

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN RE: CONTRACT REVIEW FOR) GWA DOCKET 12-02
PROPERTY INSURANCE) ORDER
INVITATION FOR BID)

INTRODUCTION

This matter comes before the PUC pursuant to the January 13, 2012 Expedited Petition for Approval of GWA’s Insurance Bid and Authorization to Issue Policy (hereinafter referred to as the “Petition”) filed by the Guam Waterworks Authority (“GWA”).

BACKGROUND

In its Petition, GWA requested that the PUC approve GWA’s purchase of property insurance, as well as other types of insurance contained in its draft Invitation for Bids, which it attached as “Exhibit A” to the Petition.

GWA maintained that under the provisions of the 2005 Series Bond Indenture, GWA is required to “maintain insurance on its system that a reasonable prudent operator of a similar system would maintain.” GWA’s Expedited Petition for Approval of GWA’s Insurance Bid and Authorization to Issue Policy (“Petition”), p. 1 (Jan. 13, 2012).

GWA hired IRIS, Ltd. (“IRIS”), a risk management consultant, to assist GWA in determining the types of coverage necessary for, and in assisting in the procurement of, insurance that complies with the provisions of GWA’s bond indentures.

By Resolution, the Consolidated Commission on Utilities (the “CCU”) authorized GWA to issue an Invitation to Bid to procure property insurance, as well as seek PUC approval under GWA’s Contract Review Protocol. Petition, at “Exhibit B” (Resolution No. 13-FY2012).

DETERMINATIONS

The PUC is tasked with reviewing and approving all uses of bond proceeds pursuant to 12 G.C.A. §12004. In addition, pursuant to the Contract Review Protocol, GWA Docket 00-04, GWA is required to obtain prior PUC approval for any expenditure of bond proceeds, before the Government of Guam procurement process is initiated for contracts in excess of \$1 million.

In his January 31, 2012 ALJ Report (the "ALJ Report"), the ALJ found that GWA was required to maintain "insurance on the System with responsible insurers in such amounts and against such risks (including accident to or destruction of the System) as are usually maintained by prudent operators of systems similar and similarly situated to the System and which it shall deem advisable or necessary to protect its interests and the interests of the Bondowners" pursuant to provisions of GWA's bond indentures.

The ALJ further found that GWA's risk management consultant, IRIS, had significant experience designing and organizing insurance programs, as well as experience assisting public entities with managing a variety of insurance procurement processes. Accordingly, the ALJ found that the types of insurance coverage identified by IRIS and GWA as necessary to comply with the insurance provisions of its bond indentures appeared reasonable and necessary. The ALJ also found that the draft bid documents, particularly GWA's Bid Items 1.0 through 5.0, which contain the types of insurance coverage, appear necessary and reasonable to satisfy such bond indenture provisions:

In addition, the ALJ found that the CCU authorized GWA to issue an Invitation to Bid to procure property insurance, as well as to seek PUC approval for such insurance under GWA's Contract Review Protocol.

The ALJ ultimately recommended that the PUC approve GWA's procurement and purchase of the following: property insurance in the amount of \$30 million, with a \$1 million deductible for wind, typhoon, earthquake, flood, and tidal wave, and a \$100,000 deductible for all others; general liability insurance in the amount of \$35 million for each occurrence, which includes products liability, and \$10 million for personal injury liability, and \$15 million for pollution liability, all with a \$300,000 deductible for each and every loss; directors and officers liability insurance in the amount of \$2 million with no deductible; automobile insurance in the amount of \$2 million combined single limit, with a \$100,000 deductible; and, crime insurance in the amount of \$1 million, with no deductible.

Based on the foregoing, the Commission hereby issues the following.

ORDERING PROVISIONS

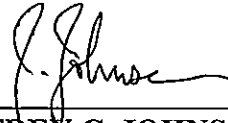
Upon careful consideration of the record herein, the January 13, 2012 Expedited Petition for Approval of GWA's Insurance Bid and Authorization to Issue Policy, the January 31, 2012 ALJ Report, and for good cause shown, the Chairman of the Commission, pursuant to authority under 12 G.C.A. §12004 hereby ORDERS the following:

1. The PUC hereby approves GWA's procurement and purchase of the following: property insurance in the amount of \$30 million, with a \$1 million deductible for wind, typhoon, earthquake, flood, and tidal wave, and a \$100,000 deductible for all others; general liability insurance in the amount of \$35 million for each occurrence, which includes ~~products liability, and \$10 million for personal injury liability, and \$15 million for pollution~~ liability, all with a \$300,000 deductible for each and every loss; directors and officers liability insurance in the amount of \$2 million with no deductible; automobile insurance in the amount of

\$2 million combined single limit, with a \$100,000 deductible; and, crime insurance in the amount of \$1 million, with no deductible.

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 the instant contract review process. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12002(b) and 12024(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.

SO ORDERED this 6th day of February, 2012.



JEFFREY C. JOHNSON
Chairman

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