



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

MAY 10 2002

The Honorable Joanne M. S. Brown  
Legislative Secretary  
I Mina'Bente Sais na Liheslaturan Guåhan  
Twenty-Sixth Guam Legislature  
Suite 200  
130 Aspinal Street  
Hagåtña, Guam 96910

Dear Legislative Secretary Brown:

Enclosed please find Bill No. 230 (LS) "AN ACT TO AMEND § 1508.1(h) AND 1508.1(i) OF TITLE 5 OF THE GUAM CODE ANNOTATED, AND TO REPEAL AND REENACT § 13 OF P.L. NO. 26-34, RELATIVE TO ABOLISHING GWA'S RECENTLY APPROVED RATE SURCHARGE AND TO PLACE A ONE-YEAR MORATORIUM ON ALL NEW SURCHARGE AND RATE INCREASES BY GWA" which was vetoed and subsequently overridden by I Liheslatura. This legislation is now designated as **Public Law No. 26-81**.

Very truly yours,

Carl T. C. Gutierrez  
I Maga'Lahen Guåhan  
Governor of Guam

Attachments: original bill for vetoed legislation or  
copy of bill for signed or overridden legislation  
and legislation enacted without signature

cc: The Honorable Antonio R. Unpingco  
Speaker


OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	
Time	1048
Date	5/10/02

0776

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**2002 (SECOND) Regular Session**


**CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN**

This is to certify that Bill No. 230 (LS), "AN ACT TO AMEND § 1508.1(h) AND 1508.1(i) OF TITLE 5 OF THE GUAM CODE ANNOTATED, AND TO REPEAL AND REENACT § 13 OF P.L. NO. 26-34, RELATIVE TO ABOLISHING GWA'S RECENTLY APPROVED RATE SURCHARGE AND TO PLACE A ONE-YEAR MORATORIUM ON ALL NEW SURCHARGE AND RATE INCREASES BY GWA," returned without approval of *I Maga'lahaen Guåhan*, was reconsidered by *I Liheslaturan Guåhan* and after such consideration, did agree, on the 8<sup>th</sup> day of May, 2002, to pass said bill notwithstanding the veto of *I Maga'lahaen Guåhan* by a vote of thirteen (13) members.



ANTONIO R. UNPINGCO  
Speaker

Attested:



JOANNE M.S. BROWN  
Senator and Legislative Secretary

-----  
This Act was received by *I Maga'lahaen Guåhan* this 9 day of May,  
2002, at 6 o'clock 15 P.M.



ERIC J. SALAS  
Assistant Staff Officer  
*Maga'lahaen's* Office

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**2001 (FIRST) Regular Session**

**Bill No. 230 (LS)**

As amended by the Committee on Rules,  
General Governmental Operations,  
Reorganization and Reform, and Federal,  
Foreign and General Affairs and amended.

Introduced by:

Mark Forbes  
V. C. Pangelinan  
J. M.S. Brown  
A. R. Unpingco  
J. F. Ada  
T. C. Ada  
F. B. Aguon, Jr.  
E. B. Calvo  
F. P. Camacho  
M. C. Charfauros  
L. F. Kasperbauer  
L. A. Leon Guerrero  
K. S. Moylan  
A. L.G. Santos  
J. T. Won Pat

**AN ACT TO AMEND § 1508.1(h) AND 1508.1(i) OF  
TITLE 5 OF THE GUAM CODE ANNOTATED, AND  
TO REPEAL AND REENACT § 13 OF P.L. NO. 26-34,  
RELATIVE TO ABOLISHING GWA'S RECENTLY  
APPROVED RATE SURCHARGE AND TO PLACE A  
ONE-YEAR MORATORIUM ON ALL NEW  
SURCHARGE AND RATE INCREASES BY GWA.**

1        **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2        **Section 1. Legislative Intent.**    The Public Utilities Commission  
3        approved an eleven and one-half percent (11.5%) surcharge on Guam

1 Waterworks Authority ("GWA") billings to pay for accumulated GWA past  
2 due debt to the Guam Power Authority ("GPA"). While this was done in  
3 order to prevent GPA from slipping into default, the surcharge presents an  
4 unbearable burden to many GWA customers in these economically fragile  
5 times.

6 It is *I Liheslaturan Guåhan's* intent that the surcharge no longer be placed  
7 in application and that a one (1) year moratorium on the imposition of the  
8 surcharge go into effect. In order to allow GPA to collect on its debt from  
9 GWA, the sum of Two Million Seven Hundred Fifty Thousand Dollars  
10 (\$2,750,000) is appropriated from sums made available through recent  
11 refinancing of the water bond for the purpose of paying one (1) year's  
12 amortization of the GWA debt to GPA, thus keeping GPA out of default  
13 without recourse to the surcharge.

14 **Section 2. Abolishment of GWA's Surcharge.** GWA's eleven and  
15 one-half percent (11.5%) surcharge, approved by the Public Utilities  
16 Commission ("PUC") in the PUC's decision and order dated September 13,  
17 2001 in Docket Number 00-01, is hereby abolished for the period of the  
18 moratorium mandated by § 3 of this Act.

19 GWA is prohibited for the moratorium period from any further billings  
20 of the eleven and one-half percent (11.5%) surcharge, approved by the PUC in  
21 PUC decision and order dated September 13, 2001 in Docket Number 00-01,  
22 and no customers shall be required to pay the above-reference surcharge.

23 **Section 3. Moratorium on All Rate Increases or New Surcharges by**  
24 **GWA.** There shall be a one (1) year moratorium on any rate increase, or

1 new or increased surcharge billed by GWA for services it provides to its  
2 customers. GWA shall *not* bill its customers for any increase in rates or new  
3 or increased surcharge for one (1) year.

4 **Section 4.** Section 1508.1(h) of Article 5, Chapter 1 of Title 5 of the  
5 Guam Code Annotated is hereby *amended* to read as follows:

6 **“(h) Use of Proceeds from the Sale of Bonds.**

7 Proceeds from the sale of the bonds shall be used *solely* to pay and  
8 are hereby appropriated to pay the costs of the Water System Projects  
9 described in Subsection (i) of this Section, to fund any necessary bond  
10 reserves, to pay past due accounts owed by the Guam Waterworks  
11 Authority to the Guam Power Authority; *provided*, such total amount  
12 paid from bond proceeds for this purpose shall *not* exceed Two Million  
13 Seven Hundred Fifty Thousand Dollars (\$2,750,000.00), and to pay  
14 expenses related to the authorization, sale and issuance of the bonds,  
15 including without limitation, printing costs, costs of reproducing  
16 documents, bond insurance premiums, underwriting, legal and  
17 accounting fees and charges, fees paid to banks or other financial  
18 institutions providing credit enhancement, costs of credit ratings, fees  
19 and charges for execution, transportation and safekeeping of bonds and  
20 other costs, charges and fees in connection with issuance, sale and  
21 delivery of the debt or debts.”

22 **Section 5.** Section 1508.1(i) of Article 5, Chapter 1 of Title 5 of the  
23 Guam Code Annotated is hereby *amended* to read as follows:

24 **“(i) Water System Projects.**

1                   (1) The proceeds of the bonds issued pursuant to  
2                   Section 1508.1 of this Act shall be expended upon the capital  
3                   outlays listed in Exhibit A of Public Law Number 26-34, *not*  
4                   *to exceed* Three Million Two Hundred Fifty Dollars  
5                   (\$3,250,000). No proceeds received pursuant to this Section  
6                   shall be expended without appropriation by *I Liheslaturan*  
7                   *Guåhan.*"

8                   **Section 6.** Section 13 of Public Law Number 26-34 is hereby *repealed*  
9 *and reenacted* to read as follows:

10                   **"Section 13. Revenue Reserves.**

11                   (a) The revenue reserves of One Million Six Hundred  
12                   Fifty-five Thousand Eight Hundred Seventy-nine Dollars  
13                   (\$1,655,879), which is the difference between the FY2002 revenue  
14                   forecast of Thirty-seven Million Seven Hundred Twelve Thousand  
15                   One Hundred Nine Dollars (\$37,712,109) and the combined total  
16                   of the authorization in Subsection (b) herein and the FY2002  
17                   funding authorization of Thirty-five Million Eight Hundred  
18                   Thirty-nine Thousand Five Hundred Sixty-four Dollars  
19                   (\$35,839,564) shall be deposited in the 'GWA Budget Reserve  
20                   Account'.

21                   (b) Notwithstanding any other provision of this Act or the  
22                   Exhibits, Two Hundred Sixteen Thousand Six Hundred Sixty-six  
23                   Dollars (\$216,666.00) of the Fiscal Year 2002 revenues shall be  
24                   used as payment on the One Million Three Hundred Thousand

1           Dollars (\$1,300,000) in debt service owed in Fiscal Year 2002 for  
2           the IBM/J.D. Edwards loan. The Board of Directors shall make its  
3           best efforts to refinance this debt for a term *not to exceed* sixty (60)  
4           months, and shall inform *I Liheslaturan Guåhan* of its efforts and  
5           the status of the refinancing every twenty (20) days.”

*Overridden*

# I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2002 (SECOND) Regular Session

Date: 3/8/02

## VOTING SHEET

*Vetoed*  
5 Bill No. 230 (LS)

*26-81*

Resolution No. \_\_\_\_\_

Question: Should the Legislature override Vetoed Bill 230 (LS) notwithstanding the objections of the Governor.

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M. S.	✓				
CALVO, Eddie B.	✓				
CAMACHO, Felix P.	✓				
CHARFAUROS, Mark C.		✓			
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LEON GUERRERO, Lourdes A.	✓				
MOYLAN, Kaleo S.	✓				
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.					✓

TOTAL

13   1   0   0   1

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence



*Overridden*  
*5/8/02*

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**2001 (FIRST) Regular Session**

**Bill No. 230 (LS)**

As amended by the Committee on Rules,  
General Governmental Operations,  
Reorganization and Reform, and Federal,  
Foreign and General Affairs and amended.

Introduced by:

Mark Forbes  
V. C. Pangelinan  
J. M.S. Brown  
A. R. Unpingco  
J. F. Ada  
T. C. Ada  
F. B. Aguon, Jr.  
E. B. Calvo  
F. P. Camacho  
M. C. Charfauros  
L. F. Kasperbauer  
L. A. Leon Guerrero  
K. S. Moylan  
A. L.G. Santos  
J. T. Won Pat

**AN ACT TO AMEND § 1508.1(h) AND 1508.1(i) OF  
TITLE 5 OF THE GUAM CODE ANNOTATED, AND  
TO REPEAL AND REENACT § 13 OF P.L. NO. 26-34,  
RELATIVE TO ABOLISHING GWA'S RECENTLY  
APPROVED RATE SURCHARGE AND TO PLACE A  
ONE-YEAR MORATORIUM ON ALL NEW  
SURCHARGE AND RATE INCREASES BY GWA.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Intent.** The Public Utilities Commission  
3 approved an eleven and one-half percent (11.5%) surcharge on Guam

1 Waterworks Authority ("GWA") billings to pay for accumulated GWA past  
2 due debt to the Guam Power Authority ("GPA"). While this was done in  
3 order to prevent GPA from slipping into default, the surcharge presents an  
4 unbearable burden to many GWA customers in these economically fragile  
5 times.

6 It is *I Liheslaturan Guåhan's* intent that the surcharge no longer be placed  
7 in application and that a one (1) year moratorium on the imposition of the  
8 surcharge go into effect. In order to allow GPA to collect on its debt from  
9 GWA, the sum of Two Million Seven Hundred Fifty Thousand Dollars  
10 (\$2,750,000) is appropriated from sums made available through recent  
11 refinancing of the water bond for the purpose of paying one (1) year's  
12 amortization of the GWA debt to GPA, thus keeping GPA out of default  
13 without recourse to the surcharge.

14 **Section 2. Abolishment of GWA's Surcharge.** GWA's eleven and  
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16 Commission ("PUC") in the PUC's decision and order dated September 13,  
17 2001 in Docket Number 00-01, is hereby abolished for the period of the  
18 moratorium mandated by § 3 of this Act.

19 GWA is prohibited for the moratorium period from any further billings  
20 of the eleven and one-half percent (11.5%) surcharge, approved by the PUC in  
21 PUC decision and order dated September 13, 2001 in Docket Number 00-01,  
22 and no customers shall be required to pay the above-reference surcharge.

23 **Section 3. Moratorium on All Rate Increases or New Surcharges by**  
24 **GWA.** There shall be a one (1) year moratorium on any rate increase, or

1 new or increased surcharge billed by GWA for services it provides to its  
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11 Authority to the Guam Power Authority; *provided*, such total amount  
12 paid from bond proceeds for this purpose shall *not* exceed Two Million  
13 Seven Hundred Fifty Thousand Dollars (\$2,750,000.00), and to pay  
14 expenses related to the authorization, sale and issuance of the bonds,  
15 including without limitation, printing costs, costs of reproducing  
16 documents, bond insurance premiums, underwriting, legal and  
17 accounting fees and charges, fees paid to banks or other financial  
18 institutions providing credit enhancement, costs of credit ratings, fees  
19 and charges for execution, transportation and safekeeping of bonds and  
20 other costs, charges and fees in connection with issuance, sale and  
21 delivery of the debt or debts.”

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4 *to exceed* Three Million Two Hundred Fifty Dollars  
5 (\$3,250,000). No proceeds received pursuant to this Section  
6 shall be expended without appropriation by *I Liheslaturan*  
7 *Guahan.*"

8           **Section 6.** Section 13 of Public Law Number 26-34 is hereby *repealed*  
9 *and reenacted* to read as follows:

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11                   (a) The revenue reserves of One Million Six Hundred  
12 Fifty-five Thousand Eight Hundred Seventy-nine Dollars  
13 (\$1,655,879), which is the difference between the FY2002 revenue  
14 forecast of Thirty-seven Million Seven Hundred Twelve Thousand  
15 One Hundred Nine Dollars (\$37,712,109) and the combined total  
16 of the authorization in Subsection (b) herein and the FY2002  
17 funding authorization of Thirty-five Million Eight Hundred  
18 Thirty-nine Thousand Five Hundred Sixty-four Dollars  
19 (\$35,839,564) shall be deposited in the 'GWA Budget Reserve  
20 Account'.

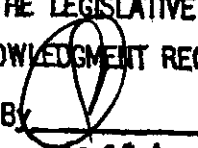
21                   (b) Notwithstanding any other provision of this Act or the  
22 Exhibits, Two Hundred Sixteen Thousand Six Hundred Sixty-six  
23 Dollars (\$216,666.00) of the Fiscal Year 2002 revenues shall be  
24 used as payment on the One Million Three Hundred Thousand



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

DEC 22 2001

The Honorable Joanne M. S. Brown  
Legislative Secretary  
I Mina'Bente Sais na Liheslaturan Guåhan  
Twenty-Sixth Guam Legislature  
Suite 200  
130 Aspal Street  
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	
Time	1:20 pm
Date	12/22/01

Dear Legislative Secretary Brown:

Enclosed please find Bill No. 230 (LS) "AN ACT TO AMEND § 1508.1(h) AND 1508.1(i) OF TITLE 5 OF THE GUAM CODE ANNOTATED, AND TO REPEAL AND REENACT § 13 OF P.L. NO. 26-34, RELATIVE TO ABOLISHING GWA'S RECENTLY APPROVED RATE SURCHARGE AND TO PLACE A ONE-YEAR MORATORIUM ON ALL NEW SURCHARGE AND RATE INCREASES BY GWA" which was I have vetoed.

This legislation usurps the jurisdiction of the Public Utilities Commission (PUC) by negating an action taken by that body to impose a surcharge on the water rates. The PUC was enacted to be an independent body for the specific purpose of analyzing and making orders relating to the rates of public utilities on Guam, because previous legislatures continually changed the utility rates by law, thereby making it impossible for the utilities to recover their actual costs and to make business plans for their entities. Instead of basing the utility rates on the need to pay for their actual costs, legislatively manipulated utility rates followed the whims of politics and expediency. While the economic situation on our island makes any rate increase very unpleasant, the fact remains that existing water rates do not cover the cost of delivering water or upgrading the system, and no rate increases may have other consequences, equally or more unpleasant.

This legislation abolishes the recently imposed water rate surcharge put in place in September, 2001 by the PUC, and declares a One (1) year moratorium on the establishment of any increase in rates. However, at the end of this year, according to the language in the legislation, GWA would probably have to reestablish this surcharge.

It has also been questioned whether any bond proceeds authorized under prior legislation can be diverted and redirected now to pay for operations. If this redirection of bond proceeds is not possible, then payment for utilities to Guam Power Authority cannot be made, and will result in a bond default by the Guam Power Authority. The same can be said for Guam Waterworks Authority's obligations to the Guam Telephone Authority and to the Public Utilities Commission, which also were to be covered in the surcharge imposed by the Public Utilities Commission. These obligations also cannot be paid. Lack of payment to the GTA will further exacerbate the financial situation at the Guam Telephone Authority.

0622

Legislative Secretary  
SB230;veto  
December, 2001  
Page 2

Section 6 of this legislation was previously enacted, in identical language, in Public Law No. 26-58. It cannot be comprehended why the same amendment to the same section was made twice in two different pieces of legislation coming one upon the heels of another. The Legislature has a very short memory indeed.

Very truly yours,



Carl T. C. Gutierrez  
I Maga'Lahen Guåhan  
Governor of Guam

Attachments: original bill for vetoed legislation or  
copy of bill for signed or overridden legislation  
and legislation enacted without signature

cc: The Honorable Antonio R. Unpingco  
Speaker

*B*

# I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 12/7/01

## VOTING SHEET

Bill No. 230

Resolution No. \_\_\_\_\_

Question: \_\_\_\_\_ VETO

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M. S.	✓				
CALVO, Eddie B.	✓				
CAMACHO, Felix P.	✓				
CHARFAUROS, Mark C.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LEON GUERRERO, Lourdes A.	✓				
MOYLAN, Kaleo S.	✓				
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.					✓

TOTAL 14 0 0 0 1

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence



**MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN**  
TWENTY-SIXTH GUAM LEGISLATURE  
155 Hesler Street, Hagåtña, Guam 96910

COPY

Dec. 07, 01  
(DATE)

Memorandum

To: Senator M. Forbes

From: Clerk of the Legislature

Subject: Committee Report on Bill No. 230 (LS)

Pursuant to §7.04 of Rule VII of the 26<sup>th</sup> Standing Rules, transmitted herewith is a copy of the Committee Report on Bill No. 230 (LS), for which you are the prime sponsor.

Should you have any questions or need further information, please contact the undersigned at 472-3464/5.

Cecile E. Taitano

Attachment

**received**  
*Dyansull*





# MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN

Kumitehan Areklamento, Finanzas Gubernamenton Hinirát, Rifotma yan Rinueba,  
yan Asunton Fidirát, Taotao Hiyong yan Hinirát

*Senadot Mark Forbes, Gehilu  
Kabisiyon Mayurát*

07 DEC 2001

Speaker Antonio R. Unpingco  
I Mina' Bente Sais Na Liheslaturan Guåhan  
155 Hesler Street  
Hagátña, Guam 96910

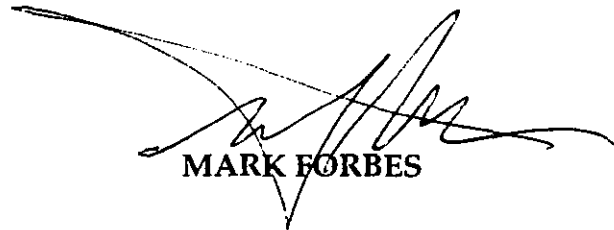
Dear Mr. Speaker:

The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs, to which Bill No. 230, was referred, wishes to report its findings and recommendations **TO DO PASS BILL NO. 230, as amended:** "An Act To Abolish The Guam Waterworks Authority's Recently Approved Eleven And A Half Percent (11.5%) Surcharge And To Place A One-Year Moratorium On All New Surcharge And Rate Increases By The Guam Waterworks Authority."

The voting record is as follows:

TO PASS	<u>10</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>
TO REPORT OUT	<u>0</u>

Copies of the Committee Report and other pertinent documents are attached. Thank you and si Yu'os ma'ase for your attention to this matter.

  
MARK FORBES

Attachments



# MINA 'ENTE SAIS NA LIHES' ATURAN GUAHAN

Kumitehan Areklamento, Hinanao Gubetnamenton Hinirát, Rifotma yan Rinueba,  
yan Asunton Fidirát, Taotao Hiyong yan Hinirát

*Senadot Mark Forbes, Gehilu  
Kabisiyon Mayurát*

07 DEC 2001

## MEMORANDUM

**TO:** Committee Members

**FROM:** Chairman

**SUBJECT:** Committee Report- BILL NO. 230, as amended: "An Act To Abolish The Guam Waterworks Authority's Recently Approved Eleven And A Half Percent (11.5%) Surcharge And To Place A One-Year Moratorium On All New Surcharge And Rate Increases By The Guam Waterworks Authority."

Transmitted herewith for your information and action is the report on Bill No. 230, as amended, from the Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs.

This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Bill No. 230, as amended
4. Public Hearing Sign-in Sheet
5. Fiscal Note/Fiscal Note Waiver
6. Notice of Public Hearing

Please take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated.

Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me.

Thank you and si Yu'os ma'ase.

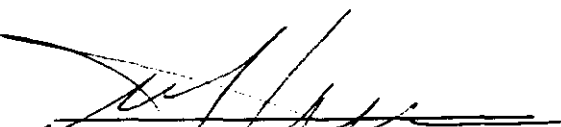
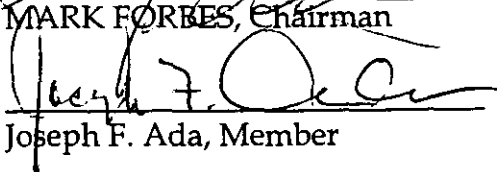
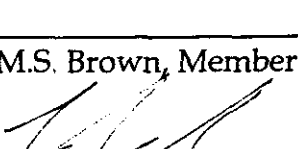
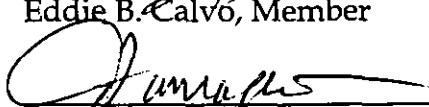
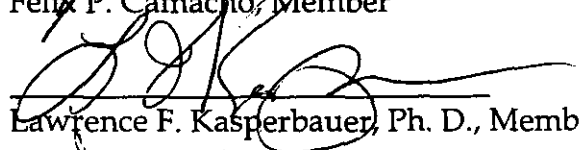

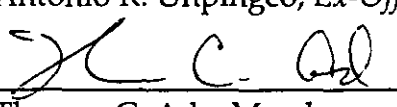
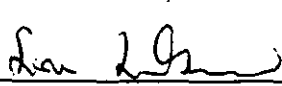
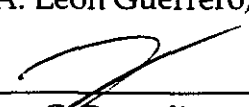
  
MARK FORBES

Attachments

Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal,  
Foreign and General Affairs  
I Mina' Bente Sais Na Liheslaturan Guåhan

Voting Record

BILL NO. 230, as amended: "An Act To Abolish The Guam Waterworks Authority's Recently Approved Eleven And A Half Percent (11.5%) Surcharge And To Place A One-Year Moratorium On All New Surcharge And Rate Increases By The Guam Waterworks Authority."

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>TO ABSTAIN</u>	<u>INACTIVE FILE</u>	<u>REPORT OUT</u>
 MARK FORBES, Chairman	✓	—	—	—	—
 Joseph F. Ada, Member	✓	—	—	—	—
Joanne M.S. Brown, Member	—	—	—	—	—
 Eddie B. Calvo, Member	✓	—	—	—	—
 Felix P. Camacho, Member	✓	—	—	—	—
 Lawrence F. Kasperbauer, Ph. D., Member	✓	—	—	—	—
 Kaleo S. Moylan, Member	✓	—	—	—	—
Antonio R. Unpingco, <i>Ex-Officio Member</i>	✓	—	—	—	—
 Thomas C. Ada, Member	✓	—	—	—	—
 Lou A. Leon Guerrero, Member	✓	—	—	—	—
 Vicente C. Pangelinan, Member	✓	—	—	—	—

**I MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN**

**COMMITTEE ON RULES, GENERAL GOVERNMENTAL  
OPERATIONS, REORGANIZATION AND REFORM, AND  
FEDERAL, FOREIGN AND GENERAL AFFAIRS**

**SENATOR MARK FORBES, CHAIRMAN**

**COMMITTEE REPORT  
ON  
BILL NO. 230, AS AMENDED**

**“AN ACT TO ABOLISH THE GUAM WATERWORKS  
AUTHORITY’S RECENTLY APPROVED ELEVEN AND A HALF  
PERCENT (11.5%) SURCHARGE AND TO PLACE A ONE-YEAR  
MORATORIUM ON ALL NEW SURCHARGE AND RATE  
INCREASES BY THE GUAM WATERWORKS AUTHORITY.”**

## **I. OVERVIEW**

The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs held a public hearing at 11 a.m. on December 6, 2001 in the Conference Room of the Office of Senator Mark Forbes, Temporary Legislative Building, Hagatna, Guam. An emergency waiver was given for the requirement for public notice, pursuant to Public Law 24-109.

Senators present at the public hearing were:

Senator Mark Forbes, Chairman

Senator Joanne Brown, Member

Senator Ben Pangelinan, Member

## **II. SUMMARY OF TESTIMONY**

Individuals appearing before the Committee to present oral and written testimony on the bill are as follows:

Terrance Brooks, Chairman, Public Utilities Commission (Oral and written testimony)

Terrance Brooks, Chairman of Public Utilities Commission provided oral and written testimony before the committee and addressed his favor of the bill, but addressed some of the concerns that the PUC had upon its review of the bill. Mr. Brooks presented the comments of the PUC stating that the PUC established a surcharge in its September 13, 2001 Order to create a dedicated revenue stream to fund the seven year retirement of GWA's \$17.6 million dollar obligation. In his testimony he states "Our main concern is the language of the bill which is called a 'moratorium', but uses the word 'abolishment'. We're just a little worried that if this surcharge is completely abolished then the bill will raise concerns with GPA's auditors and their bond holders, because this was a six year plan to get GWA their past dues bills paid. So that is our main concern. The other was the Commission recently reviewed and will act on the proposed GWA five year financial plan, by which it will need access to fund the \$83.8 million dollars in capital improvements. Part of the plan earmarks the \$6 million dollar Water Bond proceeds as a source of funds to get into compliance with the EPA order, because this bill taps those funds to defray the surcharge. We will need some kind of substitute to bring in those funds. Mr. Brooks stated that he has presented the committee with a written testimony of the PUC's comments about Bill 230 (LS).

Senator Mark Forbes then replied with a question to Mr. Brooks that if we (the legislature) were to (A) To amend the language of the bill so that it was clear that the abolition was tied into the moratorium for a year ; and (B) If the PUC had assurance that in the future that the legislature was going to work to either identify other sources of funding to help address the broad infrastructure requirements of GWA or to specifically mandate things such as build-operate (BOT) projects to address infrastructure needs, then that would allay some of your questions?

Mr. Terrance Brooks replied to Senator Mark Forbes, "Yes, I believe that would take care of a lot of our fears."

### **III. FINDINGS AND RECOMMENDATION**

The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs finds that Bill No. 230, as amended was intended to place a moratorium on the recently approved 11.5 % surcharge approved by the PUC in its September 13, 2001 Order. Because this surcharge is occurring at a time when the economy on Guam is at a very low point where the revenues are dropping and people are being displaced from their jobs and homes being foreclosed at a rapid rate a moratorium on any increase of the government of Guams' public utility surcharges will assist the people in retaining more of their income to help them through such financial hardships as what we see today. This act comes in a time when the people need to funnel their money into the economy for necessary needs to survive and help generate a much needed revenue, rather than to require them to pay a surcharge because of the utilities' failure to pay for their own bills. It is the intent of this bill to place a one-year moratorium on the recent 11.5 % surcharge approved and that the surcharge will no longer be applicable. The committee sees fit that this legislation be immediately addressed, to alleviate the further burden of our rate payers and for GWA to immediately work with the legislature and the executive branch in finding alternative financial sources to assist in paying GWA's utility bills, by which the bond holders of GTA and GPA await in the compliance of the bond covenants and for the compliance of the EPA's Consent Order required for GWA.

Accordingly, the Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs, to which Bill No. 230 was referred does hereby submit its findings and recommendations to I Mina' Bente Sais Na Liheslaturan Guahan **TO DO PASS BILL NO. 230, as amended, "An Act To Abolish The Guam Waterworks Authority's Recently Approved Eleven And A Half Percent (11.5%) Surcharge And To Place A One-Year Moratorium On All New Surcharge And Rate Increases By The Guam Waterworks Authority."**



# MINA ' B ' NTE SAIS NA LIHESJ ATURAN GUAHAN

Kumitehan Areklamento, Hinanao Gubetnamenton Hinirát, Rifotma yan Rinueba,  
yan Asunton Fidirát, Taotao Hiyong yan Hinirát

*Senadot Mark Forbes, Gehlu  
Kabisiyon Mayurát*

30 NOV 2001

## MEMORANDUM

TO: Chairman  
Committee on Rules, General Governmental Operations, Reorganization and  
Reform, and Federal, Foreign and General Affairs

FROM: Chairman  
Committee on Rules, General Governmental Operations, Reorganization and  
Reform, and Federal, Foreign and General Affairs

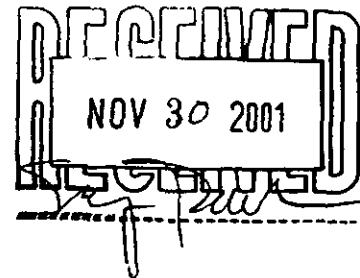
SUBJECT: Principal Referral - Bill No. 230 (LS)

The above bill is referred to your Committee as the Principal Committee, in accordance with Section 6.04.05.01. of the Standing Rules. Your Committee is the Committee authorized to perform the public hearing on this bill and to amend or substitute the bill, as well as report the bill out to the Body. It is recommended that you schedule a public hearing at your earliest convenience.

Thank you for your attention to this matter.

**MARK FORBES**

Attachment



**MINA'BENTE SAIS NA LIHESLATURAN GUAHAN**  
**2001 (FIRST) Regular Session**

**Bill No. 230 (LS)**

As Amended By The Committee

Introduced by:

Mark Forbes  
v.c. pangelinan

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**AN ACT TO ABOLISH THE GUAM WATERWORKS  
AUTHORITY'S RECENTLY APPROVED ELEVEN  
AND A HALF PERCENT (11.5%) SURCHARGE AND  
TO PLACE A ONE-YEAR MORATORIUM ON ALL  
NEW SURCHARGE AND RATE INCREASES BY THE  
GUAM WATERWORKS AUTHORITY.**

1           **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2           **Section 1. Legislative Intent.**    The Public Utilities Commission  
3 approved an 11.5% surcharge on Guam Waterworks Authority billings to pay  
4 for accumulated GWA past due debt to the Guam Power Authority. While  
5 this was done in order to prevent GPA from slipping into default, the  
6 surcharge presents an unbearable burden to many GWA customers in these  
7 economically fragile times. It is the Legislature's intent that the surcharge no  
8 longer be placed in application and that a one-year moratorium on the  
9 imposition of the surcharge go into effect. In order to allow GPA to collect on  
10 its debt from GWA, the sum of Two Million Seven Hundred and Fifty



1 Thousand Dollars (\$2,750,000) is appropriated from sums made available  
2 through recent refinancing of the water bond for the purpose of paying one  
3 year's amortization of the GWA debt to GPA, thus keeping GPA out of  
4 default without recourse to the surcharge.

5 **Section 2. Abolishment of Guam Waterworks Authority's Eleven and**  
6 **a Half Percent (11.5%) Surcharge.** The Guam Waterworks Authority's Eleven  
7 and a Half Percent (11.5%) surcharge, approved by the Public Utilities  
8 Commission in Commission Decision and Order Dated September 13, 2001 in  
9 Docket 00-01, is hereby abolished. The Guam Waterworks Authority is  
10 prohibited from any further billings of the Eleven and a Half Percent (11.5%)  
11 surcharge, approved by the Public Utilities Commission in Commission  
12 Decision and Order Dated September 13, 2001 in Docket 00-01, and no  
13 customers shall be required to pay the above-reference surcharge.

14 **Section 3. One-year Moratorium on All Rate Increases or New**  
15 **Surcharges by the Guam Waterworks Authority.** There shall be a one-year  
16 Moratorium on any rate increase or new or increased surcharge billed by the  
17 Guam Waterworks Authority for services it provides to its customers. The  
18 Guam Waterworks Authority shall not bill its customers for any increase in  
19 rates or new or increased surcharge for one year.

20 **Section 4.** Section 1508.1.(h) of Article 5, Chapter 1, 5GCA is amended  
21 to read:

22 " (h) **Use of Proceeds from the Sale of Bonds.** Proceeds from the  
23 sale of the bonds shall be used solely to pay and are hereby appropriated to  
24 pay the costs of the Water System Projects described in Subsection (i) of this  
25 Section, to fund any necessary bond reserves, to pay past due accounts owed

1 by the Guam Waterworks Authority to the Guam Power Authority, provided  
2 such total amount paid from bond proceeds for this purpose shall not exceed  
3 two million seven hundred and fifty thousand dollars (\$2,750,000), and to pay  
4 expenses related to the authorization, sale and issuance of the bonds,  
5 including without limitation, printing costs, costs of reproducing documents,  
6 bond insurance premiums, underwriting, legal and accounting fees and  
7 charges, fees paid to banks or other financial institutions providing credit  
8 enhancement, costs of credit ratings, fees and charges for execution,  
9 transportation and safekeeping of bonds and other costs, charges and fees in  
10 connection with issuance, sale and delivery of the debt or debts.”

11 **Section 5.** Section 1508.1.(i) of Article 5, Chapter 1, 5GCA is amended to  
12 read:

13 “ (i) **Water System Projects.** (1) The proceeds of the  
14 bonds issued pursuant to Section 1508.1 of this Act shall be expended on the  
15 capital outlays listed in Exhibit A of Public Law 26-34, not to exceed ~~Six~~  
16 ~~Million Dollars~~ Three Million Two Hundred and Fifty Dollars (\$6,000,000)  
17 (\$3,250,000). No proceeds received pursuant to this Section shall be expended  
18 without appropriation by I Liheslaturan Guahan.

19 (2) Section 13 of Public Law 26-34 is hereby repealed and re-enacted  
20 to read:

21 **Section 13. Revenue Reserves.** (a) The revenue reserves of  
22 One Million Six Hundred Fifty-five Thousand Eight Hundred Seventy-nine  
23 Dollars (\$1,655,879), which is the difference between the FY2002 revenue  
24 forecast of Thirty-seven Million Seven Hundred Twelve Thousand One

1 Hundred Nine Dollars (\$37,712,109) and the combined total of the  
2 authorization in Subsection (b) herein and the FY2002 funding authorization  
3 of Thirty-five Million Eight Hundred Thirty-nine Thousand Five Hundred  
4 Sixty-four Dollars (\$35,839,564) shall be deposited in the 'GWA Budget  
5 Reserve Account'.

6 (b) Notwithstanding any other provision of this Act or the  
7 Exhibits, Two Hundred Sixteen Thousand Six Hundred Sixty-six Dollars  
8 (\$216,666.00) of the fiscal Year 2002 revenues shall be used as payment on the  
9 One Million Three Hundred Thousand Dollars (\$1,300,000) in debt service  
10 owed in Fiscal Year 2002 for the IBM/J.D. Edwards loan. The Board of  
11 Directors shall make its best efforts to refinance this debt for a term not to  
12 exceed sixty (60) months, and shall inform I Liheslaturan Guahan of its  
13 efforts and the status of the refinancing every twenty (20) days."



**PUBLIC UTILITIES COMMISSION  
OF GUAM**

Terrence M. Brooks, Chairman

Filomena M. Cantoria  
Edward C. Crisostomo  
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Gerald M. Woo

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Harry M. Boertzel, Esq.  
Administrative Law Judge

Monessa C. Leon Guerrero  
Executive Director

December 6, 2001

Senator Mark Forbes  
Chairman  
**Committee on Rules, Government Reform,  
Reorganization and Federal Affairs**  
155 Hessler Street  
Hagatna, Guam 96910

**RE: Bill No. 230 [LS]**

Dear Senator Forbes:

The Commission has the following comments about Bill 230:

***1. Surcharge Moratorium v. Surcharge Abolishment.***

The Commission established the GWA surcharge in its September 13, 2001 Order to create a dedicated revenue stream to fund the seven year retirement of GWA's \$17.6 million dollar obligation to GPA for power and billing services and its \$300,000 obligation to GTA for telephone services. As is explained in the Commission's Order, GPA and GTA's compliance with bond covenants have been jeopardized by GWA's inability to pay down these obligations. No provision was made in Legislature's FY02 GWA budget for these obligations. The Commission's Order established a dedicated revenue stream to accomplish this objective. GPA's auditors have cautioned the Commission that unless this dedicated revenue stream was established, it would be compelled under generally accepted accounting standards, to require GPA to accrue the arrearages as a doubtful debt, which could put GPA in default under its bond covenants, accelerate its long term debt, impair its bond rating and restrict its ability to access financial markets.

It is within this context that the Commission expresses serious alarm over a fundamental inconsistency in the bill, which may well precipitate adverse auditor action. Section one of the bill states that it is the Legislature's intention that a one-year moratorium be imposed on the surcharge. In stark contrast, section two **abolishes** the surcharge. Which is it? The Commission, and one assumes GPA's auditors, would be comfortable with a one year moratorium during which one revenue stream is substituted for another and after which the surcharge would reactivate and continue under the terms of the Commission's order for the remaining six years required to retire GWA's obligation. On the other hand, if the surcharge is "abolished", then it ceases to exist and there would be no provision for the repayment of the balance owed by GWA to GPA. GPA's auditors will not be comfortable with this legislative game plan.

A further problem is that the bill makes no provision for the payment of the GWA obligation to GTA. Under the Commission's Order, GTA would receive \$50,000 per month from the surcharge proceeds until the obligation was paid in full. GTA's financial health as it commences privatization efforts is of important public concern. If the surcharge is to be abated for one year, provision should be made to enable GWA to make the payments to GTA as envisioned in the Commission Order. Attached to this letter is suggested language, which would address the concerns expressed in this paragraph.

## ***2. One Year Moratorium on GWA Rate Relief.***

The Commission has recently reviewed and will act on a proposed GWA five-year financial plan by which it will need to access and fund \$83.8 million dollars in capital requirements, which are necessary to comply with the EPA Administrative Consent Order. A copy of the Georgetown report on this subject is enclosed for your information. The financial plan does not call for any additional GWA rate relief in the next twelve months. Accordingly, the Commission has no concern with the one-year moratorium in GWA rate relief, as contained in section 3 of the bill.

However, the financial plan does earmark the \$6 million dollar Water Bond proceeds as a source of funds for EPA order compliance activities during FY02. These proceeds were originally intended to fund GWA's FY02 capital budget. This six million dollar contribution to capital from GovGuam was the only source of funds that was used to finance FY02 capital programs while GWA is transitioning to a financial plan to reach compliance with the EPA Consent Order. There is no substitute source of funds identified in this legislation for these items. The Commission would also advise the Legislature that the proposed use of a portion of the water bond funds to suspend the surcharge and to pay GPA may not be in compliance with the bond indenture. In general, bond proceeds are required to pay for capital items and are not usually available to pay costs such as electricity. The Commission further cautions that GPA's bond covenants require that there be no interference by the Legislature with regard to the actions of the Commission in GPA matters. The action to abolish a payment source to GPA from GWA could run counter to this requirement.

Thank you for the opportunity to comment on Bill 230. Please let me know if the Commission can be of any assistance during your deliberation of the issues addressed in the bill.

Cordially,

**Terrence M. Brooks**

cc: T. Ann Perez, GPA  
Vincent Arriola, GTA  
Bert Johnston, GWA  
Richard Boice, Ernst & Young

### ***Suggested Language***

- 1. There is hereby appropriated from the General Fund the sum of \$3.3 million dollars, which shall be deposited into the special account established by Guam Waterworks Authority [GWA] pursuant to the Guam Public Utilities Commission's [Commission] September 13, 2001 Order in Combined Dockets 00-01 and 01-08. These appropriated funds shall be held and disbursed by GWA in twelve equal installments in strict accordance with the Commission's Order.**
- 2. Effective immediately upon the deposit of the funds appropriated by section one into the GWA special account, the surcharge established by the Commission's Order shall abate for a twelve-month period immediately following the deposit date. Unless otherwise directed by the Commission, GWA shall recommence the assessment of the surcharge, in accordance with the Commission's Order and instructions, on the first anniversary of the deposit of the funds.**

**PUBLIC UTILITIES COMMISSION  
OF GUAM**

**EPA CONSENT ORDER – GWA FINANCIAL PLAN**

**REPORT OF GEORGETOWN CONSULTING GROUP, INC.**

**PUC DOCKET 02-02**

**DECEMBER 2001**



## EPA CONSENT ORDER – GWA FINANCIAL PLAN

### I. INTRODUCTION

In the Environmental Protection Agency's (EPA) Administrative Order on Consent<sup>11</sup> (the "Consent Order") it is ordered that GWA shall submit a Financial Plan and schedule by January 31, 2002 to secure funds for capital, operational and maintenance costs necessary to bring certain of GWA's wastewater collection, treatment and disposal systems into compliance with their NPDES operating permits and the Clean Water Act. GWA is also required to submit compliance schedules, based on the Financial Plan, by January 31, 2002, for each of the wastewater collection, treatment, and disposal facilities and supporting activities identified in the Consent Order.<sup>12</sup>

Section 14 of Public Law 26-34 directs the Commission to oversee the development of the Financial Plan required by the EPA's Consent Order. This law also directs the Commission to Report to the Legislature during the December regulatory session on the following:

- A. A proposed financial plan, including appropriate sources of funding and analysis of rate impact.<sup>13</sup>
- B. The feasibility of using BOT to undertake corrective action mandated by the Consent Order.
- C. The impact of the Financial Plan on GWA's FY 02 budget.
- D. Recommended legislation.

This report fulfills the requirements set forth above. It is our understanding that comments from the Legislature and the Commission delivered during the December regulatory session will be taken into account and incorporated into the final Financial Plan presented to the EPA pursuant to the Consent Order on January 31, 2002. While many aspects of the two reports will be similar, the two reports will be different. It is anticipated that additional data (i.e., information from GEDA financial advisors and technical information from GWA) will become available between the December

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<sup>11</sup> United States Environmental Protection Agency, Docket no. CWA-402-9-01-19, dated August 16, 2001. A complete copy of this Administrative Order on Consent will be separately provided to the members of the Legislature.

<sup>12</sup> *Ibid.* Order for compliance, para. 1.

<sup>13</sup> The rate impact analysis should also provide some comparative review of GWA's current and projected rates with other localities. This analysis is currently under preparation and will be presented to the commission and the Legislature during the December regulatory session.

regulatory session and the Consent Order deadline of January 31, 2002. In these cases we will modify the relevant portions of our report to take into account this additional information. In addition, any section of this report that has been written to meet the requirements of the Legislature and which is not required to meet the requirements of the filing that is required on January 31, 2002 will be modified or removed. We recommend that oversight of the process to produce the final report required by the EPA be maintained by the Commission. Since there will not be a subsequent regulatory session between the December session and January 31, 2002, we recommend that the Administrative Law Judge (ALJ) be delegated the responsibility of approving the final report. A final clarification: the Consent Order requires that, "GWA shall submit a Financial Plan...". It will therefore be necessary for GWA to adopt the Financial Plan that the Legislature has directed the Commission to oversee and transmit it to the EPA.

## II. REQUIREMENTS OF THE ADMINISTRATIVE ORDER ON CONSENT

There are several requirements of the Administrative Order on Consent. This section provides an overview of those requirements.

Paragraph 1 of the ordering section has several requirements. First, there is the requirement for a Financial Plan mentioned above. In addition, there is a requirement to submit compliance schedules for various facilities covered by the Consent Order.<sup>4</sup> This paragraph also provides that where a BOT<sup>5</sup> mechanism is chosen to bring a facility into compliance, a compliance schedule shall be submitted for the activities required to support a BOT project. Both the Financial Plan and the compliance schedules are envisioned to become a part of the EPA's Order upon review and approval by EPA in consultation with Guam Environment Protection Agency (GEPA.)

Paragraph 2 requires GWA to take all necessary actions to implement the compliance schedule requirements. It also makes the final compliance schedules submitted to EPA a part of the final Consent Order.

Paragraph 3 requires GWA to submit quarterly compliance progress reports the first of which was due on October 31, 2001. This report provides EPA with the status of GWA's progress in meeting the requirements contained in the various compliance schedules for various activities that are a part of the Consent Order. The report is to also identify any areas of non-compliance and to outline actions being taken to bring GWA into future conformity with its compliance schedules.

Paragraph 4 requires GWA to designate a Compliance Coordinator who will be the principal contact with EPA relative to the Consent Order. Under the Consent Order this person is designated the

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<sup>4</sup> A compliance schedule sets action steps and target dates by which the action steps will be accomplished.

<sup>5</sup> Build, Operate and Transfer.

responsibility for overseeing implementation and monitoring of all compliance schedule activities and submission of the required quarterly reports. GWA has designated Danny Santos, Assistant General Manager for Operations as the Compliance Coordinator.

Paragraph 5 requires that GWA submit to EPA and GEPA a final status report within 60 days of completing the final compliance activity covered by the Consent Order.

Paragraph 6 through 12 contains various administrative and legal provisions including civil and criminal penalties for negligent or knowing violations. As outlined in Paragraph 11 the Consent Order shall terminate when EPA issues a written approval of the work required to bring GWA's various facilities into compliance with their NPDES operating permits.

This report to the Legislature principally deals with the requirements of Paragraph 1 and Public Law 26-34, which directs the Commission to Report to the Legislature during the December regulatory session on the matters identified in I. A. through I. D above.

### III. PROJECT COSTS AND PRIORITIZATIONS

#### A. Description of Projects.

The projects and activities to be undertaken to bring GWA into compliance with its various National Pollutant Discharge Elimination System (NPDES) permits and as mandated by the Consent Order are described in Attachment I to this report. The total capital cost associated with these projects has been estimated by GWA to be \$40,600,000.<sup>6</sup> In summary these projects are:

1. *Agana Sewer Treatment Plant. This project primarily consists of bringing this major wastewater plant into compliance with NPDES operating permit guidelines. Principal activities to be undertaken include the renovation of the plant and the construction of an extension to the existing deep-water outfall for effluent disposal.*
2. *Agat Sewer Treatment Plant. This project primarily consists of bringing this small wastewater plant serving the Agat area into compliance with NPDES operating permit guidelines. Principal activities to be undertaken include the renovation of the plant and the design and construction of various sewer collector lines, which are subject to high levels of inflow and infiltration (I&I).*
3. *Baza Gardens Sewer Treatment Plant. This project consists of bringing this small wastewater plant into compliance with NPDES operating permit guidelines. Principal activities to be*

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<sup>6</sup> See the Compliance Costing Worksheet, attached to the Consent Order.

undertaken include the renovation of the plant.

4. Northern District Sewer Treatment Plant. This project primarily consists of bringing this major wastewater plant into compliance with NPDES operating permit guidelines. Principal activities to be undertaken include the renovation of the plant and the construction of an extension to the existing deep-water outfall for effluent disposal.
5. Umatac/Merizo Sewer Treatment Plant. This project consists of bringing this major wastewater plant into compliance with NPDES operating permit guidelines. Principal activities to be undertaken include the correction of the high levels of I&I in the sewer collection system and the construction of the second phase of the sewer system.
6. Operator Training and Certification. This activity will involve providing proper operations and maintenance training to GWA personnel responsible for wastewater treatment. In addition, GWA plant personnel will be required to obtain requisite certification as plant operators.
7. Monitoring Requirements. This activity will involve obtaining laboratory services from certified laboratories until that time that GWA's laboratories are certified.
8. Facilities Master Plan. This activity will involve an update to the GWA Master Plan finalized in December 1994

#### B. Cost Evaluations.

The estimate of costs for the projects and other activities required by the Consent Order were prepared by GWA personnel without the aid of any detailed study or review by an engineering firm specializing in wastewater treatment. These cost estimates, which we believe adequate for initiating the process of preparing a Financial Plan pursuant to the EPA Consent Order, are very preliminary and should be considered as such. They were developed by GWA on the basis of certain historical information it had available concerning each of the projects or activities. In many cases the costing parameters, operating and plant data, and other information upon which the original cost estimates were developed is dated. Accordingly, the capital cost estimates present a degree of uncertainty, since GWA is obligated to undertake these improvements regardless of their final costs. Updated estimates have not been embarked upon nor have independent estimates been authorized in response to the Consent Order. Since the costs of these projects will be a critical element in the development of the Financial Plan, an independent review to determine the reasonableness of the estimate will be conducted. It is anticipated that this review will be undertaken and completed prior to the January 31, 2002 submittal of the Financial Plan to EPA.

### C. Prioritization and Overall Time Frame.

In the development of the Financial Plan, it is necessary to establish a reasonable time frame over which the various projects will be implemented and to establish a reasonable prioritization of the order in which the projects will be implemented. Establishing a time frame is necessary because it is not reasonable to expect that GWA would have the financial or personnel resources to undertake all of the projects immediately and concurrently. We therefore believe that the projects should be implemented beginning this fiscal year (FY 2002) and be completed in fiscal year 2006 (FY 2006, the year ending September 30, 2006). In terms of prioritization we believe that it would be appropriate to schedule the projects with the largest beneficial impact from the point of view of reducing pollution at the earliest possible time. We recommend the following prioritization for the various projects:

1. Begin in Fiscal Year 2002 (current fiscal year): Agana and Northern District Sewer Treatment Plants. These are the largest sewer treatment plants on the island with a capacity of 12 million gallons per day (12 MGD) each. It is proposed that the activities at Agana and the Northern plants be undertaken in two phases. The first phase would see the completion of the disposal (outfall) facilities. The second phase would consist of modifications to the individual plants to bring them into compliance with their NPDES permits.

Additionally in fiscal year 2002, it is necessary to undertake the necessary engineering activities required to design and construct the improvements at the Agana and Northern treatment plants. It will also be necessary to initiate the necessary monitoring requirements of the Consent Order.

Finally, in fiscal year 2002, it will be necessary to initiate the necessary training and certification activities required of the GWA treatment plant personnel. Also, GWA should undertake the necessary activities to procure an independent certified laboratory for water quality testing while seeking to obtain certification for its own laboratories.

2. Begin in Fiscal Year 2003: Baza Gardens Sewer Treatment Plant. Activities would consist of modifications to the plant to bring it into compliance with its NPDES permit.
3. Begin in Fiscal Year 2004: Agat and Umatac/Merizo Sewer Treatment Plants. Both of these facilities are relatively small in terms of treatment capacity. Activities would consist of modifications to the individual plants to bring them into compliance with their NPDES permits. Activities at these facilities and locations will also involve a substantial investment in correcting the infiltration and inflow problems that carry a substantial capital cost. Appropriate planning for these projects will be critical.
4. Begin in Fiscal Year 2005: Facilities Master Plan. The current wastewater Master Plan was completed in 1994. While it has been seven years since the preparation of the Master Plan, the increase in population since that time and growth in tourism related facilities has been vastly

less than estimated in the original plan due to economic conditions in Japan and Guam. The 1994 Master Plan, which is very comprehensive, is still relatively current. In fact, many of the projects identified are still not required given the change in Guam economic activity. We believe that it would be appropriate to have an updated version complete by FY 2006, when all of the projects related to this Consent Order are completed and implemented.

We point out that further review of the prioritization of the projects with GWA between the December regulatory session and January 31, 2002 could modify the prioritization described above. We believe that any modification will not impact the major conclusions of this report.

#### D. Other Items Considered in the Financial Plan.

The ability to craft a successful Financial Plan will be dependent not only on the requirements of the projects in the Consent Order but also on other capital and operating requirements of GWA. The ability to raise capital will be dependent on the overall financial condition of GWA. In crafting the recommended Financial Plan, consideration was given to the following items:

1. GWA operates an integrated water and wastewater utility. As such, resources are deployed in manner that meets the requirements of both the water and wastewater systems. In addition, many common and joint costs are shared between the two utilities. Important to this Financial Plan is the fact that GWA's total revenues are pledged when accessing the capital markets. Accordingly, in the development of an overall financial plan it is necessary to consider both systems.
2. Capital funding required to support the activities mandated by the Consent Order.
3. Routine capital improvement projects (CIPs). An annual CIP level of \$6 million has been reflected for the purpose of day-to-day system renewal and replacements for the water and wastewater system. This represents \$30 million in additional capital requirements over the time frame of this Financial Plan (or 75% of the capital requirements of the projects required by the consent Order). The level of appropriate CIP funding on a going forward basis would be reviewed when the Master Plan is being updated.
4. Growth related CIPs. There will be some level of CIPs required to connect new customers each year. For purposes of this projection we have assumed that the revenues collected from customers will roughly equal the costs for such activities and have not provided specific figures for these amounts.
5. Water Meter Maintenance and Replacement and Sewer Connections CIP projects have been identified by both the Commission and GWA as having a significant financial benefit to GWA. The requirements for these projects were determined from recent studies undertaken by GWA. The meter replacement project is projected to cost \$4.5 million and the sewer

connection project is estimated to cost \$6 million. There is currently legislation that provides relief to certain customers' connection fees which if implemented would result in a number of new customers being connected to the sewer system.<sup>17</sup>

6. Appropriate costs for regulatory management, engineering and construction management are also included in the Financial Plan. It is anticipated that these costs will be capitalized.

Exhibit I, page 1 attached to this report reflects all of the capital costs that we estimate are associated with the Financial Plan for the next five fiscal years (fiscal years 2002 through 2006).

In addition to the capital costs discussed above, the Financial Plan also takes into account other costs of an operations and maintenance account nature. We have used the approved budget for FO 2002 as a base to project the operations and maintenance expenses for the period covered in the Financial Plan using an escalation factor of 4% per annum. There is some degree of uncertainty with this projection since the operations and maintenance expenses for the entire system with the normal operation of the facilities that are being rehabilitated could be greater than the figures that we estimate net of the savings from a properly functioning system. In that event greater revenues will be needed from the system.

#### IV. FINANCING CONSIDERATIONS

As has been discussed above, the following are the key considerations in meeting the requirements of the Consent Order:

##### Uses of Capital

1. Undertake the activities required by the Consent Order in the time frame discussed above. The capital requirements for these projects over five fiscal years are \$40,300,000.
2. Provide for routine renewal and replacements CIPs for GWA. Over the five fiscal year time horizon the CIP requirement is \$30,000,000.
3. Provide for the CIPs necessary to support new customers. Over the five fiscal year time horizon we have assumed that these capital requirements will be met through connection fees.
3. Implement revenue enhancement capital projects that would improve the long-term financial condition and operating efficiencies of GWA. Two such projects that have been identified for implementation over this time frame are the meter management program and the sewer connections program. The capital requirements for these programs are \$10,500,000.

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<sup>17</sup> 10 GCA § 48101 *et seq.*

4. Appropriately maintain and operate the GWA water and wastewater systems in an efficient manner. The FY 2002 operating and capital budget provides an appropriate starting point for the budgets required. Future years are to be based on appropriate escalations.

#### Sources of Capital

1. The refunding of the 1989 Water bonds, which is anticipated to close in December 2001 is anticipated to provide GWA with \$6,000,000.
2. Internally generated revenues from user charges will be used to offset short and long-term financing.
3. GWA will avail itself to the short and long-term financing markets.
4. Other financial options such as financing or grants from the Rural Utility Service (RUS) and project financing through the Build Operate and Transfer (BOT) mechanism will be considered if the economics appear more favorable than using the long term and short term financing markets.
5. The Commission has studied and made recommendations to the Legislature with regard to appropriately modifying the existing legislation regarding the System Development Charge (SDC) so that it can be an important source of new capital for GWA. If appropriate legislation is passed, the SDC could be a source of capital over the next five years that could be considered in the Financial Plan.

Based on the above, the total capital requirement over the five-year time horizon is \$83.8 million. Of this amount, \$6 million has been provided for in the stated use of the refunding of the 1989 Water Bonds. This would leave approximately \$77.8 million to be funded over the five years through external debt financing or through internally generated funds resulting from rate increases.<sup>18</sup>

GWA's financial advisors have determined that in its current financial condition GWA can not immediately access the financial markets for long-term debt financing.<sup>19</sup> Letters from GWA's financial advisors have been attached as Attachment II to this report (these letters are currently in draft form and will be finalized prior to the January 31, 2001 filing to EPA). In order to accomplish the capital program that is required, GWA's financial advisors have recommended that GWA

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<sup>18</sup> To the extent that bond financing would require GWA to achieve a debt service coverage ratio of 1.5 times, there would be internal cash generated from the excess in the debt coverage ratio over 1 time that could be used to fund capital needs. In the proposed Financial Plan there would be approximately \$10.9 million of internally generated capital.

<sup>19</sup> GWA's financial advisors are Guam Economic Development Agency (GEDA) and First Union, who is retained by GEDA on financial issues.



consider a program that combines rate increases to generate some cash as well as net income that will be required to access the bond markets. In addition, short-term debt from the present to when the long-term debt market can be accessed will be required. Long-term debt will replace the short-term debt when GWA is able to do so. It is the opinion of the financial advisors that GWA can access the financial markets at reasonable interest rates if the program that they have outlined is followed. A discussion of the various financing alternatives is contained below.

**A. Increased Rates.**

Increased rates can be used as a financing instrument in one of two ways. Increased rates may be used to generate all of the financing requirements over the five year period. This would be the case if GWA did not have access to any form of external financing because its financial condition was and continued to be unacceptable to any lender. This would be a very expensive option since all of the capital requirements of \$77.8 million over the next five years would be raised through increased rates. GWA's financial advisors believe that this scenario can be avoided. To provide an estimate as to what the impact on customers would be under this scenario, Exhibit I, page 5 shows the magnitude of rate increases that will be required. A rate increase of approximately 12% would be required in FY 2002 with additional increases of approximately 56% in FY 2003 and 46% in FY 2004. A cumulative increase of over 115%.

In the alternative, rates can be used to sufficiently improve GWA's financial condition to the point where GWA can access the long-term debt markets, which is the alternative that GWA's financial advisors recommend. This requires that rates be raised to a level where there would be sufficient income to produce a debt service coverage ratio of at least 1.5 times with the debt outstanding. To provide an estimate as to what the impact on customers would be under this scenario, Exhibit I, page 4 shows the magnitude of the rate increases that will be required. A rate increase of approximately 16.6% would be required in mid FY 2003 (April 2003). A further increase of approximately 9% could be required in FY 2006 which could be mitigated by significant increased efficiencies at that time. This would enable a bond issue of approximately \$49 million in October 2003 and \$25 million in October 2004.

In either scenario it is important for the Commission to issue a resolution or an Order stating that it is committed to provide the required rate relief to permit GWA to access the long-term debt market. We recommend that this be accomplished during the December regulatory session.

**B. Short Term Debt.**

Short-term debt provides the flexibility for GWA to begin implementing the required

capital program without having to immediately raise rates or access the long-term debt financial markets.

There are several types of short-term debt that could be considered. There are bank loans, revolving lines of credits as well as Tax Exempt commercial Paper (TECP), which has been used effectively by GPA. While setting up a TECP program should be evaluated, there is a time delay with this option. The two most immediate options would therefore be a bank loan or a revolving line of credit. GWA's financial advisors have indicated that PUC support of such a financing option will be important given the weak current financial condition of GWA.

*It will therefore be important for the Commission to issue a resolution or an Order stating that it is committed to provide any required rate relief to keep GWA current on its obligations related to any short term debt acquired. We recommend that this be accomplished during the December regulatory session.*

Currently, GWA has a limit on the amount of short term debt that it can obtain.<sup>110</sup> In order to provide the flexibility required to undertake the required capital program it will be necessary to amend current legislation and provide for a ceiling of \$25 million for short term debt.

#### C. Long Term Debt.

GWA's financial advisors indicate that GWA can access the long-term debt markets and secure financing at reasonable interest rates. As stated previously this will require action by the Commission to increase rates to provide for the required debt service coverage. The use of long-term debt provides the ability to spread out the rate impact over the life of the bonds that also approximates the period over which the customers get the benefit of the capital projects, providing for an equitable distribution of the costs. Given the current weak financial condition of GWA it will require a period of time before GWA can successfully access the financial markets. Short-term debt will provide the bridge financing. Legislation will be required to permit GWA to issue long-term debt. The amounts required for this five year period would be approximately \$75 million.<sup>111</sup> It is suggested that the PUC be empowered to approve the specific terms and conditions of the financing and the specific used to which it would be put.

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<sup>110</sup> 12 GCA Section 14201 (b), which is part of GWA's enabling legislation.

<sup>111</sup> This amount of \$75 million includes a debt service reserve of one year's interest and principal of \$5.8 million which will be maintained by the trustee.

D. Rural Utility Service (RUS) Loans/Grants.

GWA is eligible to apply to RUS for loans and grants under several programs. A letter from the local administrator of the RUS office in Guam has been attached as Attachment III (this is in draft form and will be finalized before the January 31, 2002 filing to EPA). GWA currently has pending two applications to RUS for loans/grants.

While the letter in Attachment III is encouraging, there is no assurance that GWA will be successful in securing loans or grants from RUS. GWA will therefore aggressively seek such loans and grants with the plan that if the applications are successful and economically beneficial, GWA will accept the loan or grant and reduce the amount of long-term debt that it would have otherwise borrowed. If successful, this program will reduce the rate relief that will be required to support the capital program.

The legislation that permits GWA to assume long-term debt should be made flexible enough to permit GWA to accept RUS loans and grants. As before the PUC should be empowered to approve the specific terms and conditions of the financing and the uses to which it would be put.

E. Build Operate and Transfer (BOT)

GWA is currently permitted to enter into BOT arrangements with the approval of the Commission. Many of the projects required by the Consent Order could be accomplished by a BOT mechanism. As with the situation with the RUS loan and grant programs, there is no assurance at this time that such an arrangement would actually materialize. GWA will therefore aggressively seek such arrangements with the plan that if the process is successful and economically beneficial, GWA will enter into a BOT arrangement and reduce the amount of long-term debt that it would have otherwise borrowed. Any BOT arrangement would have to meet the requirements of the Consent Order, while also necessitating that the BOT meet or beat any milestone requirements set by the EPA.

V. Proposed Financial Plan.

GWA's Financial Plan is based on the recommendations of its financial advisors. The advice of these financial advisors is to access the long term financial markets after the financial condition of GWA has been improved by securing a rate increase to provide the debt service coverage required to support long term debt. To provide bridge financing GWA will obtain a loan or a revolving line of credit. GWA's proposed financial Plan will be as follows:

1. Long Term Debt Financing. Issue long-term debt in two tranches:
  - Series A of \$49.2 million issued October 2003

issuance of the long-term debt and approve the uses to which it can be put. This legislation should be flexible enough to permit GWA to enter into RUS loans.

3. Authorize amendments to the FY 2002 budget to meet the requirements of the Financial Plan. These amendments would be to initiate the renovation of the Agana and Northern District Sewer Treatment Plants and the construction of Outfall Extensions for each, to retain the necessary engineering support required, to initiate wastewater operations and maintenance training, to obtain laboratory services, and to initiate those activities necessary to obtain certification for GWA laboratories.. In addition any effort and related expense related to implementation of the Financial Plan should also be provided for. This would include acquisition of short term financing; acquisition of TECP if feasible; initiation of the meter replacement and sewer connections projects. These amounts, for FY 2002, could be funded by the reserve that was set up in the FY 2002 budget to pay for the debt service on a \$6 million loan that was anticipated in the budget but which funds are now being provided by the refunding of the 1989 Water Bonds.
4. Review and amend the System Development Charge legislation as appropriate.

#### VIII Recommended Commission Actions

The following is a summary of Commission actions recommended:

1. Issue a resolution or an Order stating that it is committed to provide the required rate relief to permit GWA to access the long term and short term debt markets. This should be accomplished during the December regulatory session. We recommend that the Commission seek input from GWA's financial advisors as to the appropriate language that would provide comfort to potential lenders.
2. Recommend to the Legislature that the Commission be empowered to approve the specific terms and conditions of the long and short term financing and the specific uses to which it would be put. This should be accomplished during the December regulatory session.
3. Recommend to the Legislature that the proposed legislation that permits GWA to assume long term debt should be made flexible enough to permit GWA to accept RUS loans and grants. The Commission should be empowered to approve the specific terms and conditions of the financing and the uses to which it would be put.
4. Issue a ruling that the Commission will set a process and schedule for GWA to seek BOT financing for required capital projects. The implementation of this should be delegated to the ALJ and be completed prior to January 31, 2002 if possible.
5. Issue a ruling that the Commission will use its management audit powers to oversee the

implementation of the proposed Financial Plan and construction of the required capital projects. The Commission in conjunction with staff should develop appropriate reporting and surveillance mechanisms.

**EXHIBIT 1**

**GUAM WATERWORKS AUTHORITY**

**SUMMARY FINANCIAL PLAN**

**GUAM WATERWORKS AUTHORITY**  
**Summary Financial Plan**  
**(\$000's)**

**Exhibit 1, page 3**  
**Amortization Schedules**

	Series A	
Principal	\$ 49,194	
Amortization	25	
Interest Assumption	6%	
Annual Debt Service	\$3,848	

	Series B	
Principal	\$ 24,874	
Amortization	25	
Interest Assumption	6%	
Annual Debt Service	\$1,946	

	Payment	Interest	Principal	Balance		Payment	Interest	Principal	Balance	TOTAL	Interest	Principal
				\$ 49,194								
1	3,848	2,952	897	48,298						3,848	2,952	897
2	3,848	2,898	950	47,347					\$ 24,874	3,848	2,898	950
3	3,848	2,841	1,007	46,340	1	1,946	1,492	453	24,420	5,794	4,333	1,461
4	3,848	2,780	1,068	45,272	2	1,946	1,465	481	23,940	5,794	4,246	1,548
5	3,848	2,716	1,132	44,140	3	1,946	1,436	509	23,430	5,794	4,153	1,641
6	3,848	2,648	1,200	42,940	4	1,946	1,406	540	22,890	5,794	4,054	1,740
7	3,848	2,576	1,272	41,668	5	1,946	1,373	572	22,318	5,794	3,950	1,844
8	3,848	2,500	1,348	40,320	6	1,946	1,339	607	21,711	5,794	3,839	1,955
9	3,848	2,419	1,429	38,891	7	1,946	1,303	643	21,068	5,794	3,722	2,072
10	3,848	2,333	1,515	37,376	8	1,946	1,264	682	20,386	5,794	3,598	2,197
11	3,848	2,243	1,606	35,770	9	1,946	1,223	723	19,664	5,794	3,466	2,328
12	3,848	2,146	1,702	34,068	10	1,946	1,180	766	18,898	5,794	3,326	2,468
13	3,848	2,044	1,804	32,264	11	1,946	1,134	812	18,086	5,794	3,178	2,616
14	3,848	1,936	1,912	30,351	12	1,946	1,085	861	17,225	5,794	3,021	2,773
15	3,848	1,821	2,027	28,324	13	1,946	1,034	912	16,313	5,794	2,855	2,940
16	3,848	1,699	2,149	26,175	14	1,946	979	967	15,346	5,794	2,678	3,116
17	3,848	1,571	2,278	23,897	15	1,946	921	1,025	14,321	5,794	2,491	3,303
18	3,848	1,434	2,414	21,483	16	1,946	859	1,087	13,235	5,794	2,293	3,501
19	3,848	1,289	2,559	18,923	17	1,946	794	1,152	12,083	5,794	2,083	3,711
20	3,848	1,135	2,713	16,211	18	1,946	725	1,221	10,862	5,794	1,860	3,934
21	3,848	973	2,876	13,335	19	1,946	652	1,294	9,568	5,794	1,624	4,170
22	3,848	800	3,048	10,287	20	1,946	574	1,372	8,196	5,794	1,374	4,420
23	3,848	617	3,231	7,055	21	1,946	492	1,454	6,742	5,794	1,109	4,685
24	3,848	423	3,425	3,630	22	1,946	405	1,541	5,201	5,794	828	4,966
25	3,848	218	3,630	0	23	1,946	312	1,634	3,567	5,794	530	5,264
					24	1,946	214	1,732	1,836	1,946	214	1,732
					25	1,946	110	1,836	0	1,946	110	1,836

GUAM WATERWORKS AUTHORITY  
 Summary Financial Plan  
 (\$000's)

Exhibit 1, page 2  
 Construction Funds

	2002	2003	2004	2005	2006	TOTAL
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**Uses of Capital:**

Total Required Capital	\$ 4,095	\$ 13,979	\$ 22,840	\$ 19,685	\$ 6,334	\$ 66,933
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**Sources of Capital:**

Short Term Debt	\$ 4,095	\$ 18,074	\$ -	\$ -	\$ -	
Series A Proceeds			\$ 44,500	\$ 4,043		
Pay Down LOC			(18,074)			
Series A Construction			(22,840)	(4,043)		
Series B Proceeds				22,500	7,024	
Series B Construction				(15,642)	(6,334)	
Interest on Fund	3%		457	166	11	
Construction Fund			\$ 4,043	\$ 7,024	\$ 701	
<b>Bond Funding:</b>			\$ 44,500	\$ 22,500		
Debt Service Reserve	1 yr DS		3,848	1,946		
Issuance & Regulatory C	1.75%		846	428		
Total Bond			\$ 49,194	\$ 24,874		\$ 74,068

Term	25 years
Interest Rate	6%



**GUAM WATERWORKS AUTHORITY**  
**Summary Financial Plan**  
(\$000's)

Exhibit 1, page 4  
Funding through debt

	2002	2003	2004	2005	2006
Water Revenues	\$24,698	\$24,945	\$25,194	\$25,446	\$25,701
Wastewater Revenues	14,182	14,324	14,467	14,612	14,758
Add'l Sewer Revenues	-	-	80	470	1,190
Meter Management	-	113	508	961	961
Rate Increase (1)		3,250	6,500	6,565	6,631
Rate Increase (2)					3,750
Allowance	(2,333)	(1,705)	(1,870)	(1,442)	(1,590)
Other Revenues	351	351	351	351	351
<b>TOTAL</b>	<b>\$36,898</b>	<b>\$41,278</b>	<b>\$45,231</b>	<b>\$46,963</b>	<b>\$51,752</b>
Operating Expense	\$35,840	\$37,274	\$38,765	\$40,315	\$41,928
Depreciation	10,000	11,000	12,000	13,000	14,000
Interest on Const. Fund	-	-	(457)	(166)	(11)
Training	500	520	541	562	585
IMC/PMC	500	520	541	562	585
Construction Management	500	500	500	250	250
<b>Net Income</b>	<b>(\$9,442)</b>	<b>(\$7,516)</b>	<b>(\$5,618)</b>	<b>(\$6,748)</b>	<b>(\$4,751)</b>
Interest (ST)	246	1,330	-	-	-
Interest (LT)			2,952	2,898	4,333
<b>Total Interest</b>	<b>\$246</b>	<b>\$1,330</b>	<b>\$2,952</b>	<b>\$2,898</b>	<b>\$4,333</b>
<b>Net Income</b>	<b>(\$9,687)</b>	<b>(\$8,846)</b>	<b>(\$8,569)</b>	<b>(\$9,646)</b>	<b>(\$9,084)</b>

**Assumptions:**  
FY02 Budget-Growth 1%  
FY02 Budget-Growth 1%  
GWA Statagic Initiative Plan  
GWA Statagic Initiative Plan

Decreasing Allowance    6% 4% 4% 3% 3%

Growth 4%  
Does not impact DSCR  
Sources and Uses Table  
Growth 4%  
Growth 4%

6% on average balance  
Amortization Table

<b>DSCR Calculation</b>					
Income	(\$9,687)	(\$8,846)	(\$8,569)	(\$9,646)	(\$9,084)
Interest	246	1,330	2,952	2,898	4,333
Depreciation	10,000	11,000	12,000	13,000	14,000
<b>Total Available</b>	<b>\$558</b>	<b>\$3,484</b>	<b>\$6,382</b>	<b>\$6,252</b>	<b>9,249</b>
Interest	\$246	\$1,330	\$2,952	\$2,898	\$4,333
Principal			897	950	1,461
<b>Total Debt Service</b>	<b>\$246</b>	<b>\$1,330</b>	<b>\$3,848</b>	<b>\$3,848</b>	<b>\$5,794</b>
<b>DSCR</b>	<b>2.27</b>	<b>2.62</b>	<b>1.66</b>	<b>1.62</b>	<b>1.60</b>

See Amortization Tables  
See Amortization Tables

Logic for Rate Increase	1.60	1.60	1.60	1.60	1.60
<b>Cash Generated:</b>					
Earnings	(\$9,687)	(\$8,846)	(\$8,569)	(\$9,646)	(\$9,084)
Plus: Depreciation	10,000	11,000	12,000	13,000	14,000
Less: Principal Pymts	-	-	(897)	(950)	(1,461)
<b>Cash Generated to Fund Projects:</b>	<b>\$313</b>	<b>\$2,154</b>	<b>\$2,534</b>	<b>\$2,404</b>	<b>\$3,455</b>
<b>Percent Increase (annual.)<sup>1</sup></b>		<b>16.6%</b>	<b>16.4%</b>	<b>16.4%</b>	<b>25.7%</b>

<sup>1</sup> First Year Increase assumed six months

**GUAM WATERWORKS AUTHORITY**  
**Financial Plan**  
(\$000's)

Exhibit 1, page 5  
Funding by Rates

	2002	2003	2004	2005	2006
Water Revenues	\$24,698	\$24,945	\$25,194	\$25,446	\$25,701
Wastewater Revenues	14,182	14,324	14,467	14,612	14,758
Add'l Sewer Revenues	-	-	80	470	1,190
Meter Management	-	113	508	961	961
Rate Increase (1)	5,000	5,050	5,101	5,152	5,203
Rate Increase (2)		10,500	10,605	10,711	10,818
Rate Increase (3)			9,500	9,595	9,691
Allowance	(2,633)	(2,197)	(2,618)	(2,008)	(2,050)
Other Revenues	351	351	351	351	351
<b>TOTAL</b>	<b>\$41,598</b>	<b>\$53,086</b>	<b>\$63,188</b>	<b>\$65,289</b>	<b>\$66,623</b>
Operating Expense	35,840	37,274	38,765	40,315	41,928
Depreciation	10,000	11,000	12,000	13,000	14,000
Interest on Const. Fund	-	-	-	-	-
Training	500	520	541	562	585
IMC/PMC	500	520	541	562	585
Construction Management	500	500	500	250	250
<b>Net Income:</b>	<b>(\$5,742)</b>	<b>\$3,272</b>	<b>\$10,842</b>	<b>\$10,599</b>	<b>\$9,276</b>
Add: Depreciation	10,000	11,000	12,000	13,000	14,000
Opening Cash	0	163	457	458	4,372
<b>Cash Available</b>	<b>\$4,258</b>	<b>\$14,435</b>	<b>\$23,298</b>	<b>\$24,057</b>	<b>\$27,647</b>
<b>Required Capital</b>	<b>4,095</b>	<b>13,979</b>	<b>22,840</b>	<b>19,685</b>	<b>6,334</b>
<b>Closing Cash</b>	<b>\$163</b>	<b>\$457</b>	<b>\$458</b>	<b>\$4,372</b>	<b>\$21,314</b>
<b>Cumulative Increase (annual.)<sup>1</sup></b>	<b>12.2%</b>	<b>68.0%</b>	<b>113.9%</b>	<b>117.1%</b>	<b>117.0%</b>

**Assumptions:**

FY02 Budget-Growth 1%  
FY02 Budget-Growth 1%  
GWA Strategic Initiative Plan  
GWA Strategic Initiative Plan

Decreasing Allowance 6% 4% 4% 3% 3%  
Static

Growth 4%  
Does not impact DSCR

Growth 4%  
Growth 4%

<sup>1</sup> First Year Increase assumed six months

## **ATTACHMENT I**

### **DESCRIPTION OF PROJECTS REQUIRED BY THE EPA CONSENT ORDER**

**Agana Sewer Treatment Plant:** The Agana STP was put into service in 1979. It provides primary treatment with a design average daily capacity of 12.0 MGD and a peak flow of 21.0 MGD. The Agana STP also receives waste sludge from Baza Gardens STP, Umatac/Merizo STP, and Agat STP. The primary treatment processes at Agana STP consist of flow measurement, primary clarification, scum removal, aerobic digestion, centrifuges for sludge dewatering, and effluent disposal via a deep-water outfall.

**Agat Sewer Treatment Plant:** The Agat STP was originally put into service in 1972. The facility is a small secondary treatment plant. The secondary treatment processes at Agat STP consist of preliminary treatment and secondary treatment including an extended aeration system with a secondary clarifier, sludge holding, and effluent disposal via an ocean outfall shared with the Navy. The Agat STP is the most recent addition to the treatment capacity of GWA. It is also proposed that the excessive infiltration/inflow be reduced to a more acceptable level. Inflow is defined as surface water that enters the wastewater system through sources such as manhole covers, lift station wet wells, and direct interconnections between the sewer system and yard, roof, and storm drains. Infiltration is defined as groundwater that leaks into a sewer pipe through joints, porous wall, or breaks. Fixing the problems at Agat will require modifications to the existing collection systems in the Agat and Santa Rita area. The inflow/infiltration problems in these areas are the result of private laterals owned by consumers and GWA collection facilities and mains.

**Baza Gardens Sewer Treatment Plant:** The Baza Gardens STP is located on the eastern side of the southern-central portion of Guam, just south of Route 17 adjacent to the Baza Gardens residential area. The Baza Gardens STP was put into service 1975 and renovated in 1992. The plant is a very small secondary treatment plant with a design average daily capacity of 0.6 MGD. The Baza Gardens STP consist of preliminary treatment of comminutor and an aerated grit chamber, secondary treatment consisting of contract stabilization with secondary clarification, sludge holding, and effluent discharge to the Togcha River.

**Northern District Sewer Treatment Plant:** The Northern District STP is the only wastewater treatment plant in the north and is located on the Old Harmon Village area above the Tanguisson Power Plant. The Northern STP is one of GWA's two major STPs. The plant was originally put into service in 1979. It provides service to Andersen Air Force Base, the Agafa Gumas area, Naval Communications Station, Yigo, Dededo, Barrigada Heights, Harmon, Liguán Terrace, and Tumon Bay. The Northern District STP is a primary treatment plant with a design average daily capacity of

**ATTACHMENT III**

**LETTER FROM ADMINISTRATOR OF THE GUAM RUS OFFICE**

## **DRAFT**

had requested for a Presidential Disaster Declaration for Guam as a result of the 7.0 earthquake that struck Guam in October. Should disaster funds be made available for FY 2002, I see this as a potential resource to address more of GWA's project implementation needs.

Another potential resource would be in the form of a guaranteed loan, whereby RUS can guarantee up to 90% of a loan made by a lender. Guaranteed funds are more readily available when compared to our direct loan and grant funding. This could potentially address a majority of GWA's project implementation requirements. However, since it is a loan made by a lender and guaranteed by the Government, market rates would likely apply.

Understanding the formidable tasks of identifying a Financing Plan to address long and short term financing requirements, so long as a reliable repayment source is identified to service any RUS debt, we would have no difficulty with other traditional financing existing for GWA.

Our review of an application will be completed within 60 days of receipt of a completed application. The Agency conducts its own environmental assessment per project. This assessment would be completed prior to approval. Should a favorable determination be made on the application, then a formal approval will be issued to the applicant should funds be made available.

Our office is currently in receipt of 2 preapplications submitted by GWA. A \$2.8 million request was submitted for the Umatac/Merizo STP. Also, we recently received a second application for approximately \$9.2 million; the breakdown of the request includes approximately \$7.0 million to purchase equipment and \$2.2 million to refinance the IBM/JD Edwards loan.

As of this date, our Agency has not received RUS program funding for FY '02. In addition to determining the administrative allocations for all states to include the Western Pacific, information on the availability of disaster funding and emergency funding availability for FY '02 will be announced. Once published, then a more certain position on RUS funding availability can be provided.

Should you have any questions or comments on this matter, please contact me.

Sincerely,

JOSEPH M. DIEGO  
Rural Development Manager

cc: State Director, Hilo, HI  
RUS Program Director, Hilo, HI



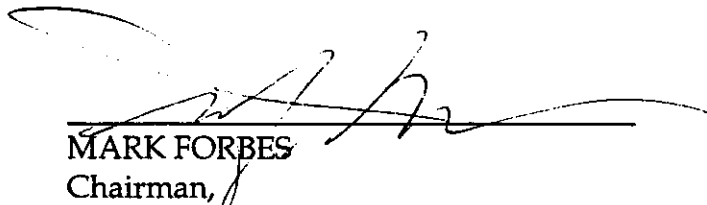
# MINA 'ENTE SAIS NA LIHES' ATURAN GUÅHAN

Kumitehan Areklamento, Hinanao Gubetnamenton Hiniråt, Rifotma yan Rinueba,  
yan Asunton Fidiråt, Taotao Hiyong yan Hiniråt

*Senadot Mark Forbes, Gebilu  
Kabisiyon Mayuråt*

## WAIVER OF FISCAL NOTE

In accordance with §9105 Title 2 GCA, I hereby certify that prompt committee action on Bill 230 is necessary to the proper conduct of legislative business. Therefore, I am waiving requirement of a fiscal note on Bill 230.



MARK FORBES  
Chairman,  
Committee on Rules, General Governmental Operations,  
Reorganization and Reform, and Federal, Foreign  
and General Operations

**MINA'BENTE SAIS NA LIHESLATURAN GUAHAN  
2001 (FIRST) Regular Session**

**Bill No. 230 (LS)**

Introduced by:

Mark Forbes  
v.c. pangelinan

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**AN ACT TO ABOLISH THE GUAM WATERWORKS  
AUTHORITY'S RECENTLY APPROVED ELEVEN  
AND A HALF PERCENT (11.5%) SURCHARGE AND  
TO PLACE A ONE-YEAR MORATORIUM ON ALL  
NEW SURCHARGE AND RATE INCREASES BY THE  
GUAM WATERWORKS AUTHORITY.**

1           **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2           **Section 1. Legislative Intent.**   The Public Utilities Commission  
3 approved an 11.5% surcharge on Guam Waterworks Authority billings to pay  
4 for accumulated GWA past due debt to the Guam Power Authority. While  
5 this was done in order to prevent GPA from slipping into default, the  
6 surcharge presents an unbearable burden to many GWA customers in these  
7 economically fragile times. It is the Legislature's intent that the surcharge no  
8 longer be placed in application and that a one-year moratorium on the  
9 imposition of the surcharge go into effect. In order to allow GPA to collect on  
10 its debt from GWA, the sum of Two Million Seven Hundred and Fifty

1 Thousand Dollars (\$2,750,000) is appropriated from sums made available  
2 through recent refinancing of the water bond for the purpose of paying one  
3 year's amortization of the GWA debt to GPA, thus keeping GPA out of  
4 default without recourse to the surcharge.

5 **Section 2. Abolishment of Guam Waterworks Authority's Eleven and**  
6 **a Half Percent (11.5%) Surcharge.** The Guam Waterworks Authority's Eleven  
7 and a Half Percent (11.5%) surcharge, approved by the Public Utilities  
8 Commission in Commission Decision and Order Dated September 13, 2001 in  
9 Docket 00-01, is hereby abolished. The Guam Waterworks Authority is  
10 prohibited from any further billings of the Eleven and a Half Percent (11.5%)  
11 surcharge, approved by the Public Utilities Commission in Commission  
12 Decision and Order Dated September 13, 2001 in Docket 00-01, and no  
13 customers shall be required to pay the above-reference surcharge.

14 **Section 3. One-year Moratorium on All Rate Increases or New**  
15 **Surcharges by the Guam Waterworks Authority.** There shall be a one-year  
16 Moratorium on any rate increase or new or increased surcharge billed by the  
17 Guam Waterworks Authority for services it provides to its customers. The  
18 Guam Waterworks Authority shall not bill its customers for any increase in  
19 rates or new or increased surcharge for one year.

20 **Section 4.** Section 1508.1.(h) of Article 5, Chapter 1, 5GCA is amended  
21 to read:

22 " (h) **Use of Proceeds from the Sale of Bonds.** Proceeds from the  
23 sale of the bonds shall be used solely to pay and are hereby appropriated to  
24 pay the costs of the Water System Projects described in Subsection (i) of this  
25 Section, to fund any necessary bond reserves, to pay past due accounts owed



1 Hundred Nine Dollars (\$37,712,109) and the combined total of the  
2 authorization in Subsection (b) herein and the FY2002 funding authorization  
3 of Thirty-five Million Eight Hundred Thirty-nine Thousand Five Hundred  
4 Sixty-four Dollars (\$35,839,564) shall be deposited in the 'GWA Budget  
5 Reserve Account'.

6 (b) Notwithstanding any other provision of this Act or the  
7 Exhibits, Two Hundred Sixteen Thousand Six Hundred Sixty-six Dollars  
8 (\$216,666.00) of the fiscal Year 2002 revenues shall be used as payment on the  
9 One Million Three Hundred Thousand Dollars (\$1,300,000) in debt service  
10 owed in Fiscal Year 2002 for the IBM/J.D. Edwards loan. The Board of  
11 Directors shall make its best efforts to refinance this debt for a term not to  
12 exceed sixty (60) months, and shall inform I Liheslaturan Guahan of its  
13 efforts and the status of the refinancing every twenty (20) days."