

Note: This summary was added after the 2017 publication of “Navigating Legal Pathways to Rate-Funded Customer Assistance Programs: A Guide for Water and Wastewater Utilities.” To access the 2017 report, go to <https://efc.sog.unc.edu/pathways-to-rate-funded-customer-assistance>.



## Guam<sup>A</sup>

Under 12 G.C.A. § 12105(a), the Guam Public Utilities Commission (GPUC) has exclusive jurisdiction over the Guam Waterworks Authority (GWA), as well as over private contractors operating water and wastewater systems, with respect to authority, service, and rates. Specifically related to rate-setting, the GPUC “shall establish and modify from time to time, reasonable rates and charges for services, including General Lifeline Rates.” Rates filed with the GPUC shall be “just, reasonable, and in conformance with public law,” and may not be modified without prior approval of the GPUC. Additionally, the GPUC may “prohibit rebates and discrimination between localities, or between consumers, under substantially similar conditions.”

Under 12 G.C.A. § 12118, “just and reasonable” is defined as “that rate, charge or assessment cost which enables the public utility to repay its debts, finance its obligations, finance its capital improvement needs and cover all its operating expenses.”

In *Guam Power Authority v. Bishop of Guam*, the District Court of Guam held that “[t]here is abundant authority for the proposition that when a government undertakes to furnish a public service, such as the supplying of electricity to consumers other than itself, it acts in its proprietary capacity and cannot grant free or reduced rates, or otherwise make discriminations which would be unlawful if the service were rendered by an individual or private corporation.” In invalidating a Guam Government Code amendment which reduced the charges for utility services furnished to nonprofit educational facilities, churches and publicly owned hospitals, the Court further held that the amendment “in net effect, placed the burden

A. After the Spanish-American War in 1898, Guam became a U.S. territory.

1. 12 G.C.A. § 12105(a) - (e); see also 12 G.C.A. 12101(c), which defines “general lifeline rate” as “a lower than average cost per unit charge for a level of utility service necessary to fulfill the essential needs of all residential customers.”

2. 12 G.C.A. § 12116(a).

3. *Id.*

4. 12 G.C.A. § 12118.

5. *Guam Power Authority v. Bishop of Guam*, 383 F.Supp. 476, 481 (D. Guam 1974).

Commission-regulated utilities	
Noncommission-regulated utilities	N/A

<b>State Population (2010):</b>	159,358
<b>Median Annual Household Income (2010):</b>	\$48,274
<b>Poverty Rate (2015):</b>	22.9%
<b>Typical Annual Household Water and Wastewater Expenditures (2017):</b>	\$782
Guam has 5 community water systems (CWS), of which 0 are privately-owned and 3 serve populations of 10,000 or fewer people.	
Guam has 6 publicly owned treatment works facilities (POTWs), of which 3 treat 1 MGD or less.	
194,286 are served by government-owned CWS; and 167,909 are served by POTWs.	
<b>Estimated Long-Term Water and Wastewater Infrastructure Needs:</b>	\$0.6 billion
<i>Sources: U.S. Census Bureau 2010, 2017 Guam Waterworks Authority, U.S. Environmental Protection Agency's 2016 Safe Drinking Water Information System, 2011 Drinking Water Infrastructure Needs Survey &amp; 2012 Clean Watersheds Needs Survey. See Appendix I for more details.</i>	

of providing half of [the] electric power requirements upon ordinary consumers of electric power,” which “arbitrarily and capriciously discriminated against ordinary consumers.”

In addition to these specific rate-setting requirements and limitations, the Guam statutes contain a unique statutory provision, which establishes a ratepayers’ bill of rights. In this provision, the legislature of Guam, acknowledges that “the services provided by Public Utilities are basic necessities that the residents of Guam must receive in order to function in modern life.”

6. *Id.* At 482.

Additionally, the legislature finds “because residents have very little choice in purchasing these basic necessities, they are held captive to the rates and rate increases of the Public Utilities. Any rate increase therefore diminishes the amount of hard-earned wages residents have to spend on other basic necessities, such as food, shelter and clothing, as well as the amount of hard-earned wages they have to set aside for retirement, college, emergencies or a family business.”

Given this challenge, but also recognizing that rate increases are inevitable, the legislature goes on to identify three fundamental rights of ratepayers:

- 1) the right to receive clear and adequate notice of any proposed rate increase;
- 2) the right to be fully informed about and to fully evaluate any proposed rate increase, as well as the finances of a Public Utility; and
- 3) the right to give input and participate in any proposed rate increase.

These strong statutory recognitions and protections suggest an overarching theme of ensuring that the legislature, the GPUC, and individual utilities work together to include ratepayers in the process of establishing rate increases, as well as to protect ratepayers from unnecessary rate hikes.

In addition to the aforementioned statutes which govern the GPUC and its regulation of rates for public utilities, the GWA has its own administrative rules, which include some specific provisions related to one type of low-income customer assistance. [28 GAR § 2108\(f\)](#) allows GWA to offer a deferred payment plan to qualifying customers, prior to terminating service. Specifically, for customers who have an “inability to pay,” the deferred payment agreement plan will prevent the discontinuation of service if the following conditions are met:

- 1) Customer agrees to pay fifty (50) percent of the outstanding bill at the time the parties enter in the deferred payment agreement.
- 2) Customer agrees to pay all future bills for GWA's service in accordance with the billing and collection practices of GWA.

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7. [12 G.C.A. § 12102.1](#).

8. See [28 G.A.R. § 2102\(24\)](#) (“inability to pay” exists when a customer qualifies for government welfare assistance, but has not begun to receive assistance on the date of receipt of bill and can obtain verification from the government welfare assistance agency; or has an annual income below the stated federal poverty level and can produce evidence of this).

3) Customer agrees to pay the remaining

outstanding balance in installments over a period not to exceed six (6) months.

In sum, although there are statutory protections and options for low-income customer assistance in the form of lifeline rates or deferred payment plans, the Guam Waterworks Authority and other commission-regulated contractors have no broad discretion to modify or differentiate between customers with respect to rates. Such entities are required to collect only rates and charges, which have been approved by the GPUC, and the statutes don't address whether an entity may request a rate modification to put into place an affordability program. Therefore, in order to implement a customer assistance program (CAP) utilizing rate revenue, the Guam Waterworks Authority would likely need GPUC approval.

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9. [28 G.A.R. § 2108\(f\)\(1\)](#).