⁹ Bordallo Testimony, p. 7 (May 1, 2021).

¹⁷⁰ Bordallo Testimony, p. 7 (May 1, 2021).

¹⁷¹ Bordallo Testimony, pp. 5-6 (May 1, 2021).

¹⁷² GCG Report, p. 13 (Oct. 22, 2021).

¹⁷³ GCG Report, p. 13 (Oct. 22, 2021).

¹⁷⁴ GCG Report, p. 19 (Oct. 22, 2021).

19. Cesspool and Septic Tank Elimination

In the Cesspool Study, GWA found that thirty-seven percent of its residential and commercial customers were not being charged for sewer service.¹⁷⁵ In addition, GWA believes that 13% (thirteen percent) of customers in residential subdivisions in northern Guam that are connected to the sewer system are not being charged for such sewer service.¹⁷⁶ Accordingly, GWA intends to revise Guam law so that it will be authorized to require customers to connect to the public sewer system.¹⁷⁷ The report goes through a list of updates to both Guam's sewage statutes and regulations that would mandate such public sewer connections.¹⁷⁸

Moreover, the approach identified in the report involves the investigations to identify customers who are connected to the sewer system but not being billed for such service, and identify buildings which are not connected to the sewer system.¹⁷⁹ GWA will also construct sewer mains near priority wells; and GWA will work with U.S. E.P.A., GHURA, and the U.S.D.A. to identify possible sources of funding for the projects and programs identified in GWA's approach.¹⁸⁰

20. Status of EPA Proceedings

As recommended by GCG, GWA should provide a quarterly report to the Commission indicating the status of the U.S. E.P.A. proceedings.¹⁸¹

¹⁷⁵ GWA Cesspool and Septic Tank Elimination Study, p. 3 (Mar. 2021).

¹⁷⁶ GWA Cesspool and Septic Tank Elimination Study, p. 3 (Mar. 2021).

¹⁷⁷ GWA Cesspool and Septic Tank Elimination Study, p. 3 (Mar. 2021).

¹⁷⁸ GWA Cesspool and Septic Tank Elimination Study, pp. 3-13 (Mar. 2021).

¹⁷⁹ GWA Cesspool and Septic Tank Elimination Study, p. 25 (Mar. 2021).

¹⁸⁰ GWA Cesspool and Septic Tank Elimination Study, p. 25 (Mar. 2021).

¹⁸¹ GCG Report, p. 38 (Jan. 15, 2022).

21. Future Filing Requirements

In these proceedings, GCG has accused GWA of being “nonresponsive” in providing documentation supporting its rate request.¹⁸² GCG maintained that if filings that lacked supporting testimony, documentation and working papers, along with passwords for protected files, were submitted before stateside public utility commissions, such filings would be considered “patently deficient” and thereby “rejected.”¹⁸³ Accordingly, GCG requested that the PUC order GWA, “under penalty of having its filing be declared patently deficient and rejected, to provide detailed explanations, documentation and support in its Rate-Path Years FY 2023 and FY 2024 (Phase 3) filings in Docket 19-08.”¹⁸⁴

In addition, GCG submitted that GWA should provide the PUC with information related to the following: the changing COVID-19 pandemic conditions; tourism, hotel water sales and overall customer water usage data for changes to demand forecast; additional analysis of volume data delivered though the failed Badger meters; the use of RSF monies in FY2022¹⁸⁵; the availability of ARP monies for use in GWA’s construction program and revenue requirements; workbooks and supporting information on salaries and wages, Navy water expense, O&M expenses, A&G expenses, and contractual expenses; update regarding rulings on the Affordability Program and implementation issues.¹⁸⁶

Further, GCG recommended that the Commission retain a “management consulting firm to undertake a focused management audit examining GWA Staffing levels and the deployment

¹⁸² GCG Report, p. 35 (Jan. 15, 2022).

¹⁸³ GCG Report, p. 35 (Jan. 15, 2022).

¹⁸⁴ GCG Report, p. 35 (Jan 15, 2022).

¹⁸⁵ GCG Report, p. 32 (Jan 15, 2022); GCG Report, p. 66 (Oct. 22, 2021).

¹⁸⁶ GCG Report, p. 33 (Jan 15, 2022); GCG Report, p. 66 (Oct. 22, 2021).

of best practices in certain areas of GWA operations.”¹⁸⁷ While not necessarily a filing requirement, GCG recommended that GWA consult with GCG to discuss possible refinements to the RAM, for instance in sections concerning revenue requirement, so as to better automate the processing of data and calculations.¹⁸⁸

GCG has asked the PUC to require GWA to submit information related to water usage data, use of grant money, water loss reporting, and updates on GWA’s efforts concerning its Water Loss Reduction projects.¹⁸⁹ GCG additionally recommended that GWA provide the PUC with a report detailing the status of the U.S. E.P.A. proceedings.¹⁹⁰

CONCLUSION AND RECOMMENDATIONS

GWA has indicated on the record that if the PUC does not provide adequate rate relief, such action would be “poorly received by bond rating agencies, investors and the U.S. E.P.A. and may compromise GWA’s ability to raise capital on favorable terms and conduct Consent Decree negotiations.”¹⁹¹ And further, any “[i]nadequate rate relief in the face of general and pandemic induced declining revenues, and scheduled increases in debt service payments runs the disconcerting risk of a bond rating downgrade, as well as complications in securing a line-of-credit to support the planned Commercial Paper program.”¹⁹²

On the other hand, GCG has repeatedly instructed that, based on its examination of the data, and “that even if the GWA’s analysis was adopted,” GCG concluded that “no rate relief for FY2022 is warranted and that a Rate Path with no rate increases in FY2023 and FY2024 would

¹⁸⁷ GCG Report, p. 37 (Jan. 15, 2022).

¹⁸⁸ GCG Report, p. 37 (Jan. 15, 2022).

¹⁸⁹ GCG Report, pp. 37-38 (Jan. 15, 2022).

¹⁹⁰ GCG Report, p. 38 (Jan. 15, 2022).

¹⁹¹ Rothstein Testimony, pp. 16-17 (Dec. 3, 2021).

¹⁹² Rothstein Testimony, p. 17 (Dec. 3, 2021).

be sufficient to produce a [debt service] coverage of 1.3x.”¹⁹³ GCG further concluded that absent any rate increases, but instead implementing the adjustments identified in its testimony, GWA achieves a target coverage of 1.3x “in each one of the remaining years in the 5-Year Rate Plan—FY2022, FY2023, and FY2024”;¹⁹⁴ and therefore concluded, again, that no rate increases are required over the remainder of the 5-Year Rate Plan (FY2020 through FY2024).¹⁹⁵

The testimony differs as to particular expenses projected through the remaining rate path years. The ALJ submits that a reasonable projection of expenses for purchases of Navy Water, contracts, and salaries and benefits, also exists between the numbers propounded by GWA and GCG. Further, deferral of the GWA’s Affordability Program potentially saves GWA \$5.25 million;¹⁹⁶ and reducing the debt service coverage ratio to 1.3x will result in even more savings. However, the ALJ is mindful too that GWA’s revenues have dipped during this Covid-19 pandemic period; and that GWA has implemented certain cost containment measures. In addition, while not fully developed on the record in these proceedings, GWA will be expected to comply with U.S. E.P.A. Consent Decree requirements in the near future, and which may require significant funding for capital projects.

The ALJ understands that GWA has transferred \$1.2 million from its RSF account in order to ensure it maintains sufficient revenues to satisfy its debt service coverage requirements under its bond indenture. GWA has not yet received any ARPA funds from the Government of Guam, which the ALJ understands is currently reserved for GWA. Accordingly, based on these

¹⁹³ GCG Report, p. 17 (Jan. 15, 2022).

¹⁹⁴ GCG Report, p. 30 (Jan. 15, 2022).

¹⁹⁵ GCG Report, p. 30 (Jan. 15, 2022).

¹⁹⁶ GCG Report, p. 37 (Jan. 15, 2022).

reasons, the ALJ recommends a 4% increase for the remainder of FY2022; and a 3.25% increase in FY2023.

For FY2024, the ALJ recommends a rate increase of 6.5%, which shall be subject the true-up process for GWA, and which filing requirements shall be refined through the collaboration between GWA and the PUC's consultants. Accordingly, GWA should file a FY2024 Comprehensive Review and Update and all other required rate material by May 1, 2023, with the implementation of any new rate by October 1, 2023.

Regarding the use of a RAM, GWA should provide a fully executable version of its RAM that allows users to easily input data into the model without unreasonable restrictions; or in the alternative, provide training for PUC and its consultants on how to properly and fully utilize the RAM's capabilities. GWA shall further provide a basic "user manual", and corresponding testimony regarding how the model illustrates certain data and calculations.

Further, based on the record before the Commission and the foregoing discussions herein, the ALJ makes the following additional recommendations to the Commission: Regarding the Legislative Surcharge, the ALJ recommends implementing the following rates, as proposed by GWA: 3.7% in FY2022; 3.5% in FY2023; and 3.4% in FY2024. Regarding the Navy's wastewater rate, GWA has agreed to align the Navy's wastewater rates to those of Government of Guam and airport accounts.¹⁹⁷ Accordingly, the ALJ recommends the authorization to modify the Navy's volumetric wastewater rate from \$12.80 to \$12.65 per kgal.

In addition, with respect to the redesign of GWA's rate structure, the ALJ recommends reviewing the new rate structure at a later time. With respect to GWA's proposed Affordability

¹⁹⁷ Rothstein Testimony, p. 23 (Dec. 3, 2021).

Program, or CAP, the ALJ recommends that this program should be examined and considered in a separate proceeding. GWA should work with ALJ and the PUC's consultants in more fully developing the program, obtaining any required legislative approvals or statutory amendments, and holding public hearings, so as to strengthen the government and public support for such a program. The first of such work sessions shall be scheduled in September, 2022.

Moreover, with respect to the issue concerning GWA's debt service coverage, the ALJ recommends that for its Five Year Financial Plan, GWA should be temporarily authorized to utilize a debt service coverage ratio of no less than 1.3x.

With respect to water loss, GWA should be permitted to proceed with the projects and programs indicated in its Water Loss study, including implementation of the prescribed DMA program. GWA should also provide the PUC with quarterly reports which indicate: (1) the quantity of non-revenue water and percentage of such non-revenue water during the quarter, with a comparison of non-revenue water during the previous 12 months; (2) water loss programs that are underway and their status; (3) upcoming water loss programs that are scheduled; (4) any problems, delays, or other issues affecting the programs and proposed solutions for corrections.¹⁹⁸ The first of such report shall be submitted on September 30, 2022.

Regarding GWA's Commercial Paper Program, GWA should provide the PUC with an update on the status of obtaining the necessary approvals that would allow GWA to employ commercial paper for prospective capital financing. This update should be submitted to the PUC by September 30, 2022.

¹⁹⁸ GCG Report, p. 60 (Oct. 22, 2021).

The recommendations made herein are intended to support GWA as it moves forward with critical capital improvement projects and to allow the agency to adopt policies that support GWA's long term strategic financial planning targets. The ALJ further expects GWA to continue its cost containment measures. The ALJ notes that while the recommendation made herein is to defer implementation of an affordability program and to defer redesigning GWA's rate structure at this time, the ALJ recognizes GWA's concerns related to water affordability for its ratepayers, allowing GWA to ensure that all of its customers can afford these basic services. GWA may file a response to this Findings of Fact and Conclusions of Law on or before May 27, 2022. A proposed Rate Decision is submitted herewith for the Commissioners' consideration.

Respectfully submitted this 13th day of May, 2022.



JOEPHET R. ALCANTARA
Administrative Law Judge

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