



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

)	GWA DOCKET 19-08
)	
IN RE: PETITION FOR APPROVAL OF)	
GWA'S THIRD FIVE-YEAR)	ORDER RE GCG'S JULY 19, 2021
FINANCIAL PLAN (BASE RATE)	AMENDED REQUEST FOR RELIEF
INCREASES))	
)	

This matter is before the Administrative Law Judge (the "ALJ") pursuant to the relief requested by Georgetown Consulting Group (hereinafter referred to as either "Georgetown," "Staff," or "GCG") in its "Amended Request for Relief" served on the ALJ on July 19, 2021.

A. Georgetown's Request

In its filing, Georgetown requests that GWA immediately provide Georgetown with a "fully unprotected RAM and other supporting models including Cost-of-Service Analysis ("COSA"), Water Loss Model, Septic Tank Elimination Model, and the Forecast Model"; and including the Forecast Model Code "so that Staff can easily and efficiently review the Forecast Model assumptions and equations so that alternative model formulations can be examined."¹

In addition, Georgetown further requests that "[a]ll proprietary interest in the RAM should be removed" so as to provide "complete and free access to all Parties in this proceeding"² Georgetown submits that such interest is not "proprietary" to GWA since

¹ Georgetown's Amended Request for Relief, GWA Docket 19-08, p. 1 (July 19, 2021).

² Georgetown's Amended Request for Relief, GWA Docket 19-08, p. 1 (July 19, 2021).

“[t]he efforts to create the RAM has been funded with enormous expense and which GWA expects ratepayers to pay for.”³

Lastly, Georgetown requests that the schedule of these proceedings be reset with a “day-for-day extension from May 1, 2021” to when a complete unprotected RAM and other models are provided to the Staff.⁴ Georgetown argues that GWA has “intentionally” limited its “ability to access the completely model,” which has “hindered” its “analysis and discovery.”⁵

Georgetown submits that “password protection” has been applied to critical portions of the filing”, specifically the RAM, which has “hindered” Georgetown’s analysis in Phase II of this rate proceeding.⁶ According to Georgetown, such “password protection” does not allow “full access” and has deprived Georgetown of its ability to perform its work for the Commission.⁷

In particular, Georgetown contends that “[t]he password protection restricts Staff and Intervenors to running and performing only those scenarios that GWA has predetermined that Staff ‘needs’ to run, and restricts Staff and Intervenors to seeing only data and worksheets that GWA has likewise predetermined that Staff ‘needs’ to review.”⁸ Georgetown asserts that “a party seeking to review and audit the data must manually search through the entire workbook” and that doing so is both “time-intensive and error prone” since there are “more than 150

³ Georgetown’s Amended Request for Relief, GWA Docket 19-08, p. 1 (July 19, 2021).

⁴ Georgetown’s Amended Request for Relief, GWA Docket 19-08, p. 1 (July 19, 2021).

⁵ Georgetown’s Amended Request for Relief, GWA Docket 19-08, p. 1 (July 19, 2021).

⁶ Georgetown’s Amended Request for Relief, GWA Docket 19-08, p. 4 (July 19, 2021).

⁷ Georgetown’s Amended Request for Relief, GWA Docket 19-08, p. 4 (July 19, 2021).

⁸ Georgetown’s Amended Request for Relief, GWA Docket 19-08, p. 9 (July 19, 2021).

spreadsheets and 70,000 formulas” in the “password protected Excel models.”⁹ In sum, while Georgetown seeks to “audit” the various Excel models submitted by GWA to support the proposed rate increase, Georgetown is unable to do so “without access to the Excel models without password protection.”¹⁰

As cited by Georgetown, there are jurisdictions requiring a utility’s submission of spreadsheets that are not “locked, password protected” or contain “hidden cells or tabs, or any other restrictions that impair or hamper the commission’s ability to review or modify the data in those cells.”¹¹ Further, according to Georgetown, while certain jurisdictions do not expressly require that regulated utilities provide passwords to electronic files submitted to public utility commission, passwords are “always” provided to the commission staff. For instance, according to Georgetown, the Wyoming Public Service Commission, the entity that regulates the public utilities that provide services to consumers in Wyoming, passwords are “always” provided to the staff where password-protected Excel files are submitted to the Commission for review.¹²

B. GWA’s Response

In response, GWA maintains that its “rate filing is complete and fully compliant with this Docket’s FY 2020 Rate Order and Stipulation. GWA’s Analytical Study reports and revised rate application submitted on March 31, 2021, and May 1, 2021, respectively, provide more detailed information than has been required of any other GWA rate filing.”¹³

⁹ Georgetown’s Amended Request for Relief, GWA Docket 19-08, p. 9 (July 19, 2021).

¹⁰ Georgetown’s Amended Request for Relief, GWA Docket 19-08, p. 9 (July 19, 2021).

¹¹ Georgetown’s Amended Request for Relief, GWA Docket 19-08, pp. 11-12 (July 19, 2021).

¹² Georgetown’s Amended Request for Relief, GWA Docket 19-08, p. 18 (July 19, 2021).

¹³ GWA’s Response, GWA Docket 19-08, p. 1 (July 22, 2021).

In particular, GWA submits that its “filings are fully compliant” inasmuch as “GWA has supported its rate application revision with testimony, Analytical Study reports and supporting models, the filing of all required and supplemental rate application schedules, and an enhanced discovery process that has included multiple workshops and communications to facilitate GCG’s review of the now voluminous, and more than complete, record.”¹⁴

GWA additionally submits that the “[p]roprietary interests in analytical models used to support GWA’s rate application—governed by standard contract terms used by Guam utilities—is not a matter of relevance for GCG’s review of GWA’s rate application.”¹⁵ GWA contends that the analytical models provided to Georgetown that support its rate application “may be readily reviewed and used, as amply demonstrated to GCG during multiple workshops.”¹⁶

Further, GWA adds that it has provided responses to “over 135 separate Requests for Information and conducted several workshops to aid GCG’s review of the revised rate application”; and that “GWA has clearly demonstrated, as documented in workshop transcripts and related documentation that the analytical models used to support GWA’s rate application may be readily reviewed.”¹⁷

GWA maintains that its “critical data and formulas have not been hidden.”¹⁸ “There is no lack of transparency and, in fact, rate filing schedules under PUC rules have been

¹⁴ GWA’s Response, GWA Docket 19-08, p. 1 (July 22, 2021).

¹⁵ GWA’s Response, GWA Docket 19-08, p. 1 (July 22, 2021).

¹⁶ GWA’s Response, GWA Docket 19-08, p. 1 (July 22, 2021).

¹⁷ GWA’s Response, GWA Docket 19-08, pp. 1-2 (July 22, 2021).

¹⁸ GWA’s Response, GWA Docket 19-08, p. 2 (July 22, 2021).

enhanced and supplemented to provide far more information than specifically required.”¹⁹ GWA further argues that “GCG’s research and speculations regarding how analytical model protections may or may not be considered in other regulatory settings, while clearly time-consuming, is irrelevant.”²⁰

It maintains that “[t]he salient question is whether GWA has complied with PUC administrative rules and filing requirements” and that “[n]ot only has GWA so complied, but it has provided substantial additional information and guidance to facilitate GCG review.”²¹ Moreover, GWA notes that it is “disturbing”:

[T]hat GCG has elected to dedicate its considerable (ratepayer funded) resources to protest minor inconveniences rather than train its focus on the substance of our revised rate application. This seems particularly wasteful since GCG has neglected to focus efforts on substantive rate filing issues throughout the bulk of the Discovery period provided in the ALJ’s Scheduling Order even after GWA had demonstrated how GCG could efficiently review the rate application, conduct independent analyses, and construct alternative scenarios.²²

Ultimately, GWA submits that “no additional ruling is warranted and the ALJ’s May 3, 2021, Scheduling Order should remain in force.”²³

C. Discussion

The ALJ recognizes that there have been some back-and-forth discussions regarding the issues outlined by Georgetown above. The record also demonstrates that both

¹⁹ GWA’s Response, GWA Docket 19-08, p. 2 (July 22, 2021).

²⁰ GWA’s Response, GWA Docket 19-08, p. 2 (July 22, 2021).

²¹ GWA’s Response, GWA Docket 19-08, p. 2 (July 22, 2021).

²² GWA’s Response, GWA Docket 19-08, p. 2 (July 22, 2021).

²³ GWA’s Response, GWA Docket 19-08, p. 3 (July 22, 2021).

GWA and Georgetown have attempted to resolve these issues on their own, and at one point, on June 28, 2021, GWA represented that a ruling may not be necessary should a video conference demonstrating the Rate Application Model functionality prove fruitful. Of course, the ALJ is disappointed that the parties were not able to reach a resolution on their own knowing that the exchange and examination of information is critical to these proceedings. Since the parties are still unable to come to a resolution, this ruling follows.

Pursuant to 12 G.C.A. §12105, the PUC has broad regulatory oversight over a public utility's rates. The statute requires that the PUC exercise such duties and powers conferred to it by statute in order to examine the reasonableness of a public utility's rates.²⁴ Based on its statutory authority, these powers include the power to "investigate and examine any rates and charges charged by any utility, and all records pertinent thereto"; as well as "seek advice from an independent utility expert, . . . approve, disapprove, increase or reduce rates for each utility." 12 G.C.A. §12105 (a), (c), (d).

Further, 12 G.C.A. §12108 provides that public utilities "shall at all times, upon request, furnish to the Commission all information that it may require respecting any of the matters concerning rates and charges, revenues and expenditures which it is given power to investigate, and shall permit the examination of its books, records, contracts, maps and other documents by the Commission, or any person authorized by it in writing to make such examination, and shall furnish the Commission a complete inventory of its property in such form as the Commission may direct." 12 G.C.A. §12108(a).

²⁴ "General Powers and Duties. (a) The Commission shall have regulatory oversight supervision of rates as set forth in this Chapter over each public utility and shall perform the duties and exercise the powers imposed or conferred upon it by this Chapter." 12 G.C.A. §12105.

It is without question that public utility commissions are tasked with accumulating as much relevant data as possible in reaching a determination on whether to increase rates. In aid of this responsibility, certain procedures were adopted by the Commission that require this Commission to review the petitions for rate relief, consider the testimony given, examine the data supporting the petition, and hold public hearings for the ratepayers, in order to make a determination on reasonable and just rates.

Central to such authority, too, is the Commission's authority to investigate public utilities for the purpose of determining efficiency and economy of operations. For instance, in Michigan, the Michigan Public Service Commission indicates in its filing rules that "[t]ransparency and the use of data submitted to the Commission that can be shared with the Commission, Staff, and intervenors" are encouraged. Therefore, it is not novel that a utility should make available to its utility commission any information, analyses, modeling, or similar module that the utility uses to support its filing, and that provides data on internal planning, modeling, decision-making, risk assessment, or similar processes.

D. Conclusion

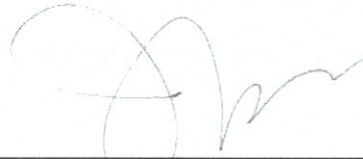
Based on the foregoing, it is appropriate and well within the Commission's authority to require GWA to provide Georgetown with a "fully unprotected RAM and other supporting models including Cost-of-Service Analysis ("COSA"), Water Loss Model, Septic Tank Elimination Model, and the Forecast Model, along with the Forecast Model Code in Stata."

Accordingly, GWA is ORDERED to provide Georgetown with unprotected versions of these documents and material as soon as practicable, but no later than close of business, **August 11, 2021**.

With regard to the issue of whether “[a]ll proprietary interest in the RAM should be removed,” the ALJ reserves any comment on this issue at this time.

With respect to whether these proceedings should be reset with a “day-for-day extension from May 1, 2021,” the ALJ will schedule a teleconference with all counsel next week to discuss the status of the review and investigation.

SO ORDERED this 5th day of August, 2021.

A handwritten signature in black ink, appearing to read 'Joephet R. Alcantara', is written above a horizontal line.

JOEPHET R. ALCANTARA
Administrative Law Judge