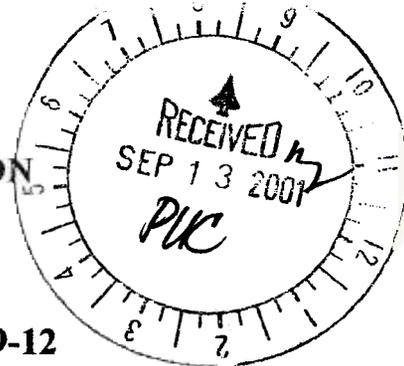


BEFORE THE PUBLIC UTILITIES COMMISSION
OF GUAM



GUAM POWER AUTHORITY)
COLLECTION POLICY)

DOCKET 99-12

Decision and Order

Regulatory Background

By its November 17, 2000 Order in this docket, the Commission expressed concern over the extraordinary level of Guam Power Authority's [GPA] accounts receivable [over \$63 million as of September 30, 2000]¹. The Commission directed its regulatory consultant [Georgetown] to study the root causes of this problem and to recommend appropriate regulatory action to mitigate it.

In January 2001 Georgetown issued a report, which found that:

1. Guam Waterworks Authority [GWA] and Guam Memorial Hospital Authority [GMHA], as of September 2000, owed GPA over \$15 million for power services². The Commission has the statutory responsibility to enable these regulated utilities to pay these arrearages and to remain current on its obligations to GPA.³
2. Government of Guam line agencies⁴, as of September 2000, owed GPA \$19.2 million for power services. By Public Law [P.L.] 25-164, a Utility Bank was established to fund the payment of line agency utility bills, which accrue in FY01. However, Georgetown estimates that the bank was underfunded by \$10.4 million dollars in FY01.⁵

¹ As of June 1, 2001, GPA's accounts receivable had risen to \$69.6 million.

² As of June 1, 2001, this amount had grown to over \$18 million dollars.

³ 12 GCA 12004.

⁴ See **Attachment A** for a listing of the line agencies, which are funded by the Utility Bank. As of June 2001 this receivable had grown to \$22.7 million dollars [including DPW's account for public street lights].

⁵ See **Attachment B** [Georgetown Utility Fund Update from 5/14/01 report].

3. GPA does not have a comprehensive collection policy.
4. GPA's receivables level may cause GPA's auditors to require an accrual for 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. GPA's auditor [Ernst & Young] confirmed the Georgetown concern by letter dated March 1, 2001.⁶

During the Commission's March, 2001 regulatory session, and after considering the Georgetown report, the Commission ordered that:

1. The administrative law judge [ALJ] shall initiate proceedings to establish regulatory surcharges to enable GWA and GMHA to retire their arrearages to GPA.
2. GPA should prepare and present for Commission approval a comprehensive collection and disconnection policy.
3. The Legislature be informed of the Ernst & Young letter, of the forecasted \$10.4 million shortfall in FY01 Utility Bank funding and of the critical need for it to appropriate adequate funds to resolve the Government's obligation to GPA. **[In response to this directive, a copy of the Commission's March 6, 2001 Order was transmitted to the Legislature.]**

During the June, 2001 regulatory session, the Commission did not have five Commissioners in office to constitute a quorum to consider Commission staff activities in response to its March Order. In the current September 2001 regulatory session, the Commission has, under separate docket, established a surcharge to enable GWA to retire its arrearage to GPA. Proceedings will be conducted during the December 2001 regulatory session to establish a GMHA surcharge. Commission staff has also worked collaborately with GPA in developing a GPA collection policy for Commission review and approval.

It is within the context of this regulatory background, that the Commission now considers the proposed GPA collection policy and action

⁶ Attachment C.

steps, which are necessary to resolve the Government line agency arrearages to GPA.

Statutory Framework

The Commission's activities in this docket are driven by its statutory duty to:

1. Establish GPA rates and charges for services, which are at least adequate to cover the full cost of such service and any contractual agreements to bondholders [*12 GCA 12004*].
2. Audit the quality and efficiency of GPA's management, operations, maintenance and service and issue orders necessary to insure GPA's compliance with audit findings [*P.L. 25-05:12*].

It is significant that the Commission has been cautioned by Ernst & Young that unless it exercises this statutory authority to resolve the GPA accounts receivable crisis, Ernst & Young may be required in its FY01 GPA audit report to establish an accrual for doubtful debts, which may place GPA in default of its bond covenants⁷.

Findings

The Commission, having carefully considered the regulatory background in this docket, including the orders and reports discussed herein and in light of its statutory responsibilities, on motion duly made, seconded and carried by the affirmative vote of five Commissioners, and for good cause shown, finds that:

- 1 The Commission has conducted public hearings regarding the matters addressed in this order in accordance with 12 GCA 12016.
2. GPA's collection policy, in form as **Attachment D**, should be approved effective October 1, 2001, subject to the following conditions:

⁷ Mr. Richard Boice, partner of Ernst & Young reiterated this position in sworn testimony at the Commission's August 30, 2001 public hearing in Docket 00-01 regarding the establishment of the GWA surcharge to enable GWA to retire its payable to GPA and GTA. In this testimony, Mr. Boice also stated that in his opinion a seven year payment term for GPA receivables was the outside limit of reasonability under generally accepted accounting standards.

- a. GPA should inform its customers of the essential terms of the policy in advance of its effective date.
 - b. The collection policy should supercede all GPA policies, rules and regulations to the contrary.
- 3 The arrearage owed by the Government line agencies listed in Attachment A, which accrued prior to October 1, 2001 [the “Arrearage”] should be collected by the Commission under ALJ oversight in accordance with the following protocol:
- a. Georgetown, in consultation with GPA, should be directed to quantify the Arrearage as of September 30, 2001. The Arrearage should be viewed as a single amount owed by the Government of Guam to GPA, rather than as a collection of amounts owed by numerous line agencies.⁸
 - b. The Arrearage should be paid, with interest [as established in the collection policy], in equal installments over a term of seven years.⁹ It is the Commission’s preference that the Legislature annually appropriate sufficient funds to cover the annual installment due under this protocol. Georgetown should be directed to quantify the amount of the annual installments necessary to retire the Arrearage, with interest, in seven years.
 - c. In the event the Legislature fails to appropriate the first installment by December 1, 2001¹⁰, then the Commission, on its own initiative, should conduct public hearings under 12 GCA 12016 during its December regulatory session to consider the establishment of a regulatory surcharge to fund the first installment. In this proceeding, the Commission would consider which GPA customer classes should be required to pay the

⁸ The Commission notes that a potential sources of funding for public streetlight arrearages might be found in 11 GCA 24104 and 12 GCA 8105.1.

⁹ See note 7.

¹⁰ The Commission cautions that any appropriation must be followed in the fiscal year by payment to GPA of the installment amount to avoid the necessity for a subsequent regulatory surcharge. The Commission will closely monitor this process.

surcharge. This process would then be repeated during each December regulatory session during the seven-year period.

- d. The Commission is aware that consideration is being given to the Government undertaking a pension bond, which would enable the Government to earmark funds to retire all or some portion of the Arrearage. During any hearing conducted under paragraph (c) above, the Commission would consider evidence regarding the probability that this bond undertaking will occur in the reasonably near future in evaluating the need for a regulatory surcharge.

Order

The Commission, having carefully considered the above described regulatory background, statutory framework and findings and the arguments and public comments made during the Commission public hearings conducted in this docket on September 6, 7 and 10, 2001, on motion duly made, seconded and carried by the affirmative vote of five Commissioners, and for good cause shown, hereby **ORDERS THAT:**

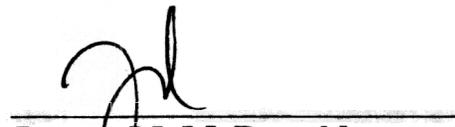
1. The GPA collection policy, in form attached hereto as Attachment D, is hereby approved, effective October 1, 2001, subject to the following conditions:
 - a. GPA shall inform its customers of the essential terms of the policy in advance of its effective date.
 - b. The collection policy shall supercede all GPA rules, policies and regulations to the contrary.
2. ALJ is authorized and directed to initiate regulatory proceedings to implement the following protocol for the collection of the Arrearage:
 - a. A copy of this Decision and Order shall be transmitted to the 26th Guam Legislature. ALJ shall make a courtesy call on the Chairman, Committee on Ways and Means [Senator Kaleo Moylan] to explain the rationale and protocol by which the Commission intends to oversee the collection of the Arrearage.

Every effort should be made to work collaboratively with the Legislature in this regard.

- b. Georgetown shall be directed to quantify the Arrearage and the amount of the annual installments necessary to retire the Arrearage, with interest, in seven years. Georgetown shall also be directed to investigate and report on the status of the proposed Government pension bond.
 - c. Preparations shall be undertaken to conduct, if necessary, a rate hearing during the December 2001 regulatory session to consider the establishment, if necessary, of a regulatory surcharge to fund the payment of the first installment.
3. GPA is ordered to pay the Commission's expenses in this proceeding, 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


Edward C. Crisostomo


Gerald M. Woo