



Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932

TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu

Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

07 JUL 2005

The Honorable Mark Forbes
Speaker
Mina' Bente Ocho Na Liheslaturan Guåhan-
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 77(EC), "AN ACT TO AMEND SUBSECTIONS 51118(e) AND 51118(f) OF TITLE 10 OF THE GUAM CODE ANNOTATED TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO FUND THE COSTS OF ITS FINANCIAL ANALYSIS FUNCTIONS" which I signed into law on July 1, 2005, as **Public Law 28-56**.

Sinseru yan Magåhet,

FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: copy attached of signed bill

cc: The Honorable Eddie Baza Calvo
Senator and Legislative Secretary

Senator Edward J.B. Calvo	
SECRETARY OF THE LEGISLATURE	
ACKNOWLEDGEMENT RECEIPT	
Rcv'd by: <u>JOC</u>	Print Name & Initial
Time: <u>1:39 pm</u>	Date: <u>7/12/05</u>

Office of the Speaker

MARK FORBES

Date: 7/7/05

Time: 4:55 pm

Rec'd by: ESD

Print Name: ESD

28-05-0298

0297

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

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

This is to certify that Substitute Bill No. 77 (EC), "AN ACT TO AMEND SUBSECTIONS 51118(e) AND 51118(f) OF TITLE 10 OF THE GUAM CODE ANNOTATED TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO FUND THE COSTS OF ITS FINANCIAL ANALYSIS FUNCTIONS," was on the 17th day of June, 2005, duly and regularly passed.


Mark Forbes
Speaker

Attested:

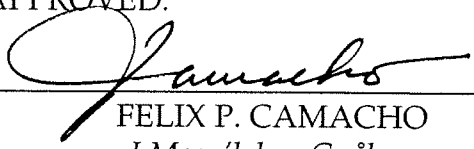

Edward J.B. Calvo

Senator and Secretary of the Legislature

This Act was received by *I Maga'lahen Guåhan* this 20 day of June, 2005,
at 4:50 o'clock P.M.


Assistant Staff Officer
Maga'lahi's Office

APPROVED:


FELIX P. CAMACHO
I Maga'lahen Guåhan

Date: 6/30/05

Public Law No. 28-56

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

Bill No. 77 (EC)

As substituted by the Committee on
Natural Resources, Utilities & Micronesia Affairs
and as amended.

Introduced by:

J. M.S. Brown
F. B. Aguon, Jr.
Edward J.B. Calvo
B. J.F. Cruz
Mike Cruz
Mark Forbes
L. F. Kasperbauer
R. Klitzkie
L. A. Leon Guerrero
J. A. Lujan
A. B. Palacios
R. J. Respicio
Ray Tenorio
A. R. Unpingco
J. T. Won Pat

AN ACT TO AMEND SUBSECTIONS 51118(e) AND
51118(f) OF TITLE 10 OF THE GUAM CODE
ANNOTATED TO AUTHORIZE THE PUBLIC
UTILITIES COMMISSION TO FUND THE COSTS OF
ITS FINANCIAL ANALYSIS FUNCTIONS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Subsection (e) of Title 10 Guam Code Annotated Section
51118 is hereby *repealed* and *reenacted* to read as follows:

“(e) PUC Rate-making. The Public Utilities Commission of Guam
[‘PUC’] is hereby authorized to establish and amend commercial,

1 government and residential tipping and user fees [including without
2 limitation a self-drop fee, a variable residential tipping fee and a
3 targeted lifeline rate for residential tipping fee, *collectively referred to as*
4 *'tipping fees'*], which when established shall replace those previously
5 created by law or by the Department of Public Works ['DPW']. Tipping
6 fees established by PUC shall be based on volume and on an actuarial
7 analysis of costs of service. Rate-making authority, which was
8 previously given to the DPW under this Section, is hereby *revoked*. PUC
9 is empowered to undertake a focused management audit of the existing
10 operations of the DPW Division of Solid Waste Management. In
11 performing its duties under this Section, PUC shall have the full
12 authority and powers conferred upon it by its enabling legislation, 12
13 GCA 12000 *et. sec.*, including the audit power conferred upon it by
14 Public Laws 25-05:12 and 26-78:2."

15 **Section 2. Subsection (f) of Title 10 Guam Code Annotated, Section**
16 **51118 is hereby amended to read as follows:**

17 "(f) **Solid Waste Operations Fund.** All tipping, user and other fees
18 authorized under this Section and collected based on duly established
19 rules and regulations or on a PUC rate order shall be deposited in a
20 special fund designated and hereby established as the Solid Waste
21 Operations Fund. All tipping/user fees in the Fund shall be used *solely*
22 for solid waste management practices and, pursuant to PUC order, for
23 the payment of regulatory costs and expenses as may be incurred by
24 PUC in performing its regulatory duties under Subsection (e)."

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I MINA' BENTE OCHO NA LIHESLATURAN GUAHAN

2005 (FIRST) Regular Session

Date: 6/17/05

VOTING SHEET

SBill No. 77(EC)

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M.S.	✓				
CALVO, Edward J.B.	✓				
CRUZ, Benjamin J.F,	✓				
CRUZ, Michael (Dr.)	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
KLITZKIE, Robert	✓				
LEON GUERRERO, Lourdes A.					✓
LUJAN, Jesse A.	✓				
PALACIOS, Adolpho B.	✓				
RESPICIO, Rory J.	✓				
TENORIO, Ray	✓				
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

PL 28-56

MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

Bill No. 77 (EC)

Introduced by:

J.M.S. Brown 

AN ACT TO AMEND SECTION 51118(f) OF TITLE 10 OF GUAM CODE
ANNOTATED TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION
TO FUND THE COSTS OF ITS FINANCIAL ANALYSIS FUNCTIONS

TO BE ENACTED BY THE PEOPLE OF GUAM:

1 Section One. Subsection (f) of Title 10 G.C.A. Section 51118 is hereby
2 amended to read:

3 (f) Solid Waste Operations Fund. All tipping, user and other fees
4 authorized under this Section and collected based on duly established rules and
5 regulations or based on PUC rate order shall be deposited in a special fund
6 designated and hereby established as the Solid Waste Operations Fund. All
7 tipping/user fees in the Fund shall be used ~~solely~~ only for solid waste
8 management practices and for paying costs incurred by the PUC in providing the
9 actuarial analysis it performs under subsection (e) hereof.

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Office of Vice-Speaker
Joanne M. Salas Brown

MINA' BENTE OCHO NA LIHESLATURAN GUAHAN
28th GUAM LEGISLATURE

April 21, 2005

The Honorable Mark Forbes
Speaker
I Mina' Bente Ocho na Liheslaturan Guahan
28th Guam Legislature
155 Hesler Street
Hagatna, Guam 96910

Dear Speaker Forbes:

The Committee on Natural Resources, Utilities & Micronesian Affairs to which was referred Bill No. 77 (EC) "AN ACT TO AMEND SECTION 51118(f) OF TITLE 10 OF GUAM CODE ANNOTATED TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO FUND THE COSTS OF ITS FINANCIAL ANALYSIS FUNCTIONS," has had the same under considered, and now wishes to report back the same with the recommendation TO DO PASS *as substituted* by the Committee on Natural Resources, Utilities & Micronesian Affairs.

Transmitted herewith for your consideration and action is our Committee Report on the above subject matter.

The Committee votes are as follows:

 8 To Do Pass
 0 Not To Pass
 0 Report Out
 0 Abstain
 0 Inactive File

A copy of the Committee report and other pertinent documents are attached for your immediate reference information.

Should you have any questions, please do not hesitate to contact me at 472-3450/1.

Sincerely,

Joanne M.S. Brown
Chairwoman, Committee on Natural
Resources, Utilities & Natural Resources

(Attachments)




Office of Vice-Speaker
Joanne M. Salas Brown

MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN
28th GUAM LEGISLATURE

April 14, 2005

Memorandum

To: Committee Members

From: Vice Speaker Joanne M.S. Brown 
Chairwoman, Committee on Natural Resources, Utilities & Micronesian Affairs

Subject: Bill No. 77 (EC), *as substituted* by the Committee on Natural Resources, Utilities & Micronesian Affairs, "AN ACT TO AMEND SECTION 51118(f) OF TITLE 10 OF GUAM CODE ANNOTATED TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO FUND THE COSTS OF ITS FINANCIAL ANALYSIS FUNCTIONS," transmitted herewith for your consideration and action is our Committee Report on the above subject matter.

This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Agenda
4. Bill No. 77 (EC) as substituted by committee
5. Bill No. 77 (EC) as introduced
6. Public Hearing Sign sign-in sheet
7. Notice of Public Hearing
8. Written Testimony

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

Should you have any questions on the report and the accompanying documents, please do not hesitate to contact me at 472-3450/1.

Thank you.



MINA' BENTE OCHO NA LIHESLATURAN GUAHAN
COMMITTEE ON NATURAL RESOURCES,
UTILITIES & MICRONESIAN AFFAIRS
VICE SPEAKER JOANNE M.S. BROWN, CHAIRWOMAN

Bill No. 77 (EC) as substituted by the Committee on Natural Resources, Utilities & Micronesian Affairs

"AN ACT TO AMEND SECTION 51118(f) OF TITLE 10 OF GUAM CODE ANNOTATED TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO FUND THE COSTS OF ITS FINANCIAL ANALYSIS FUNCTIONS."

VOTING SHEET

MEMBERS	TO PASS	NOT TO PASS	REPORT OUT	ABSTAIN	INACTIVE FILE	INITIALS
Vice Speaker Joanne M. S. Brown, Chairwoman	✓					
Senator Michael Cruz, Vice Chairman	✓					
Senator Frank Aguon, Member	OFF-ISLAND					
Senator Edward J.B. Calvo, Member	✓					
Senator Lawrence Kasperbauer, Member	✗					 4/19/05
Senator Lou Leon Guerrero, Member	OFF-ISLAND					
Senator Jesse Lujan, Member	✓					 4/20/05
Senator Rory Respicio, Member						
Senator Ray Tenorio, Member	✓					
Senator Antonio Unpingco, Member	OFF-ISLAND					
Senator Judith Won Pat, Member	OFF-ISLAND					
Speaker Mark Forbes, Ex-Officio Member	✓					

**I MINA' BENTE OCHO NA LIHESLATURAN GUAHAN
28th GUAM LEGISLATURE**

**COMMITTEE ON NATURAL RESOURCES, UTILITIES &
MICRONESIAN AFFAIRS**

**VICE SPEAKER JOANNE M.S. BROWN
CHAIRWOMAN**

**COMMITTEE REPORT
BILL NO. 77 (EC)**

COMMITTEE ON NATURAL RESOURCES, UTILITIES & MICRONESIAN AFFAIRS

Bill No. 76 (EC) "AN ACT TO AMEND SECTION 51118(F) OF TITLE 10 OF GUAM CODE ANNOTATED TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO FUND THE COSTS OF ITS FINANCIAL ANALYSIS FUNCTIONS."

I. OVERVIEW

The Committee on Natural Resources, Utilities & Micronesia Affairs held a public hearing on Tuesday March 15, 2005 in the Public Hearing Room of the Guam Legislature in Hagåtña, Guam. Committee Chairwoman, Vice Speaker Joanne M.S. Brown commenced the hearing at 9:16 a.m with welcoming remarks.

Senators Present:

Vice Speaker Joanne M. Brown, Chairwoman

II. TESTIMONY

Written testimony provided by the following

- Terrence Brooks, Chairman, Public Utilities Commission
- Mr. Larry Perez, Acting Director, Department of Public Works
- Ms. Cynthia Jackson, Ordof Landfill Project Manager, Department of Public Works

Oral Testimony provided by the following:

The following is a summary of oral testimony provided during the hearing:

- **Mr. Lawrence Perez**, *Acting* Director, Department of Public Works, presented his testimony in support of Bill 77 with a few amendments that need to be added
 - Adding subsection (e) of 51118 of Title 10 G.C.A. as amended to read: "The Public Utilities Commission(PUC) is hereby authorized to set tipping fees to replace the commercial and residential tipping fees

mandated in this section three(3) years after enactment of this act, and every three (3) years thereafter. Rate setting by the PUC shall be based on volume and actuarial analysis of costs of services for both the collection and the disposal of solid waste, ~~and~~ on a focused management audit of existing operations, on the "Consent Decree" requirements to close the Ordot Landfill and to open & operate a new, Municipal Solid Waste Landfill Facility (MSWLF), and on all Government(non-profit) and Privatized (for-profit) solid waste collections & disposal throughout thye Territory".

- Amending the last sentence of Subsection (f) of Section 51118 of Title 10 G.C.A. after the word practices add the following: "and for all costs incurred by the PUC under subsection

- **Ms. Cynthia Jackson**, Project Manager Ordot Landfill closure, Department of Public Works, Supported Bill 77 her only concern being the timeline of the actuary analysis conducted by the Public Utilities Commission.

- **Terrence Brooks**, Chairman of the Public Utilities Commission (PUC), Mr. Brooks stated there were sections of the drafted bill submitted to the Legislature not included in the current bill.

- **Doris Flores Brooks**, Public Auditor of Guam, Office of the Public Auditor, testified that she was concerned with who would have oversight of the fees that would be collected.

III. CONCERNS/QUESTIONS FROM COMMITTEE AND INDIVIDUALS WHO PRESENTED TESTIMONY:

Mr. Terrence Brooks, stated that the draft sent to the legislature in an February 04, 2005 letter had specific sections that would allow the PUC to effectively establish the funding mechanism for regulatory fees and empower the PUC to use the authority conferred in its enabling legislation to rate proceedings for tipping fees.

Mrs. Doris Flores Brooks, stated that the she would like the PUC to consider involving the Office of the Public Auditor in the review of matters pertaining to GPA, GTA, E911 & GWA in this sort of work on a reimbursable basis or to hire a staff person so that local expertise in such analyses can be developed.

Vice Speaker Brown, stated that the committee will review the testimonies provided to the committee to finalize the substituted version of Bill 77 so that we can address issues

on how we are going to fund the opening of a new landfill and the closure of the Ordot landfill.

IV. CONCLUSION:

The hearing was adjourned by the Chairwoman at 10:15 a.m.

V. FINDINGS AND RECOMMENDATION:

The Committee feels that the introduced version of Bill 77(EC) needed to be substituted so that certain issues and concerns of the PUC's regulatory powers be strengthen. Therefore, the Committee recommends to do pass Bill 76(EC) as substituted by the Committee on Natural Resources, Utilities & Micronesian Affairs.

**I MINA BENTE OCHO NA LIHESLATURAN GUAHAN
COMMITTEE ON NATURAL RESOURCES, UTILITIES
& MICRONESIAN AFFAIRS
SENATOR JOANNE M.S. BROWN
CHAIRPERSON**

**Public Hearing
Tuesday, March 15, 2005
9:00 a.m.
Public Hearing Room**

AGENDA

- 1. Commencement of Public Hearing**
 - A) BILL 77 (EC): An Act To Amend Section 51118(F) Of Title 10 Of Guam Code Annotated To Authorize The Public Utilities Commission To Fund The Costs Of Its Financial Analysis Functions.**
 - B) Bill 76 (EC): An Act To Add Section (G) To P.L. 25-55:3 And To Amend Section 11 Of P.L. 25:55 To Provide The Public Utilities Commission With Authority To Impose A Surcharge On CMRS Accounts And To Permit The Public Utilities Commission To Enforce And Collect Such Surcharge Itself.**
- 2. Public Comments**
- 3. Adjournment**

2nd
5/16/05

3rd
5/20/05

2015
5/20

3rd
6/18/05

2nd discussion
6/18/05
nodin/le
3e

I MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

Bill No. 77 (EC)

As substituted on by the Committee on Natural Resources,
Utilities & Micronesian Affairs

Introduced by:

J.M.S. Brown

AN ACT TO AMEND SUBSECTIONS 51118(e) and 51118(f)
OF TITLE 10 OF GUAM CODE ANNOTATED TO
AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO
FUND THE COSTS OF ITS FINANCIAL ANALYSIS
FUNCTIONS.

1 TO BE ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Subsection (e) of Title 10 G.C.A. Section 51118 is hereby
3 repealed and reenacted to read as follows:

4 (e) PUC Rate-making. The Public Utilities Commission of Guam ["PUC"]
5 is hereby authorized to establish and amend commercial, government and
6 residential tipping and user fees [including without limitation a self-drop fee, a
7 variable residential tipping fee and a targeted lifeline rate for residential tipping
8 fee, collectively referred to as "tipping fees"], which when established shall replace
9 those previously created by law or by the Department of Public Works ["DPW"].
10 Tipping fees established by PUC shall be based on volume and on an actuarial
11 analysis of costs of service. Rate-making authority, which was previously given
12 to the DPW under this section, is hereby revoked. PUC is empowered to
13 undertake a focused management audit of the existing operations of the DPW
14 Division of Solid Waste Management. In performing its duties under this
15 section, PUC shall have the full authority and powers conferred upon it by its

1 enabling legislation, 12 GCA 12000 et. sec., including the audit power conferred
2 upon it by Public Laws 25-05:12 and 26-78:2.

3 **Section 2. Subsection (f) of Title 10 G.C.A. Section 51118 is hereby**
4 **amended to read as follows:**

5 (f) **Solid Waste Operations Fund.** All tipping, user and other fees
6 authorized under this Section and collected based on duly established rules and
7 regulations or on a PUC rate order shall be deposited in a special fund
8 designated and hereby established as the Solid Waste Operations Fund. All
9 tipping/user fees in the Fund shall be used solely for solid waste management
10 practices and, pursuant to PUC order, for the payment of regulatory costs and
11 expenses as may be incurred by PUC in performing its regulatory duties under
12 subsection (e).

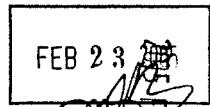
MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

Introduced

Bill No. 77 (EC)

Introduced by:

J.M.B. Brown



PM 2:21

AN ACT TO AMEND SECTION 51118(f) OF TITLE 10 OF GUAM CODE
ANNOTATED TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION
TO FUND THE COSTS OF ITS FINANCIAL ANALYSIS FUNCTIONS

TO BE ENACTED BY THE PEOPLE OF GUAM:

1 Section One. Subsection (f) of Title 10 G.C.A. Section 51118 is hereby
2 amended to read:

3 (f) Solid Waste Operations Fund. All tipping, user and other fees
4 authorized under this Section and collected based on duly established rules and
5 regulations or based on PUC rate order shall be deposited in a special fund
6 designated and hereby established as the Solid Waste Operations Fund. All
7 tipping/user fees in the Fund shall be used ~~solely~~ only for solid waste
8 management practices and for paying costs incurred by the PUC in providing the
9 actuarial analysis it performs under subsection (e) hereof.

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I Mina Bente Ocho Na Liheslaturan Guahån

COMMITTEE ON NATURAL RESOURCES, UTILITIES & MICRONESIAN AFFAIRS

Tuesday, March 15, 2005; 9:00 a.m.
Legislative Public Hearing Room

Bill No. 77 (EC): "An Act To Amend Section 51118(F) Of Title 10 Of Guam Code Annotated To Authorize The Public Utilities Commission To Fund The Costs Of Its Financial Analysis Functions."

SIGN IN SHEET

<i>Name</i>	<i>Representing</i>	<i>Contact number</i>
Larry Perez	DPW	646-5131
Deborah Rivera	AG	475-3324
Mike Domigan	CUANCELL	687-3377
[Signature]	[Signature]	688 4422
CYNTHIA W. JACKSON	DPW / CONSULT DEPT	646-3140
JERRY BROOKS	PUC	
JERRY BROOKS	[Signature]	

I Mina Bente Ocho Na Liheslaturan Guahan

COMMITTEE ON NATURAL RESOURCES, UTILITIES & MICRONESIAN AFFAIRS

Tuesday, March 15, 2005; 9:00 a.m.
Legislative Public Hearing Room

Bill No. 77 (EC): "An Act To Amend Section 51118(F) Of Title 10 Of Guam Code Annotated To Authorize The Public Utilities Commission To Fund The Costs Of Its Financial Analysis Functions."

SIGN IN SHEET

<i>Name</i>	<i>Representing</i>	<i>Contact number</i>
Doris Flores Burgos	GUAY	OPA

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- Inspection of residential real estate
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- Appraisal valuation and report preparation for residential real estate

Qualifications:

- Applicant must possess bachelor's degree from accredited university or college
- Applicant should have computer proficiency with Microsoft Windows, Word and Excel
- Applicant should have strong verbal and written communication skills
- Applicant should have good mathematical and analytical skills

Resumes are accepted during business hours until March 18, 2005, and must include three references. You may also fax or e-mail your resume to:

Attention: Darryl R. Oshiro, General Manager, Micronesia Appraisal Associates, Inc., 194 Chalan San Antonio, Suite 202, Tamuning, Guam 96913
Tel: 646-0234 • Fax: 646-0233 • E-mail: darryl.oshiro@valuepacific.net

Applicants meeting the minimum qualifications must appear for interview and provide clearances. Reliable transportation is required.



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Ph: 632-3646

MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN
**Committee on Natural Resources,
Utilities & Micronesia Affairs**
*Vice Speaker Joanne M.S. Brown
Chairwoman*



The Committee on Natural Resources, Utilities & Micronesia Affairs will hold a public hearing on **Tuesday, March 15, 2005, 9:00 a.m., in the Legislative Building Public Hearing Room in Hagatna, on the following:**

Bill 76 (EC): An Act To Add Section (g) To P.L. 25-55:3 And To Amend Section 11 Of P.L. 25:55 To Provide The Public Utilities Commission With Authority To Impose A Surcharge On CMRS Accounts And To Permit The Public Utilities Commission To Enforce And Collect Such Surcharge Itself.

Bill 77 (EC): An Act To Amend Section 51118(f) Of Title 10 Of Guam Code Annotated To Authorize The Public Utilities Commission To Fund The Costs Of Its Financial Analysis Functions.

Individuals requiring special accommodations should contact
Carl I. Quinata, A.D.A. Coordinator at 472-3450.
PAID FOR WITH GOVERNMENT FUNDS

Audit Supervisor

The Office of the National Public Auditor of an island nation in the Western Pacific is seeking an experienced auditor for immediate employment in a supervisory capacity. Successful candidates will have a degree in Accounting from an accredited university and extensive, successful experience in auditing. Experience in supervising governmental audits is preferred.

Recruitment for this opening is managed by a professional consulting firm that assists client organizations in their search for managers and professionals. The client organization pays our fees for candidates who are successfully placed and there's never a fee for merely inquiring about a job! Give us a *very confidential* phone call, fax or e-mail and let's explore this opportunity.

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E-mail: andassoc@guam.net
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- Ability to speak, read and write English
- Ability to facilitate current in-house Japanese Language culture training programs
- Ability to train and facilitate in groups or individual settings
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- Computer literate
- Able to work flexible hours when needed

DFS is an equal employment opportunity employer. Federal Immigration Law requires verification of eligibility to work in the U.S. for all new employees. comply with this requirement on a non-discriminatory basis. Drug screening will be required for all selected candidates, based on the DFS Drug Free Workplace Environment Policy. Police and Court clearance required.

**PUBLIC UTILITIES COMMISSION
OF GUAM**

Terrence M. Brooks, Chairman
Gerald M. Woo, Vice Chairman
Filomena M. Cantoria
Edward C. Crisostomo
Joseph M. McDonald
Rowena E. Perez
Richie K.T. Lim

Suite 207, GCIC Building
Post Office Box 862
Hagatna, Guam 96932

Telephone: (671) 472-1907
Fax: (671) 472-1917
Email: guampuc@kuentos.guam.net

Harry M. Boertzel, Esq.
Administrative Law Judge

Lourdes R. Palomo
Administrator

March 14, 2005

VIA HAND DELIVERY

The Honorable Joann Brown
Vice Speaker, 28th Guam Legislature
Chairman, Committee on Utilities and Land
155 Hesler Street
Hagatna, Guam 96910

**RE: Bill 77 [Amendment of 10 GCA 51118(f) - Regulatory expense
funding]**

Dear Vice Speaker Brown:

Thank you for the opportunity to comment on Bill 77. The bill is in response to PUC's letters dated April 11, 2003 and February 4, 2005 [copies enclosed], which have advised that legislation is required to enable PUC to perform its regulatory duties under 10 GCA 51118(e).

The legislation is necessary for five reasons:

1. To clarify that PUC's rate making authority supercedes the interim authority conferred upon the Department of Public Works [DPW] over tipping fees.
2. To confirm that PUC's authority extends to government tipping fees as well as to residential [including variable fees] and commercial fees.
3. To establish a funding mechanism for regulatory fees and expenses.
4. To amend section 51118(f) to make it clear that fees collected under PUC rate order should be deposited in the Solid Waste Operations Fund; and
5. To empower PUC to use the authority conferred in its enabling legislation to rate proceedings for tipping fees.

PUC's April 11, 2003 letter presents draft legislation [*Draft Legislation*], which would satisfy these five requirements. For unknown reason, Bill 77 fails to adequately address points 1, 2, 3 and 5 above. Each of these points is reviewed below:

1. Point one [superceding authority] and point two [government tipping fees].

These points are clarifying amendments and are contained in section one of PUC's *Draft Legislation*. For unknown reason, section one of the *Draft Legislation* has not been included in Bill 77.

2. Point three [regulatory fees].

Bill 77 would only fund regulatory costs incurred in providing the *actuarial analysis* under section 51118(e). There is much more to a rate proceeding than an actuarial analysis. DPW must be engaged in developing revenue and expense projections, rates need to be designed *for example, variable fees*, policy issues must be examined [*for example, what portion of expenses directly related to the closure of the Ordot landfill and to the development, design, construction and operation of the new landfill will be funded by tipping fees*] and regulatory proceedings must be conducted, with incident public notice and reporting expenses. Legal and consulting fees will be incurred in analyzing applicable legal and policy issues. Moreover, as PUC reads section 51118(e), its jurisdiction over tipping fees will be ongoing with the requirement that from time to time the fees will be amended as expenses related to solid waste operations change. Bill 77 does not provide funding for any of these regulatory expenses. Accordingly, the funding mechanism for regulatory fees must also be ongoing.

It is for this reason that PUC recommends that the last sentence of section 51118(f) read as follows: *All tipping/user fees in the Fund shall be used solely for solid waste management practices and for regulatory fees and expenses, which PUC incurs in providing regulatory services under subsection (e)*. Unless Bill 77 is amended to provide this funding mechanism, PUC will be unable to perform its regulatory duties. PUC also expresses concern that subsection (e) currently requires that PUC rates be based upon a *focused management audit of existing operations*. PUC recommends it be authorized by Bill 77 to postpone this management audit, which would cost many hundreds of thousands of dollars and six to twelve months to complete. As currently written, subsection (e) requires that the audit be completed before PUC establishes any rates.

3. Point five [PUC enabling legislation].

It is essential that PUC be specifically empowered to exercise the regulatory powers given it in its enabling legislation [12 GCA 12000 et. sec.] in establishing tipping fees. Section 3 of the *Draft Legislation*, which would confer this authority, has not been included in Bill 77.

PUC would welcome the opportunity to discuss these points of concern with you and your staff.

Cordially,

Terrence Brooks
Chairman

Enclosures: April 11, 2003 PUC letter to Speaker Pangelinan, with *Draft Legislation* attached.

February 4, 2005 PUC letter to Department of Public Works

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

Lourdes R. Palomo
Administrator

April 11, 2003

The Honorable V. C. Pangelinan
Speaker, Twenty Seventh Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Hagatna, Guam 96910

RE: Public Law 25-70 [Commercial/Residential Tipping Fees]

Dear Speaker Pangelinan:

Public Law 25-70, of which you were the principal sponsor, amends 10 GCA 51118(e) to provide that commencing three years after its enactment, the PUC is authorized to set tipping fees to replace the commercial and residential tipping fees which were initially set by that section. This jurisdiction has now vested in the PUC.

A threshold problem, which must be resolved before the PUC can begin the regulatory work envisioned by section 51118, is the absence of a funding source to cover regulatory expenses. Regulatory work envisioned under the law includes an "actuarial analysis of costs of service", a "focused management audit of existing operations" and rate proceedings to review and from time to time adjust residential and commercial tipping fees. The Commission has the *in-house* capability to perform these tasks. The logical source of funds for this regulatory work would be the *Solid Waste Operations Fund*, which is established by section 51118(f). However, this section would need to be amended to permit this use. The PUC suggests that this subsection be amended to read as follows:

(f) Solid Waste Operations Fund. All tipping, user and other fees authorized under this Section and collected based on duly established rules and regulations or based on PUC rate order shall be deposited in a special fund designated and hereby established as the Solid Waste Operations Fund. All tipping/user fees in the Fund shall be used solely for solid waste management practices and for regulatory fees as may be assessed by PUC to fund its services under subsection (e).

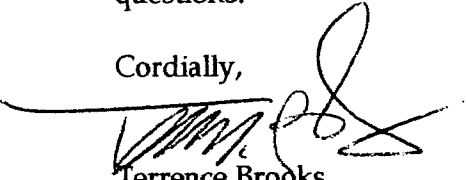
[Draft legislation is enclosed to address the legislative changes, which are proposed in this letter.]

The PUC has studied section 51118 in evaluating the scope of its duties. Several questions raised by this study should be resolved before PUC begins its regulatory work:

1. The law anticipates that PUC will conduct a focused management audit of existing DPW waste management operations. Is it the legislative intent that PUC should have the authority to order DPW to comply with rate orders and with orders to implement audit findings? If so, then this should be expressly stated in the statute. In addition, PUC recommends that it be specifically empowered by statute to use the full spectrum of its regulatory authority [*subpoena witnesses, convene public hearings, require production of records and documents, and issue orders*] in discharging its responsibilities under section 51118.
2. PUC is authorized to regulate commercial and residential tipping fees. Is it the legislative intent that the regulation of "commercial" fees includes the authority to regulate "government" fees, which are separately identified in section 51118(c)?
3. PUC assumes that it now has the sole authority to regulating tipping fees and that the authority given DPW by section 51118 to establish and amend rates has expired. Is this assumption consistent with legislative intent?
4. Section 51118 (a) provides that the tipping fees will be *a* source of funding together with general fund appropriations and other sources for expenses *directly related to*: a] the Ordot landfill closure; b] to the creation, operation and closure of a new landfill; and c] other solid waste facilities. As part of the process of establishing appropriate, stable rate levels, there must be some understanding reached as to the appropriate balance between rates and other sources of funds in covering the total cost of solid waste management operations. This understanding could evolve from the rate proceeding conducted by the PUC.

The PUC's next regulatory session will occur in early June. PUC would appreciate your assistance in considering the introduction of the enclosed bill to enable it to begin its regulatory efforts under section 51118. Please let me know if you have any questions.

Cordially,



Terrence Brooks
Chairman

cc: Commissioners, William Blair, Esq.
Enclosure: Draft legislation

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guahan* finds that the Guam Public Utilities Commission, the government of Guam's independent regulatory authority [PUC], is now empowered by Public Law 25-70 to regulate the commercial and residential tipping fees, which are assessed under 10 GCA 51118, deposited into the Solid Waste Operations Fund [Fund] and earmarked solely for expenses related to solid waste management practices. *I Liheslaturan Guahan* confirms that it is the legislative intent that PUC's regulatory authority supercedes the interim authority over tipping fees conferred upon the Department of Public Works under P.L. 25-70 and that PUC's authority extends to government tipping fees as well as residential [including variable residential tipping fees] and commercial fees. *I Liheslaturan Guahan* further finds that PUC must be empowered to recover its regulatory expenses from the Fund.

Section 2. 10 Guam Code Annotated section 51118(f) is hereby amended to read as follows:

(f) **Solid Waste Operations Fund.** All tipping, user and other fees authorized under this Section and collected based on duly established rules and regulations or based on PUC rate order shall be deposited in a special fund designated and hereby established as the Solid Waste Operations Fund. All tipping/user fees in the Fund shall be used solely for solid waste management practices and for regulatory fees as may be assessed by PUC to fund its services under subsection (e).

Section 3. In performing its duties under 10 GCA section 51118(e), PUC shall have the full authority and powers conferred upon it by its enabling legislation [12 GCA 12000 et. sec.] including the audit power conferred upon it by Public Laws 25-05:12 and 26-78:2.

**PUBLIC UTILITIES COMMISSION
OF GUAM**

Terrence M. Brooks, Chairman
Joseph M. McDonald
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Harry M. Boertzel, Esq.
Administrative Law Judge

Lourdes R. Palomo
Administrator

February 4, 2005

VIA FAX TRANSMISSION
646-3749

Ms. Cynthia Jackson
Project Manager, Consent Decree Section
Department of Public Works
542 N. Marine Dr.
Tamuning, Guam 96913

RE: Tipping Fees [10 GCA 51118(e)]

Dear Ms. Jackson:

You have asked for an overview of the process and cost by which the Guam Public Utilities Commission [PUC] would exercise its authority under 10 GCA 51118(e) to establish residential and commercial tipping fees to replace those currently set by statute.

For your information, I am enclosing a letter from PUC chairman Brooks to then Speaker Pangelinan, dated April 11, 2003 on this subject. His letter explains that before PUC will be able to act under section 51118(e), the law needs to be amended to provide a source of funding for regulatory expenses and to confirm that in performing its duties, PUC will have the full authority and powers vested in it by its enabling legislation. No action was taken by the Legislature in response to Chairman Brooks' letter.

I have asked PUC's regulatory consultant to provide an estimate of the cost of the first rate proceeding, that would include an "actuarial analysis of cost of service" and the probable cost of a management audit of existing operations [which will likely be expensive and take 10 months to complete].

It is unlikely that I will have this information to you before February 7, 2005. PUC recommends that consideration be given to amending section 51118 to de-link the expensive management audit and the rate proceeding.

Regarding the process by PUC would establish new tipping fees, PUC's consultant would take the lead in preparing the cost of service analysis and the proposed tariffs for consideration by PUC. DPW would be consulted and involved in this process.

By copy of this letter, I am alerting Vice Speaker Brown to the need for legislation to enable PUC to undertake its duties under section 51118.

Please email me if you have any questions.

Cordially,

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

Harry M. Boertzel

cc: Vice Speaker Joanne Brown
Terrence Brooks, PUC chair
Jim Madan, Georgetown Consulting Group



OFFICE OF THE PUBLIC AUDITOR

March 15, 2005

Honorable Joanne M. Salas Brown
Vice Speaker & Chairwoman Committee on Natural Resources,
Utilities & Micronesian Affairs
28th Guam Legislature
155 Hesler St.
Hagatna, Guam 96910

Re: Bill 76 and Bill 77

Dear Vice Speaker Brown and Committee Members:

Bill 76

The Public Utilities Commission (PUC) through Bill 76 is seeking to establish a surcharge on CMRS (Commercial Mobil Radio Service) Accounts that the PUC will collect and enforce itself.

I am in support of Bill 76 with the modification that the PUC report annually to the Legislature, the Governor and the Office of the Public Auditor the receipts, collections and amounts of CMRS accounts and E911 surcharges. The annual report should be submitted within 120 days after the fiscal year end.

As background information, our audit of E911, which was issued in December 2003, found that neither the Guam Fire Department nor the Department of Administration monitored the amount of E911 remittances received. We estimated a discrepancy of over \$950,000. As a result of this lack of monitoring of E911 fees, the General Fund was often left subsidizing the E911 costs.

In his December 2, 2003, letter to the OPA, PUC Chairman Terrence Brooks stated: "PUC has the authority under P.L. 25-55:3(C) to audit an agent and would not hesitate to do so if it determined that it was reasonable and necessary under the circumstances."

The PUC is in the best position to monitor the collections of E911 and CMRS accounts and best able to provide an annual accounting of these collections. This monitoring is especially important now that the new GTA is a private entity.

Bill 77

In this Bill, the PUC requests authorization to be paid for financial analysis costs it incurs in its oversight of the Solid Waste Operations Fund. While reasonable financial



GOVERNOR
Felix P. Camacho
LT. GOVERNOR
Kaleo S. Moylan



DIRECTOR
Joseph W. Duenas
DEPUTY DIRECTOR
Michael C. James

15 MAR 2005

The Honorable Joanne M.S. Brown
Vice Speaker, 28th Guam Legislature
155 Hessler Place
Hagatna, Guam 96932

Buenas Yan Hafa Adai Vice-Speaker, Senator & Madam Chair Joanne Brown, Senators, Ladies & Gentlemen,

My Name is Larry Perez, I am the Acting Director of the Department of Public Works, and I am here to testify **in support** of Bill No. 77. The proposed Legislation is timely and appropriate in light of our Government's current predicament with the "Consent Decree", and I humbly & constructively offer the following amendments to compliment the vision and objective of this Body ...

Section One. Subsection (e) of Title 10 G.C.A. Section 51118 is hereby amended to read:

- (e) PUC Rate-Making. The Public Utilities Commission ('PUC') is hereby authorized to set tipping fees to replace the commercial and residential tipping fees mandated in this Section three (3) years after enactment of this Act, and every three (3) years thereafter. Rate setting by the PUC shall be based on volume and actuarial analysis of costs of services for both the collection & the disposal of solid waste, and on a focused management audit of existing operations, on the "Consent Decree" requirements to close the Ordot Landfill and to open & operate a new, Municipal Solid Waste Landfill Facility (MSWLF), and on all Government (non-profit) and Privatized (for-profit) solid waste collections & disposals throughout the Territory; and

Section Two. Subsection (f) of Title 10 G.C.A. Section 51118 is hereby amended to read:

- (f) Solid Waste Operations Fund. All tipping, user and other fees authorized under this Section and collected based on duly established rules and regulations or based on PUC rate order shall be deposited in a special fund designated and hereby established as the Solid Waste Operations Fund. All tipping/user fees in the fund shall be used solely only for solid waste management practices, and for all costs incurred by the GPUC under subsection (e) hereof.

Un Dang'Kulo Na Si Yu'os Ma'asi for this opportunity and for your time.

Lawrence P. Perez
Acting Director

Cynthia U. Jackson, Project Manager
Consent Decree for the Closure of Ordot Dump Project
Department of Public Works

TESTIMONY IN SUPPORT OF BILL 77

“ AN ACT TO AMEND SECTION 51118(f) OF TITLE 10 OF THE GUAM CODE
ANNOTATED TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO FUND THE
COSTS OF ITS FINANCIAL ANALYSIS FUNCTIONS”

Good Morning Madame Chair and fellow Senators of the 29th Guam Legislature. Thank you for this opportunity to share my thoughts with you in support of Bill 77. I am Cynthia U. Jackson, a public servant with the Department of Public Works and additionally tasked as Project Manager for the Consent Decree for the Closure of Ordot Dump Project.

When I was given this assignment as Project Manager, for the tasks identified in the Consent Decree for the Closure of Ordot Dump, one of the things that I inquired about was my funding source. I was told “ you have three million to start, there should be revenue from the tipping fees and take a look at the Financial Plan”.

Senators, I’m here today to support this amended legislation, because while the three million dollars did provide a good start, it is not even close to what is needed to complete this multi- tasked, aggressively scheduled project.

The Financial Plan mandated by the Consent Decree, identifies funding strategies to implement, that will fund the Consent Decree mandated tasks. One of the funding strategies further identifies the need for PUC to set rates based on a Actuarial Analysis. Supporting this bill will assist DPW in moving forward to carrying out this task and one step closer to establishing a true source of funding for this project.

Today I can’t say that the revenue from the tipping fees can support it’s legislative intent, which are also in part, the tasks mandated by the Consent Decree. A quick review of a billing/payment summary for fiscal year 2004, reveals that the rate of collection for residential billing is at 12.53% and while the commercial haulers come in a little better at 44.11%, the overall percentage rate of what was collected is 33.87% which represents \$4,237,921.09. The total billing revenue that should have been collected. is identified as \$6,408,305.00. Senators, I could certainly use that uncollected two million dollars. Today much to my relief, DPW and DOA officials are collaboratively working together to improve the revenue and collection efforts. However, based on the audited numbers we have, the fees require adjustment. Support of this bill will also support this effort, as a result of the PUC conducting this analysis, the correct, actual cost of service will be determined. This true cost is also what DPW would like public.

There is just one major concern that I have, it is the issue of timing. Upon this bill’s passage into law, will the PUC start the actuarial analysis shortly thereafter ? Should this be the case, the data

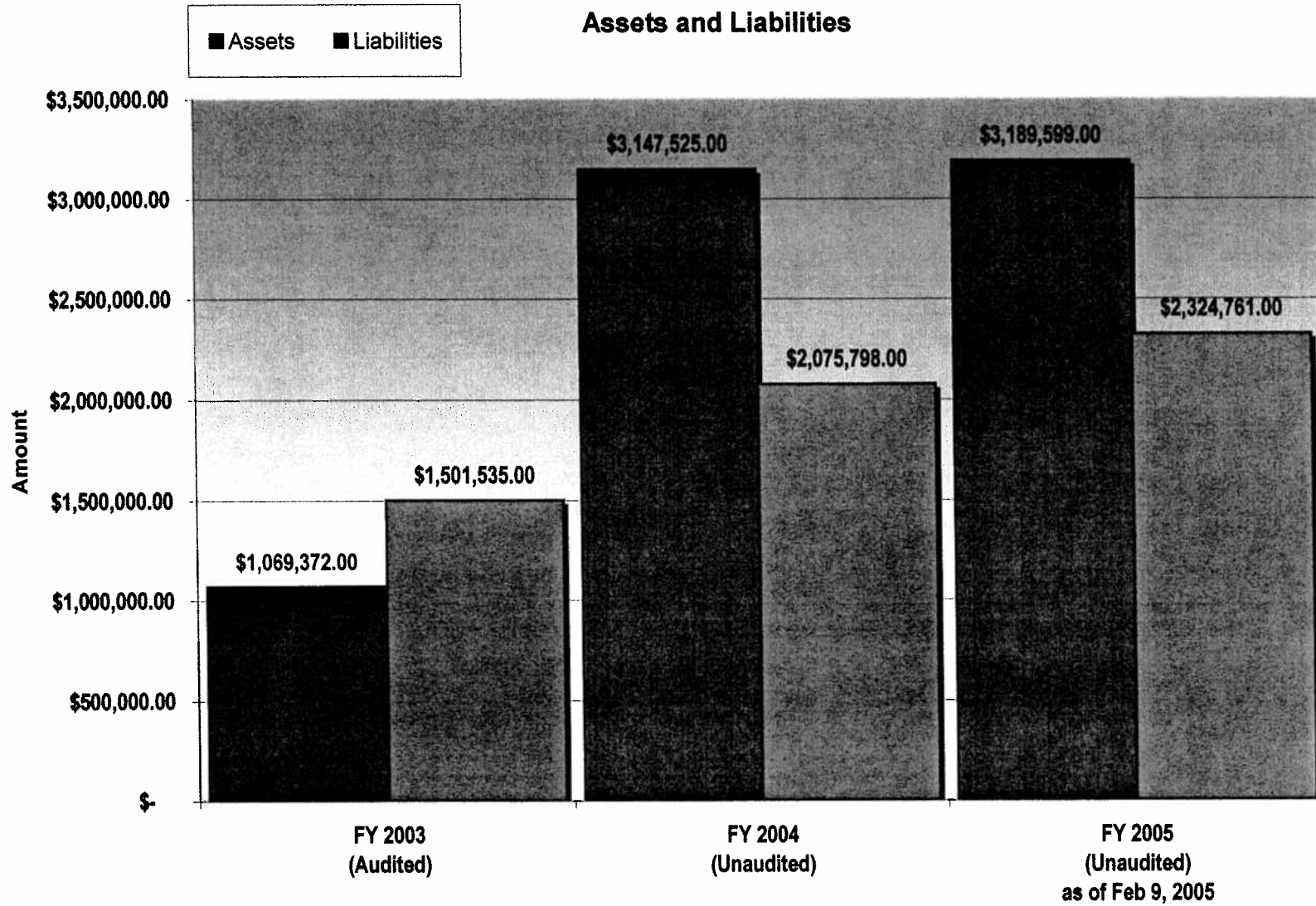
required may not be readily available. DPW administrative personnel and DOA billing and collection staff will need to be supplemented to support the need for better data and certainly more detail than what is provided to date.

End of Testimony

DPW TIPPING FEE BILLINGS/PAYMENTS SUMMARY

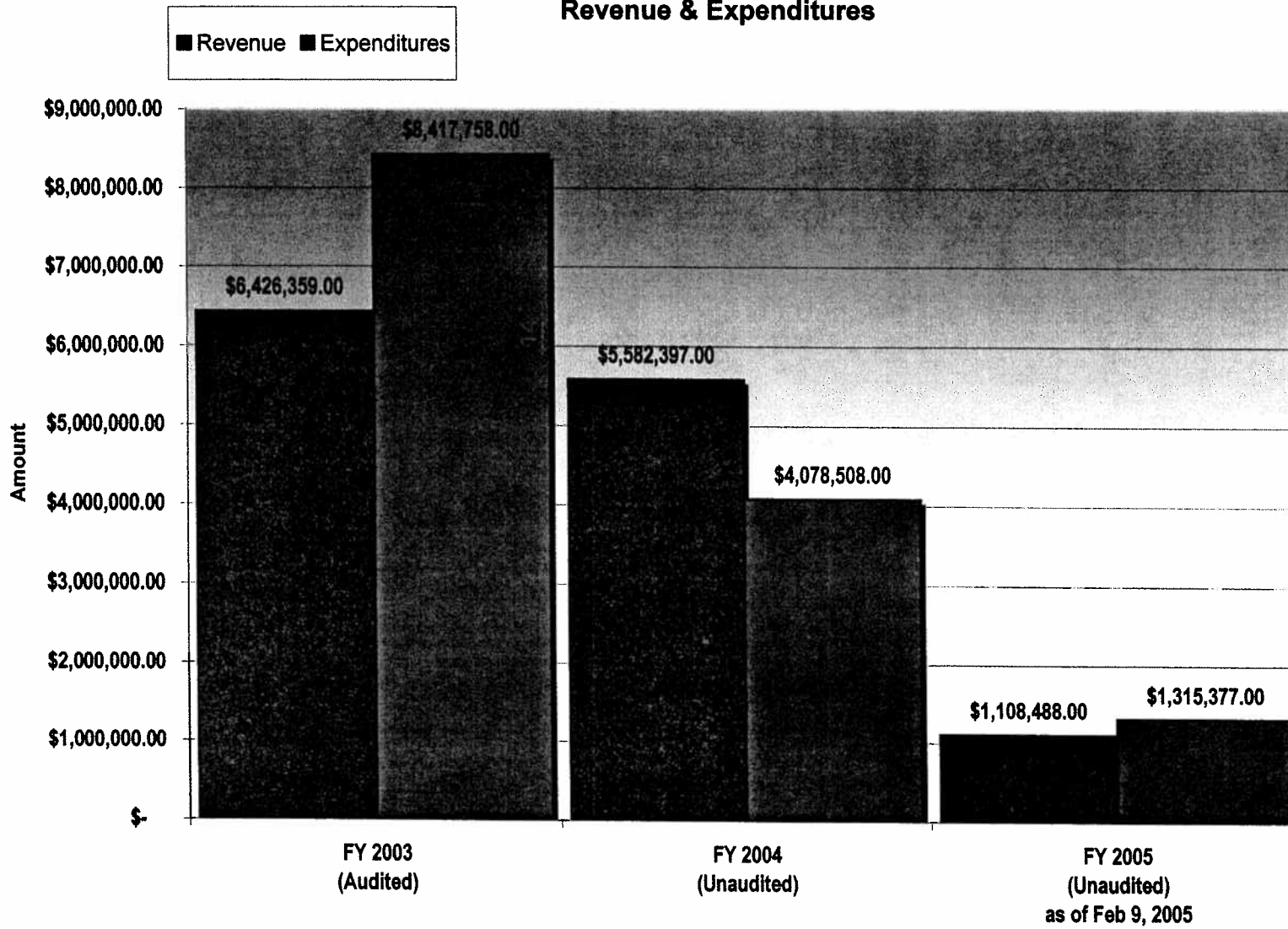
Customer Name	FY 2004 Total Billings	FY 2004 Total Payments	FY 2004 A/R A/R Bal.	% Payments
Residential (Household)	2,077,784.00	260,373.00	1,817,411.00	12.53%
Commercial Haulers:				
Mr. Rubbishman	3,052,332.00	1,094,910.00	1,957,422.00	35.87%
Pacific Waste System	942,308.00	620,756.91	321,551.09	65.88%
Trashco	184,404.00	141,620.00	42,784.00	76.80%
Lagu	97,480.00	8,304.00	89,176.00	8.52%
Other Commercial Haulers	54,042.00	44,465.00	9,577.00	82.28%
Total Commercial Haulers	4,330,566.00	1,910,055.91	2,420,510.09	44.11%
Grand Total	6,408,350.00	2,170,428.91	4,237,921.09	33.87%

SOLID WASTE OPERATIONS FUND



SOLID WASTE OPERATIONS FUND

Revenue & Expenditures



**Bureau of Budget & Management Research
Fiscal Note of Bill No. 77 (EC)**

Bill Title (Preamble): AN ACT TO AMEND SECTION 51118(f) OF TITLE 10 OF GUAM CODE ANNOTATED TO AUTHORIZE THE PUBLIC UTILITIES COMMISSION TO FUND THE COSTS OF ITS FINANCIAL ANALYSIS FUNCTIONS.

Department/Agency Appropriation Information

Dept./Agency Affected: Public Utilities Commission	Dept./Agency Head: Terrance Brooks, Chairman
Department's General Fund (GF) appropriation(s) to date:	\$0
Department's Other Fund (specify): _____ appropriation(s) to date:	\$0
Total Department/Agency Appropriation(s) to date:	\$0

Fund source information of Proposed Appropriation

	General Fund:	Other (specify):	Total:
FY 2005 Adopted Revenues	\$447,441,000	\$0	\$447,441,000
FY Appro. to P.L. _____	(\$447,957,067)	\$0	(\$447,957,067)
Sub-total:	(\$516,067)	\$0	(\$516,067)
Less appropriation in Bill	\$0	\$0	\$0
Total:	(\$516,067)	\$0	(\$516,067)

Estimated Fiscal Impact of Bill

	One Full Fiscal Year	For Remainder of Current FY (if applicable)	Second Year	Third Year	Fourth Year	Fifth Year
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Other Fund:	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

1. Does the bill contain "revenue generating" provisions? // Yes No
2. Is amount appropriated adequate to fund the intent of the appropriation? // Yes No
If no, what is the additional amount required? \$ _____
3. Does the Bill establish a new program/agency? // Yes No
If yes, will the program duplicate existing programs/agencies? // Yes No
Is there a federal mandate to establish the program/agency? // Yes No
4. Will the enactment of this Bill require new physical facilities? // Yes No
5. Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: // Yes No
// Requested agency comments not received by due date // Other: _____

Analyst: [Signature] Date: 5/17/05 Director: [Signature] Carlos P. Bordallo Date: MAY 18 2005

Footnotes: Bill 77 amends section (f) of Title 10 GCA by adding verbiage to include the PUC rate orders as a part of the basis to establish tipping, user and other fees under Section 51118. The Bill also allows the PUC to pay for costs in providing an actuarial analysis out of the Solid Waste Fund. This is the first year that such an analysis is to be performed and a fiscal impact on the Solid Waste Fund will be realized. Per the Department of Public Works, the cost of the analysis is estimated to be approximately \$150,000.00.