

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

PETITION FOR APPROVAL OF )  
GWA'S AMENDED SYSTEM )  
DEVELOPMENT CHARGE )  
IMPLEMENTATION GUIDELINES )  
AND FINANCIAL OFFSET POLICY )

---

GWA DOCKET NO. 17-12

ORDER

This matter comes before the Guam Public Utilities Commission (the "PUC" or the "Commission") pursuant to the Petition for approval of the Amended System Development Charge Implementation Guidelines, filed by the Guam Waterworks Authority ("GWA") on September 7, 2017 (the "Petition").

On March 28, 2018, the Administrative Law Judge of the PUC (the "ALJ") assigned to this matter filed an ALJ Report that include his findings and recommendations based on the administrative record before the PUC. The ALJ found the following.

**DETERMINATIONS**

On July 22, 2008, GWA filed a petition for the PUC to approve GWA's proposed water and wastewater system development charges and accompanying rules ("SDC"). Petition to Establish a System Development Charge, GWA Docket 08-08 (July 22, 2008). The SDC Implementation Guidelines were adopted pursuant to the PUC's January 29, 2010 Order issued in GWA Docket 08-08. That Order also required GWA to establish a policy for GWA to provide credits or offsets to developers provided that certain conditions were met.

**A. Petition for Approval of SDC Implementation Guidelines Update and SDC Financial Offset Policy**

GWA submits that since the adoption of the SDC Implementation Guidelines, public laws were passed in 2013 that affect payment deadlines for residential construction, and that require an Affordable Housing SDC. For instance, Public Law 32-075 shifted “the collection of the System Development Charge from the building permit stage to the occupancy permit stage.” P.L. 32-075, p. 2 (Nov. 27, 2013). The intent was to “negate the need for developers to front the cost of the SDC far in advance of the sale of the house, thus lowering the cost of development, while still ensuring that GWA receives the full amount necessary to protect existing ratepayers from the impact of new development.” *Id.* The law further provided that an amortized SDC would be made “available for all customers building a single family dwelling, regardless of income.” *Id.* at 2-3.

As a result, updates to the SDC Implementation Guidelines were required. According to GWA, it has spent nine (9) months revising its SDC Implementation Guidelines (also referred to herein as the “Update”).

**B. Revised System Development Charge Implementation Guidelines**

Revisions to the SDC Implementation Guidelines include the following. The Update creates an exception that SDCs owed for single family dwelling may be paid prior to occupancy, as opposed to prior to issuance of a building permit.<sup>1</sup> The Update also clarifies that SDCs shall be determined based on the number of meters as well as service

---

<sup>1</sup> Exhibit A, p. 6.

units.<sup>2</sup> Further, the Update indicates that GWA can require a bond for any capital improvement or facility expansion.<sup>3</sup> The Update also includes a provision that GWA may terminate water or wastewater service in the event of non-payment of an amortized SDC.<sup>4</sup>

Significantly, the Update establishes the “Affordable Housing System Development Charge,” which includes language from P.L. 32-075, codified under 12 G.C.A. § 12116.5(i). This particular revision provides guidelines for GWA’s Affordable Housing SDC. The guidelines reflect Guam law as it relates to who qualifies for an Affordable Housing SDC, what type of proof is required to qualify, and grievance procedures. The guidelines related to the Affordable Housing SDC also provide that GWA must review the Median Household Income for Guam “at least once every five years.”<sup>5</sup>

While the Update still includes the requirement that all SDC revenues must be placed in a special restricted fund, revisions include the requirement that GWA provide the PUC with a “full accounting of the receipts and expenditures into and from the [Island Water and Sewer Infrastructure Development] Fund shall be filed annually” for the PUC’s “review and approval.”<sup>6</sup> Also, any financial offsets requested by developers will require the approval of GWA’s General Manager, pursuant to the new SDC Financial Offset Policy.<sup>7</sup>

---

<sup>2</sup> Exhibit A, p. 7.

<sup>3</sup> Exhibit A, pp. 10-11.

<sup>4</sup> Exhibit A, p. 12.

<sup>5</sup> Exhibit A, p. 12.

<sup>6</sup> Exhibit A, p. 2.

<sup>7</sup> Exhibit A, p. 3.

**C. SDC Financial Offset Policy for Developers**

With regard to the proposed SDC Financial Offset Policy, this policy serves to provide developers with an SDC financial offset by constructing any off-site water and/or wastewater infrastructure.<sup>8</sup> Under this policy, developers may avail of a financial offset, which will include costs associated with the design and construction of any “Sanitary Sewer Facility Expansion or Water Facility Expansion” as defined under the SDC Implementation Guidelines.<sup>9</sup>

Further, as stated in the SDC Implementation Guidelines, the following do not qualify for an SDC offset: the dedication of rights-of-way or easements; the construction of improvements by the developer on private property; and line extension costs or other agreed upon privately funded costs that are required under GWA rules or regulations or Guam law to accommodate development.<sup>10</sup> This policy further provides instructions on how developers can apply for an SDC offset under the guidelines.<sup>11</sup> These instructions include the developer’s submission of engineering plans, total project costs, and financial offset request; as well as GWA’s review of such offset application.<sup>12</sup> The guidelines further include GWA’s acceptance of the improvement, as well as an instruction related to phased development.<sup>13</sup>

Based on the record before the Commission, the ALJ found that the proposed revisions to the SDC Implementation Guidelines and new SDC Financial Offset

---

<sup>8</sup> Exhibit B, p. 1.

<sup>9</sup> Exhibit B, p. 2.

<sup>10</sup> Exhibit B, p. 2.

<sup>11</sup> Exhibit B, pp. 2-3.

<sup>12</sup> Exhibit B, pp. 2-3.

<sup>13</sup> Exhibit B, p. 3.

Policy had undergone careful scrutiny. GWA has engaged in working sessions with the ALJ to assist the PUC's review of these policies. The ALJ therefore found that approval of these two policies would allow GWA to better implement an SDC system as required by statute. Accordingly, the ALJ determined that the SDC Implementation Guidelines and SDC Financial Offset Policy submitted to the PUC for its approval should be granted.

The Commission hereby adopts the findings made in the March 28, 2018 ALJ Report, and therefore, issues the following:

### **ORDERING PROVISIONS**

Upon careful consideration of the record herein, and for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS the following:

1. That the instant Petition is hereby GRANTED and that the revised SDC Implementation Guidelines and SDC Financial Offset Policy submitted to the PUC as "Exhibit A" and "Exhibit B" are APPROVED.

2. GWA is ordered to pay the PUC's regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with this matter. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.

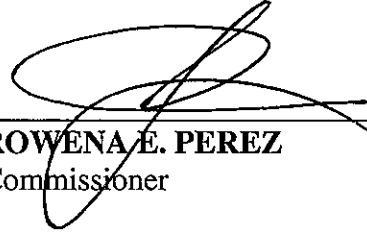
[SIGNATURES TO FOLLOW ON NEXT PAGE]

SO ORDERED this 29<sup>th</sup> day of March, 2018.



---

**JEFFREY C. JOHNSON**  
Chairman



---

**ROWENA E. PEREZ**  
Commissioner

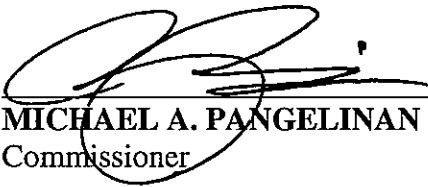


---

**JOSEPH M. MCDONALD**  
Commissioner

---

**FILOMENA M. CANTORIA**  
Commissioner



---

**MICHAEL A. PANGELINAN**  
Commissioner



---

**PETER MONTINOLA**  
Commissioner

---

**ANDREW L. NIVEN**  
Commissioner

P183007.JRA