

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN RE: REVIEW AND APPROVAL OF) GWA DOCKET 19-06
TWO-YEAR CONTRACT)
EXTENSION WITH TOTAL) ORDER
CHEMICAL RESOURCES, INC.)
AND JMI-EDISON FOR)
CHEMICALS)
_____)

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the November 29, 2018 Petition for Approval of the Two-Year Extension of the Contract with JMI-Edison and Total Chemical for the Purchase of Wastewater Chemicals for the Northern, Hagåtña and Agat Santa Rita Wastewater Treatment Plants (the “Petition”), filed by the Guam Waterworks Authority (“GWA”).

On December 24, 2018, the Administrative Law Judge of the PUC (the “ALJ”) assigned to this matter filed an ALJ Report that included his findings and recommendations based on the administrative record before the PUC. The ALJ found the following.

DETERMINATIONS

In January, 2016, the PUC approved GWA’s purchase of anionic polymer, inorganic coagulant (aluminum chlorohydrate or ACH), and cationic polymer chemicals. Specifically, GWA was authorized to enter into a three-year contract with Total Chemical Resources, Inc. (“Total Chemical”) for ACH and anionic polymer at a total cost of \$3,024,623.64. Additionally, GWA was authorized to enter into a three-year contract with Johndel International Inc. *dba* JMI-Edison (“JMI-Edison”) for the purchase of cationic polymer

at a total cost of \$600,565.35.¹ Back in 2016, the contracts provided the following prices: anionic polymer at \$1.40 per pound; inorganic coagulant (ACH) at \$1.06 per pound; and \$1.45 per pound for cationic polymer.

DISCUSSION

A. GWA's Petition

The instant request is based on two (2) contracts that were previously reviewed by the PUC. Specifically, GWA is requesting PUC approval so that it may exercise two (2) year-long options for renewal contained in its contracts with JMI-Edison and Total Chemical.

As indicated in its Petition, GWA seeks approval of the contract extensions based on its continued need for wastewater treatment chemicals for its daily operation and maintenance of its Northern District, Hagåtña, and Agat-Santa Rita wastewater treatment plants; and since it is required to use “Chemically Enhanced Treatment at both the Northern District Wastewater Treatment Plant and the Hagåtña Wastewater Treatment Plant (‘WWTP’) to remain in compliance with the November 11, 2011 Court Order for Preliminary Relief”² GWA, therefore, submitted that its purchase and use of these chemicals will allow it to be in compliance with federal court order.

GWA has also indicated in its petition that it will purchase additional cationic polymer from JMI-Edison for use at its Agat-Santa Rita WWTP.

The three chemicals that are the subject of the instant petition are generally used for wastewater treatment. For instance, anionic polymers aid in filtering wastewater and for

¹ Order, GWA Docket 15-11, pp. 3-6 (Jan. 25, 2016).

² Petition, p. 1.

dewatering sludge; cationic polymers also aid in the clarification of water. An inorganic coagulant, like ACH, absorbs impurities, also serving to clean the water.

B. Contract Extension with JMI Edison and Total Chemical

The subject contracts are a result of an Invitation for Bid, approved by the PUC and issued by GWA in 2015, wherein twenty (20) bids were evaluated by GWA. The best offers for the three chemicals were provided by JMI-Edison and Total Chemical; and GWA entered into contracts with JMI-Edison and Total Chemical in the beginning of 2016.

GWA's contract with Total Chemical for ACH and Anionic Polymer expressly provides an "additional two (2) one (1) year term extensions" that are subject to PUC approval. Similarly, GWA's contract with JMI-Edison for Cationic Polymer also expressly provides an "additional two (2) one (1) year term extensions" that are subject to PUC approval.

C. Cost of the Two Contracts

GWA submitted that since the initial three-year term JMI-Edison will expire, it had to renegotiate the price for cationic polymer, which was negotiated at \$1.56 per pound. GWA further submitted that since the initial three-year term with Total Chemical will also expire, it had to renegotiate the price for anionic polymer, which was negotiated at \$1.98 per pound; and the price for ACH, which was negotiated at \$1.25 per pound.

GWA submitted that the reason for the price increase, as explained to it by its vendors, is that while the price of commodities has increased, an increase in shipping fees was a large component of the increase.

Accordingly, based on these prices, along with GWA’s calculations, it estimates expending \$343,360.00 per year for its supply of cationic polymer.³

Price per pound	Estimated use per month ⁴	Estimated annual cost
\$1.56	18,340 pounds	\$343,324.80

With respect to ACH, GWA estimates expending \$1,457,190.00 per year.⁵

Price per pound	Estimated use per month	Estimated annual cost
\$1.25	97,146 pounds	\$1,457,190.00

And with respect to anionic polymer, while GWA indicated a monthly use of 72,096 pounds, it has clarified with the ALJ that the correct figure is 12,000 pounds per month. Accordingly GWA, estimates expending \$285,120.00 per year on its purchase of anionic polymer.⁶

Price per pound	Estimated use per month	Estimated annual cost
\$1.98	12,000 pounds	\$285,120.00

GWA submitted that the funding source for purchase of the chemicals is GWA’s FY2019 Wastewater Operations Budget.⁷

D. CCU Resolution No. 05-FY2019 and CCU Resolution No. 06-2019

The instant petition is supported by Resolution No. 05-FY2019 and Resolution No. 06-FY2019 issued by the Consolidated Commission on Utilities (the “CCU”) at its November 27, 2018 meeting. In both Resolutions, the CCU found that pursuant to federal court order, GWA is required to operate the Northern District and Hagåtña WWTPs with “Chemically

³ Petition, p. 2.

⁴ Includes the additional purchase of cationic polymer for use at GWA’s Agat-Santa Rita WWTP.

⁵ Petition, p. 2.

⁶ Petition, p. 2.

⁷ CCU Resolution No. 05-FY2019, p. 3 (Nov. 27, 2018); CCU Resolution No. 06-FY2019, p. 3 (Nov. 27, 2018).

Enhanced Primary Treatment” and that such treatment requires the purchase of these chemicals as part of its treatment process.⁸

The CCU further found that the new contract price agreed to by the parties was fair and reasonable; and authorized GWA to exercise the two (2) year-long options for renewal of the contract with both Total Chemical and JMI-Edison.⁹ Based on the earlier calculations by GWA, the CCU further authorized GWA to exercise the options with JMI-Edison at a cost not to exceed \$6,974,420.¹⁰ The CCU also authorized GWA to exercise the options with JMI-Edison at a cost not to exceed \$755,392.00.¹¹

As indicated here and in prior dockets, these chemicals are indispensable and required for GWA’s daily wastewater operations, specifically to operate its Northern District and the Hagåtña WWTPs, and to keep GWA in compliance with federal laws, permits and federal guidelines.

The ALJ further found that GWA’s purchase of cationic polymer from JMI-Edison, along with the existing terms and new price for cationic polymer, which was negotiated at \$1.56 per pound, remain reasonable and necessary. Similarly, the ALJ also found that GWA’s purchase of anionic polymer and ACH from Total Chemical, along with the existing terms and new price for anionic polymer, which was negotiated at \$1.98 per pound; and along with the existing terms and new price for ACH, which was negotiated at \$1.25 per pound; all remain reasonable and necessary. Indeed, the ALJ further found that based on media reports, the price

⁸ CCU Resolution No. 05-FY2019, p. 1; CCU Resolution No. 06-FY2019, p. 1.

⁹ CCU Resolution No. 05-FY2019, p. 3; CCU Resolution No. 06-FY2019, p. 3.

¹⁰ CCU Resolution No. 06-FY2019, p. 3.

¹¹ CCU Resolution No. 05-FY2019, p. 3.

of these chemicals appears to have increased. Accordingly, the ALJ recommended that the PUC authorize the contract extension petitioned by GWA.

Based on the documentation provided by GWA in this docket, and for the other reasons set forth herein, the ALJ recommended that the PUC authorize GWA to exercise the two (2) year-long options to renew GWA's contracts with JMI-Edison, at a cost of \$686,649.60, and Total Chemical, at a cost of \$3,484,620.00; for a total cost of \$4,171,269.60 for both contracts. These contracts should be subject to the usual cost contingencies provided under the Contract Review Protocol.¹²

The Commission hereby adopts the findings made in the December 24, 2018 ALJ Report, and therefore, issues the following:

ORDERING PROVISIONS

Upon careful consideration of the record herein, 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. That the instant Petition is hereby APPROVED and that GWA is authorized to exercise the two year-long options to renew its contracts with JMI-Edison, at a cost of \$686,649.60, and Total Chemical, at a cost of \$3,484,620.00; for a total cost of \$4,171,269.60; and that such contract shall be subject to the usual cost contingencies provided under the Contract Review Protocol.

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

¹² See Section 9, GWA's Contract Review Protocol, Administrative Docket 00-04, p. 1 (Oct. 27, 2005).

this matter. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

SO ORDERED this 27th day of December, 2018.

JEFFREY C. JOHNSON
Chairman

ROWENA E. PEREZ
Commissioner

JOSEPH M. MCDONALD
Commissioner

FILOMENA M. CANTORIA
Commissioner

MICHAEL A. PANGELINAN
Commissioner

PETER MONTINOLA
Commissioner

MARK MILLER
Commissioner

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