

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN RE: REQUEST BY THE GUAM)
WATERWORKS AUTHORITY FOR) GWA Docket 10-01
APPROVAL OF CONTRACT)
DOCUMENTS RELATIVE TO GWA'S)
\$30M SHORT-TERM LOANS)
_____)

ORDER APPROVING CONTRACT DOCUMENTATION
RELATIVE TO GWA'S \$30M SHORT-TERM LOANS
(PURSUANT TO THE CONTRACT REVIEW PROTOCOL)

Introduction

This matter comes before the Guam Public Utilities Commission [PUC] upon the Guam Waterworks Authority's [GWA] Petition for Approval of Contract Documents relative to its \$30M Short-Term Loans.¹ GWA seeks approval of its \$30M Short-Term Loans in accordance with the PUC's Contract Review Protocol, which requires prior PUC approval of all GWA externally funded loan obligations in excess of \$1,000,000, and any use of said funds.² In CCU Resolutions No. 18-FY2009 and 20-FY2009, the Consolidated Commission on Utilities [CCU] authorized GWA to issue a short-term credit facility (or facilities) in a total principal amount not to exceed \$30 Million for the following purposes:

- i. funding the O&M and OMRRRF funds specified in the 2005 series Bond Indenture to their required limits; and
- ii. funding bridge financing for the Moratorium Project until GWA issues the additional bonds...³

GWA states that it needs approximately \$12.0 Million to fill the OMRRRF reserve, \$8.0 Million to fill the O&M 55 day reserve pursuant to its bond indenture, \$5.0M for the

¹ GWA's Petition for Approval of Contract Documents relative to GWA's \$30M Short-Term Loans, GWA Docket 10-01, filed May 18, 2010.

² Contract Review Protocol for Guam Waterworks Authority, Docket 00-04, issued October 27, 2005.

³ See CCU Resolution No. 20-FY2009, adopted July 1, 2009.

Moratorium Project, and \$5.0 for payment of outstanding liabilities.⁴ GWA indicates that it cannot issue bonds without the loan; otherwise it will be unable to fully fund its required bond reserves in the amounts necessary to come into compliance with the Indenture.⁵

Background

The necessity for authorizing GWA to obtain this \$30M loan was previously duly considered by the Public Utilities Commission. On July 27, 2009, the PUC issued its FY09 Rate Decision in GWA Docket 09-03, GWA Petition for Rate Relief.⁶ Therein, the Commission approved a five year plan of rate relief for GWA; PUC authorized GWA to issue "Moratorium" project bonds and revenue finance bonds in an approximate amount of \$114 Million.⁷ As a part of the rate relief package, PUC specifically authorized GWA to incur short term debt of up to \$30 Million for the following purposes:

"(a) provide bridge financing for the moratorium project; (b) fund the OMRRRF (this portion of the short term debt shall have a term of 5 years and provide for a level interest and principal payment); (c) fund the O&M Reserve Fund (this portion of the short term debt shall have a term of 5 years and provide for a level interest and principal payment); and (d) fund approximately \$5 Million in FY2009 accounts payables (this portion of the short term debt also having a term of 5 years and provide for a level interest and principal payments)."⁸

Through the enactment of various public laws, both the Executive and Legislative branches of the government of Guam have authorized GWA to borrow \$30M.⁹ In Public Law 30-055, enacted September 4, 2009, the Guam Legislature approved use of loan proceeds by GWA to fund GWA's required operating account and operating reserve account balances, to pay past due operating expenses incurred by GWA, to

⁴ Id. at Exhibit B.

⁵ GWA Petition for Approval of Contract Documents, p. 2.

⁶ PUC FY09 Rate Decision, GWA Docket 09-03, issued July 27, 2009.

⁷ Id. at p. 5.

⁸ Id.

⁹ See Public Laws No. 29-130, 30-55 (Section 28), enacted September 4, 2009, Public Law 30-101 (Sections 29-31), enacted March 12, 2010, and Public Law 30-146 (Section 29), enacted May 17, 2010.

provide interim financing for a portion of the costs of the moratorium project, and for costs of issuance of the loan.

After it had obtained authorization to obtain a \$30M loan from both the PUC and the Legislature, GWA, through the Guam Economic Development Authority, issued a Request for Proposals No. 09-011, for a \$30M loan to GWA for purposes indicated. Only one respondent supplied a responsible and conforming offer of finance, the Bank of Guam.¹⁰ By Resolution, the CCU authorized GWA to continue its negotiations with the lender as to the final terms and conditions of the agreement. The CCU determined that the proposed terms and conditions in the loan documentation from the lender are fair and reasonable, and that GWA was authorized to negotiate final terms and conditions for the final contract and to submit the documents to the Guam Public Utilities Commission for review.¹¹

Statutory Obligation of the PUC to review Terms and Conditions of the Loans

PUC Counsel filed his Report in this matter on May 25, 2010. He indicates that GWA has submitted various loan documents to PUC for its review and consideration, including Pledge and Assignment (Exhibit G), Loan Agreements (Exhibit H), Guaranty by the Government of Guam (Exhibit I), Promissory Notes (Exhibit J), and various draft legal opinions (Exhibit K). Under both the Contract Review Protocol, pursuant to 12 GCA §12004, and Public Law 30-055, the PUC is obligated to review and approve the issuance, terms and conditions of the debt, as well as the loan agreement. The final maturity of the debt cannot be more than ten (10) years after the date of its issuance, and the interest rate and price must also be determined by the PUC.¹²

Determinations

The PUC now has the above referenced documents before it. Based upon the review of PUC Counsel and the Commission, the PUC determines that the Loan Documents comply with the requirements of the statute and should be approved under the Contract Review Protocol. The issuance, terms and conditions of the loan documents comply with statute and should be approved. The purposes for which GWA seeks to utilize the proceeds of the loans have been approved by the PUC and the Legislature. The maturity date of the loans (five years), the interest rates on the borrowings (7.75%), and the payment terms for the loans are within the parameters previously established

¹⁰ Guam Consolidated Commission on Utilities Resolution No. 16-FY2010, enacted April 20, 2010.

¹¹ Id. at p. 2.

¹² 12 GCA §14235(2), as amended by Public Law 30-055.

by the PUC. The terms and conditions of the loan documents are commercially reasonable. Funds for the principal and interest payments which GWA will be required to make on the \$30M loans have already been included in the rates provided under the five year rate plan approved by the PUC in GWA Docket 09-03. Unless the PUC approves these loans, GWA will be unable to issue the bonds previously approved by the PUC.

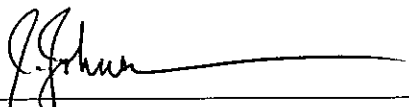
Order

Having carefully considered the record herein, the PUC FY09 Rate Decision, the GWA Petition, the Loan Agreement, Promissory Notes, Guaranty, other documentation submitted, and the May 25, 2010 PUC Counsel Report, for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission hereby ORDERS that:

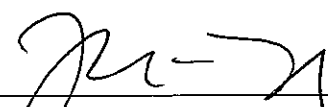
1. The prior rulings in par. 3 of the FY09 Rate Decision, issued July 27, 2009, which authorized GWA to incur short-term debt up to \$30 Million and approved the specific purposes for which GWA seeks to utilize the loan proceeds, is hereby ratified and affirmed.
2. GWA is authorized to fund the OMRRRF, the O&M Reserve Fund; to provide interim financing for a portion of the costs of the Moratorium Project; to pay expenses incurred in the issuance of the debt, and to pay any other expenses authorized pursuant to 12 GCA §14235.
3. The \$30M loan obligation which GWA seeks to enter into with the Bank of Guam is hereby approved pursuant to the Contract Review Protocol for Guam Waterworks Authority. These "externally funded loan obligations" are hereby approved.
4. The loan documentation for the \$30M Short-Term Loans is approved pursuant to the Contract Review Protocol.
5. The issuance, terms and conditions of the \$30M debts, the Loan Agreement, Pledge and Assignment, the Guaranty by the Government of Guam, and the Promissory Notes, are hereby approved in accordance with the requirements of 12 GCA §14235. Copies of these documents are fully set forth in GWA's Petition.

6. The maturity of the loans from the date of issuance (a period of five years), the interest rate of the loans (7.75% per annum), the amount of the debts, and repayment structure are approved pursuant to the requirements of 12 GCA §14235.
7. The specific purposes for which GWA may use loan proceeds, as set forth in 12 GCA §14235, are hereby approved; GWA is authorized to use the loan proceeds for any and all purposes set forth in 12 GCA §14235.
8. Specifically, GWA is authorized to fund, with loan proceeds, up to \$5 Million in accounts payable as indicated on the GWA Accounts Payable Aging listing, a copy of which is attached hereto as Exhibit "A".
9. Should GWA seek to use loan proceeds for any purpose which has not previously been approved by the PUC, GWA must seek prior approval from the PUC for such use of the loan proceeds.
10. The effectiveness of this Order shall be conditioned upon the final approval of the Attorney General of Guam and the Governor of Guam of all loan documents required herein to effectuate the loans from Bank of Guam to GWA.

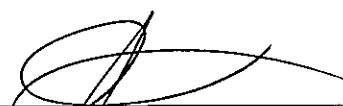
Dated this 27th day of May, 2010.



Jeffrey C. Johnson
Chairman

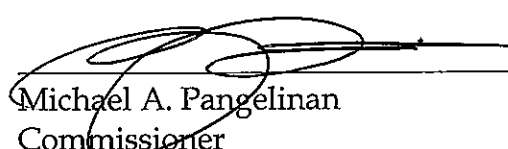


Joseph M. McDonald
Commissioner



Rowena E. Perez
Commissioner

Filomena M. Cantoria
Commissioner



Michael A. Pangelinan
Commissioner

GUAM WATERWORKS AUTHORITY
Accounts Payable Aging
As of April 30, 2010

Vendor Name	Balance Open
ACE AUTO GLASS, I	\$ 1,127.00
AMERICA'S BEST EL	\$ 122.83
ARMORED EXPRESS S	\$ 802.50
BEN LUJAN TOWING,	\$ 460.00
BENAVENTE, JOHN M	\$ 1,895.63
BENSON GUAM ENTER	\$ 1,906.49
BEST AMERICAN TOO	\$ 26,453.25
BLACK CONSTRUCTIO	\$ 0.01
BORJA, ANN D	\$ 144.00
BRETT ERIC P. RAI	\$ 333.50
C CONSTRUCTION	\$ (14,455.70)
C.P.S. ELECTRIC	\$ 898.21
Calvo, Jude G	\$ 117.00
CARD & CARD ADVER	\$ 1,500.00
CARMEN M SIAN-DEN	\$ 352.20
CHOICE PHONE LLC	\$ 13,696.29
Collection Agency	\$ 25.00
COMPUTER 2000	\$ 1,767.25
COST U LESS	\$ 36.99
CRUZ, LORETTA B.L	\$ 1,410.00
CRUZ, THOMAS FRAN	\$ 495.00
CUES	\$ 5,000.00
CULLIGAN OF GUAM	\$ 30.00
DELTA ONE INVESTI	\$ 175.00
DEPARTMENT OF LAB	\$ 20,305.55
DEPT OF ADMINISTR	\$ 1,881.91
DIAMOND AUTO PART	\$ 385.60
DICK PACIFIC CONS	\$ 730.94
DUENAS, JOSEPH	\$ 1,895.63
DYNASTY MARKETING	\$ 42,101.10
ELITE PRINTING	\$ 977.00
EQUIFAX INFORMATI	\$ 10.00
EVERGREEN CLEANIN	\$ 500.00
EXPRESS ONE	\$ 1,698.00
FEDERAL EXPRESS C	\$ 3,503.61
FRANK'S REWINDING	\$ 2,390.00
FRAZEE PAINT & WA	\$ 1,280.41
FRED'S LOCKSMITH	\$ 4.50
FRONTIER SUPPLY C	\$ 15,931.00
G4S CASH SOLUTION	\$ 405.26
G4S SECURITY SYST	\$ 17,242.13
GETS BUSINESS SYS	\$ 1,125.00
GLIMPSES OF GUAM,	\$ 832.00

EXHIBIT "A"

GUAM WATERWORKS AUTHORITY
Accounts Payable Aging
As of April 30, 2010

GPA - Regular	\$	1,310,872.91
GPA (M O U)	\$	901,119.36
GTA SERVICES, LLC	\$	3,495.20
GUAM AUTO PARTS (\$	1,950.46
GUAM BROADCAST SE	\$	2,250.00
GUAM HOME CENTER	\$	1,490.37
GUAM ISLAND BUILD	\$	4,450.00
GUAM MARRIOTT RES	\$	2,160.00
GUAM PACIFIC ENTE	\$	7,835.52
GUAM SUPER SHOPPE	\$	821.00
GUAM TECHNOLOGY A	\$	101,108.72
GUZMAN, PETER A	\$	1,410.00
HAWAIIAN ROCK PRO	\$	2,790.87
HUNTINGTON II, CL	\$	495.00
I T & E OVERSEAS	\$	520.46
IDEXX DISTRIBUTIO	\$	1,590.00
INFOPRINT SOLUTIO	\$	(65.41)
INTERNATIONAL EQU	\$	715.94
IRIS, LTD.	\$	412.50
ISLAND EQUIPMENT	\$	78,714.04
IT&E ISLAND TELEC	\$	615.39
JMC	\$	23,080.93
JMI EDISON	\$	394,841.35
JRN AIRCONDITIONI	\$	537.00
KAO, ANNA WANG	\$	1,500.00
KEMP, PAUL J	\$	1,762.50
KISH 102 . FM	\$	2,000.00
KOKU	\$	990.00
L.G. MANLUTAC CON	\$	6,740.00
LEXIS NEXIS	\$	338.00
LOURDES S SANCHEZ	\$	1,410.00
LUCKY ONE	\$	(670.00)
LUJAN, JESSE C	\$	1,762.50
LUJAN, PAUL Q	\$	1,410.00
M.D. WHOLESAL	\$	175.40
M.E. ENVIRONMENTA	\$	234.00
M.L.G. RENTAL	\$	5,012.50
MARIANAS CABLEVIS	\$	54.98
MARK'S HARDWARE	\$	90.21
MARK'S OCEANSIDE	\$	22.90
MARS VEHICLE INSP	\$	380.00
MCB (APAS)	\$	7,856.36
MEGABYTE	\$	20.97
MGT CORPORATION	\$	2,361.50
MID PAC FAR EAST	\$	128.61
MILLENNIUM INTERN	\$	49,758.40
MKI AIR CONDITION	\$	1,370.60
MONTGOMERY WATSON	\$	10,680.00
MR RUBBISHMAN	\$	1,265.00

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GUAM WATERWORKS AUTHORITY
Accounts Payable Aging
As of April 30, 2010

NAPUTI, SUZANNE E	\$	2,000.00
NATIONAL OFFICE S	\$	6,478.16
NAVY PUBLIC WORKS	\$	605,526.10
NET PC GUAM	\$	115.00
OCEANIC LUMBER	\$	1,370.67
OPTIONS PC SUPPLI	\$	1,070.00
ORACLE CORPORATIO	\$	8.00
ORRICK, HERRINGTO	\$	18,596.88
PACIFIC DRILLING	\$	2,600.00
PACIFIC HYDRONICS	\$	5,371.00
PACIFIC TYRE	\$	120.49
PAINTCO INC	\$	240.00
PRIME MACHINE SHO	\$	6,165.00
R.W. BECK, INC	\$	5,633.57
RADIO STATION KST	\$	1,000.00
REACTION SUPPLY C	\$	47,773.15
RIM'S ENTERPRISES	\$	121.00
ROUSH, MARTIN	\$	225.00
SAFETY FIRST	\$	10,499.82
SAN AGUSTIN, ELIZ	\$	1,410.00
SAN NICOLAS, JOSE	\$	(190.00)
SANTOS, GLENN	\$	1,410.00
SHELL GUAM INC	\$	145,301.85
SIGNMAKERS	\$	300.00
SIMON SANCHEZ	\$	1,895.63
SMITHBRIDGE GUAM,	\$	11,999.20
SORENSEN PACIFIC	\$	3,875.00
STANDARD OFFICE S	\$	4.58
SUN TOURS	\$	595.00
SUNNY WHOLESALE	\$	286.40
TANKS-A-LOT	\$	(85.95)
TAT PETROLEUM (GU	\$	3,122.00
TEN-TAK COMPANY	\$	796.43
THE COMPUTER STOR	\$	(496.65)
THE PACIFIC VOICE	\$	595.00
TODO MAULEG PORTA	\$	1,854.68
TOPPY FURNITURE	\$	599.00
TRACK ME GUAM	\$	750.00
TRASHCO GUAM	\$	520.36
TRAVEL BAG, INC	\$	18,219.54
TREASURER OF GUAM	\$	1,000.00
TREASURER OF GUAM	\$	2,091.65
TREVINO, PATRICK	\$	300.00
TRIPLE J COMMERIC	\$	211.00
TRIPLE J MOTORS	\$	5,969.31
TRI-VISION MEDIA	\$	2,000.00
TUMON MEDICAL OFF	\$	800.00
UNITED TIRE & LUB	\$	3,872.00
UNIVERSAL MAINTEN	\$	10,680.00
UNIVERSITY OF GUA	\$	8,740.00
UNIVERSITY OF GUA	\$	170.00
VEOLIA EAU-COMPAG	\$	809,914.81

GUAM WATERWORKS AUTHORITY
Accounts Payable Aging
As of April 30, 2010

VMS INTERNATIONAL	\$	2,176.60
WASHLAND II	\$	10,990.00
XEROX CORPORATION	\$	<u>13,318.56</u>
AP Trade, April 30, 2010	\$	<u>4,877,069.97</u>

Additional Amounts after 5/31/10 \$ 171,548.22

Total \$ 5,048,618