

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN RE: **CONTRACT REVIEW OF)
PERFORMANCE)
MANAGEMENT CONTRACT)
EXTENSION BY GUAM)
WATERWORKS AUTHORITY)**

GWA DOCKET 12-03

ORDER

INTRODUCTION

This matter comes before the PUC pursuant to the November 15, 2012 Expedited Petition for Approval to Extend the Term of GWA’s Wastewater Performance Management Contract (hereinafter referred to as the “Petition”) filed by the Guam Waterworks Authority (“GWA”). GWA seeks expedited review of extension of the Performance Management Contract (“PM Contract”) with Veolia Water Guam, L.L.C. (“Veolia”) since, according to GWA, such contract expires on January 2, 2013.

DETERMINATIONS

Pursuant to 12 G.C.A. §12004, GWA cannot enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. Additionally, pursuant to GWA’s current Contract Review Protocol, “[a]ll professional service procurements in excess of \$1,000,000” and “[a]ny contract or obligation not specifically referenced above which exceeds \$1,000,000” “shall require prior PUC approval under 12 G.C.A. Section 12004.”

On December 6, 2012, the Administrative Law Judge of the PUC (the “ALJ”) filed an ALJ Report detailing his review of GWA’s request for an extension of the PM Contract.

In the December 6, 2012 ALJ Report, the ALJ found that a one year extension of the PM Contract is reasonable and necessary to ensure that performance management services are provided to GWA “while GWA prepare a more streamlined PMC bid and to wrap up the existing PMC contract.” Petition, p. 2. In particular, the ALJ found that “[g]iven the unique nature of this Contract, the need to ensure uninterrupted services from Veolia during the transition period, the fact that the need for the services has been well established, and the fact that the Contract has been previously approved by the PUC, GWA’s request should be approved.” Petition, p. 2.

The ALJ further found that the amendments to the PM Contract, which are contained in the Third Amended Contract, are fair and reasonable since the new provisions chiefly concern tasks related to the transition of responsibilities from Veolia to another contractor or to GWA, as well as tasks related to the federal Stipulated Order projects, and projects related to GWA’s Capital Improvement Plan.

The ALJ also found that the Petition is supported by the findings of the CCU, which has authorized GWA to extend the PM Contract with Veolia for one (1) year commencing on January 2, 2013 and terminating on December 28, 2013, as well as to enter into the Third Amended Contract proposed by GWA and Veolia. The ALJ found that the CCU determined that the terms of the proposed Third Amended Contract included “provisions for wrapping up the PMC Contract for other performance measures” and that such terms were “fair and reasonable and provide adequate flexibility for the parties to effectuate the purposes set forth in the PMC Contract.”

In addition, based on the record before the PUC, the ALJ also found that Veolia, as GWA’s existing contractor for GWA’s performance management services related to GWA’s

wastewater services, has provided GWA with “significant benefits in operations and maintenance, health and safety, training, project management and procurement as a result of the PMC with Veolia”; and that Veolia has worked with GWA in ensuring the implementation of capital improvement projects specified in GWA’s Master plans. Petition, “Exhibit A,” p. 2. Based on the foregoing, the ALJ recommended that the PUC approve the extension, along with the proposed amendments to the agreement contained in the Petition.

The Commission hereby adopts the findings contained in the December 6, 2012 ALJ Report and, therefore, issues the following:

ORDERING PROVISIONS

Upon careful consideration of the record herein, GWA’s November 15, 2012 Petition, the December 6, 2012 ALJ Report, 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. The Expedited Petition for Approval to Extend the Term of GWA’s Wastewater Performance Management Contract with Veolia Water Guam, L.L.C. is hereby approved. GWA is therefore authorized to extend its existing Wastewater Performance Management Contract with Veolia for a term of up to one (1) year.

2. Upon the execution of any contract extension between GWA and Veolia, GWA shall file in this Docket such extension with the PUC.


3. GWA is ordered to pay the PUC’s regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC’s regulatory fees and expenses is

authorized pursuant to 12 GCA §§ 12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.

SO ORDERED this 11th day of December, 2012.



Jeffrey C. Johnson
Chairman




Joseph M. McDonald
Commissioner

Rowena E. Perez
Commissioner

Filomena M. Cantoria
Commissioner

Michael A. Pangelinan
Commissioner



Peter Montinola
Commissioner

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