

**PUBLIC UTILITIES COMMISSION
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Harry M. Boertzel
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May 22, 2007

VIA ELECTRONIC TRANSMISSION

Doris Flores Brooks, Public Auditor

Office of the Public Auditor
4th Floor, Pacific Daily News Bldg.
238 Archbishop Flores Street
Hagåtña, Guam 96910

RE: Collectibility of Commercial Tipping Fees

Dear Public Auditor Brooks:

You have requested that the Guam Public Utilities Commission [*PUC*] comment on your office's draft findings on the above subject. Please consider the following comments as staff level observations.

In substantial measure, the draft findings are consistent with Georgetown Consulting Group's [*GCG*] findings and conclusions in its several recent reports¹. The bottom line is that the solid waste management [*SWM*] billing and collection system, which involves DPW, DOA and the commercial haulers, is severely flawed. The draft findings make recommendations for fixing this flawed system within the paradigm of continued DPW responsibility for SWM operations. GCG has questioned in its reports whether DPW has the manpower, systems and skill sets to efficiently discharge this mission. PUC has strongly maintained that a different paradigm must be established [*a separate public corporation under CCU governance*] to enable the Government of Guam [*GovGuam*] to effectively operate SWM programs and services and to obtain the financing necessary to comply with the Consent Decree². Accordingly, there is serious doubt, based upon PUC's study of DPW operations over the past 13 months, whether DPW has the resources, ability or time necessary to implement the recommendations made in the draft findings for reforming the SWM billing and collection system.

¹ See GCG August 18, 2006 Audit Report; its January 5, 2007 Update Report; and its March 16, 2007 and May 4, 2007 letters.

² See PUC Orders dated September 28, 2006 and February 1, 2007.

By its October 27, 2005 Rate Order, PUC directed that all revenues generated by the rate increase be restricted and not be spent without prior regulatory approval. This restricted reserve should be more than adequate to fund the repair or replacement of the landfill scale. However, given the Executive transfer authority over special funds, as established by P.L. 28-150, it is now unclear whether these reserved rate revenues are still available.

PUC has recommended that the statutory paradigm under which commercial haulers collect tipping fees be changed. PUC has recommended that commercial haulers be directly charged, as a cost of doing business, for tipping fees related to the solid waste they dump at the landfill³.

You have asked for PUC's view on commercial haulers' responsibility to bill, collect and remit to GovGuam a monthly \$10 collection fee for each residential customer, which they service. This issue raises a number of challenging questions, which would require careful review [*beyond the scope of this letter*] in order for a convincing answer to be reached. These issues include:

1. Are the commercial haulers precluded by law from collecting solid waste from single-family residences and multiple residential dwelling units of four or less units? [*See DPW Solid Waste Rules 105(a) and (b)*]. Are commercial haulers currently providing service to this customer class? What is the consequence of this conduct?
2. Commercial haulers are permitted by law to service multiple residential units [*apartments, condominiums, homeowner associations, etc.*]. Are the haulers required to bill, collect and remit the \$10 collection fee for these customers?
3. Do Guam residents have the right to choose who provides them with solid waste collection service? Do residents have the right to decline DPW service and either self-haul the trash to the landfill, use free mayoral collection service or hire a commercial hauler to provide this service?
4. What is the purpose of the \$10 residential collection fee? From PUC's perspective, it is intended to cover the cost of service associated with DPW collection and disposal of residential solid waste. Would it be *just and reasonable* for DPW to collect this fee from commercial haulers in instances where the commercial haulers provide the collection and tipping service?

³See section 3 of PUC's February 1, 2007 Order.

What is clear from your examination of the substantial variance between potential and actual SWM residential customers [12,000 +/- residences] is that the residential collection system is broken. It is unclear why this variance exists [commercial service, free mayoral service, self-haul, faulty DPW numbers, illegal dumping, unserviced residences] but it is likely due to a combination of these factors. This reality has persuaded PUC that institutional change is necessary to repair the SWM billing and collection system. A reliable revenue stream is critical if GovGuam intends to access the revenue bond market to finance Consent Decree compliance.

I hope that these comments are of some assistance.

Cordially,

A handwritten signature in black ink, appearing to read "H. Boertzel", with a long horizontal line extending to the right.

Harry M. Boertzel

cc: Terrence Brooks