

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:

ESTABLISHMENT OF HOST  
COMMUNITY PREMIUM FEES  
PURSUANT TO PUBLIC LAW 30-165

GSWA DOCKET 12-02

ORDER



INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Request of the Representative of the Receiver of the Guam Solid Waste Authority, David Manning, to modify the present method by which Host Community Premium Surcharge Funds are distributed to the host villages of Inarajan and Ordot-Chalan Pago.<sup>1</sup>

BACKGROUND

2. On July 30, 2012, the PUC adopted a Protocol which established the procedure by which GSWA would collect solid waste tipping fees for the Host Community Premium Fund.<sup>2</sup>
3. Public Law 30-165, enacted into law on July 16, 2010, determined that a "Host Community Premium" must be awarded for the villages of Inarajan and Ordot-Chalan Pago in the annual amount of \$150,000.00 each. The purpose of this "Host Community Benefit" was to compensate communities where solid waste management facilities, such as sanitary landfills, are located.<sup>3</sup>
4. In its prior Order, the PUC established a Protocol which set forth the procedure for the establishment of the Host Community Premium fees and the transfer of such funds to the Host Communities.
5. Public Law 30-165 required that the Host Community Premium Surcharge fees be transferred to the Department of Administration ["DOA"]. It was established that expenditures would be made by DOA from the Host Community Fund upon approval by resolution of the Host Community Municipal Planning Councils.<sup>4</sup>

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<sup>1</sup> Email from Receiver Representative David L. Manning to PUC Legal Counsel Frederick J. Horecky dated July 14, 2013.

<sup>2</sup> PUC Order, GSWA Docket 12-02, dated July 30, 2012, at p. 3.

<sup>3</sup> Public Law 30-165, enacted into law on July 16, 2010.

<sup>4</sup> 10 GCA §511006.

6. On April 11, 2013, Public Law 32-21 was enacted. Such law removed the Department of Administration from the role of administering the Host Community Fund; 10 GCA §511006, as amended by Public Law 32-21, provides that the Host Community Fund shall be **“managed by the Mayor and the Municipal Planning Council. No expenditure shall be made from the fund that is *not* approved by resolution of the respective Municipal Planning Councils of the Host Community.”** (Emphasis added).
7. On July 16, 2013, PUC Legal Council issued its Report herein. The Commission adopts said Report.

### DETERMINATIONS

8. Public Law 32-21 removes responsibility for management of the Host Community Fund from the Department of Administration to the Mayors and Municipal Planning Councils of the Host Communities, Inarajan and Ordot-Chalan Pago.<sup>5</sup>
9. The present PUC Protocol, adopted on July 30, 2012, provided that, on a quarterly basis, GSWA is required to transfer all Host Community Premium Surcharge Fees directed to the Department of Administration.<sup>6</sup>
10. However, since Public Law 32-21 transferred responsibility for the administration and management of the Host Community Fund to the Mayor and Municipal Planning Councils of the Host Communities, the PUC has a duty to amend its Protocol so that such protocol is in accord with Public Law 32-21.
11. As an administrative agency, the Guam Public Utilities Commission must act in accordance with its statutory authority. In accordance with 10 GCA §511005, the PUC is given responsibility to determine the Host Community Premium for each residential and commercial account. It must seek to ensure that the Host Community Fund is distributed to the Municipal Planning Council Fund Accounts in accordance with Public Law 32-21.
12. The PUC should adopt the Protocol proposed by PUC Counsel which incorporates the changes enacted by Public Law 32-21 regarding the Host Community Premium Benefit Program.

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<sup>5</sup> Public Law 32-21, enacted April 11, 2013.

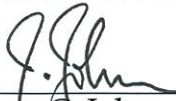
<sup>6</sup> PUC Order, GSWA Docket 12-02, dated July 30, 2012, at p. 3.

### ORDERING PROVISIONS

After careful consideration of the record herein, the Request of the Representative of the Receiver for GSWA, the PUC Counsel Report dated July 16, 2013, and for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Public Utilities Commission hereby **ORDERS** that:

1. The PUC hereby adopts the Protocol attached hereto as Exhibit "A" concerning the Host Community Premium Fees and the Host Community Fund.
2. Said Protocol is adopted in accordance with the provisions of Public Laws 30-165 and 32-21.
3. The PUC Order of July 30, 2012, in this Docket, remains in effect, except to the extent to which it is inconsistent with the new Protocol adopted in this Order.
4. The new Protocol adopted herein supersedes the prior Protocol.
5. GSWA shall publish the new Protocol regarding the Host Community Premium Surcharge in its website on the world wide web and in the website of the Court appointed Receiver GBB.
6. GSWA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to the 2009 Amended Assessment Order, 12 GCA 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

Dated this 30th day of July, 2013.

  
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Jeffrey C. Johnson  
Chairman

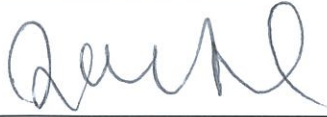
  
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Rowena E. Perez  
Commissioner

  
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Joseph M. McDonald  
Commissioner

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Michael A. Pangelinan  
Commissioner

Order  
Establishment of  
Host Community Premium Fees  
GSWA Docket 12-02  
July 30, 2013

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Peter Montinola  
Commissioner