

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

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| PETITION TO APPROVE ACQUISITION) | GWA DOCKET 18-03 |
| OF 17 ACRES OF LAND FOR THE) | |
| EXPANSION OF THE NORTHERN) | ORDER |
| DISTRICT WASTEWATER) | |
| TREATMENT PLANT) | |
| _____) | |

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the Petition to approve the acquisition of seventeen (17) acres of land for the expansion of the Northern District Wastewater Treatment Plant (“NDWTP”), filed by the Guam Waterworks Authority (“GWA”) on January 12, 2018 (the “Petition”).

On March 26, 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

A. Review of GWA’s Contract Review Protocol

Pursuant to 12 G.C.A. §12105, GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval.

B. Land Acquisition

In its Petition, GWA maintained that it presently faces an increasing volume of wastewater produced by the residential and commercial expansion in the northern part

of the island, due in part to the increasing military footprint of Anderson Air Force Base.¹ In addition, GWA further maintained that the U.S. Environmental Protection Agency (the “U.S. E.P.A.”) will require that a secondary treatment facility be added to the NDWTP to comply with the National Pollutant Discharge Elimination System (“NPDES”) Permit Program, which ensures that mandatory standards for clean water are met.²

With regard to the specific piece of property, GWA’s initial attempts to purchase property from adjacent landowners were not fruitful.³ As a result, GWA intends to purchase property northwest of the NDWTP, across an easement, which is owned by the Guam Ancestral Land Commission (“GALC”).⁴

Moreover, according to GWA, a report by the U.S. Navy recommended that the design and construction of NDWTP upgrades comply with the NPDES Permit Program.⁵ GWA submitted that the purchase of the subject property will allow it to make the necessary improvements to the NDWTP.

1. Cost

GWA submitted that the total cost of the purchase of the property is \$2,542,922.00.⁶ This cost includes \$2,490,000.00 for the land purchase, which reflects the fair market value of the property. This fair market value was obtained as a result of an average of two appraisals obtained by GWA. This cost also includes the following:

¹ Petition, p. 1.

² Petition, p. 1.

³ Petition, p. 2.

⁴ Petition, p. 2.

⁵ Petition, p. 2.

⁶ Petition, p. 3.

\$32,530.00 for mapping and surveys; \$10,820.00 for the appraisal fees; and \$9,572.00 for title and escrow fees.⁷

2. Sources of Funding

GWA also submitted that the funding sources for the purchase will comprise of the following: a grant from the U.S. Department of Defense; 2010 Bond funds; SDC fund; and internal operating capital.⁸ In particular, \$560,000.00 will be funded by the U.S. Department of Defense's grant; \$1,000,000.00 from GWA's 2010 Bond; \$950,000.00 from GWA's SDC fund; and \$32,922.00 from GWA's operating capital.⁹

3. Public Law 33-198

In 2016, the Guam Legislature enacted Public Law 33-198, which expressly found that:

. . . Guam's existing Northern District Wastewater Treatment Plant (NDWWTP) presently provides only the court-ordered chemically enhanced primary treatment (CEPT) without disinfection. The Guam Waterworks Authority (GWA) has determined that an upgrade of the NDWWTP will ensure that permit requirements of the National Pollutant Discharge Elimination System (NPDES) are met for all discharges of current and future increases in wastewater flows from the population, civilian and military, in northern and central Guam. Additionally, the upgrade is necessary to mitigate the impact to marine resources resulting from increased ocean discharges, and to protect the northern Guam lens aquifer.

P.L. 33-198, Section 1, p. 2 (Dec. 2, 2016).

In addition, the Guam Legislature also found that the U.S. Department of Defense "supports the construction of the NDWWTP upgrade and expansion to ensure that

⁷ Petition, p. 3.

⁸ Petition, p. 3.

⁹ Petition, p. 3.

the military wastewater requirements can be met, and that the Federal Clean Water Act (CWA) and Guam's water quality standards are met." *Id.*

Further, the law expressly authorizes GALC to transfer a portion property identified as "Anderson Communication Annex No. 1 (AJKD)," an area of approximately 70,000 ± square meters, to GWA "for the construction of the upgrade and expansion of the existing wastewater treatment plant, to include, but not to be limited to, the oxidation ditches, odor control, enhanced headworks, secondary clarifiers, digesters, pumps and associated piping, and storm water basins." *Id.* at Section 2(b), p. 3.

4. CCU Resolution No. 9-FY 2018

The instant Petition is supported by Resolution No. 9-FY 2018 issued by the Consolidated Commission on Utilities (the "CCU") on November 22, 2017. In the resolution, the CCU noted its prior approval of \$1,000,000.00 to fund this project out of GWA's 2010 Bond funds. The CCU further authorized GWA to utilize other funding sources, such as GWA's System Development Charge ("SDC") fund and other applicable bond funding to fully fund the cost of the land purchase.

CONCLUSION

Based on the documents submitted by GWA and the record before this Commission, the ALJ found that the acquisition of the seventeen (17) acres described in the Petition and its supporting documents are critical and necessary in order for GWA to adequately service the current and future increase in wastewater flow produced by the residential and commercial, civilian and military, expansion in the northern part of the island. Acquiring the property will further ensure that the federal NPDES Permit Program requirements will be met. It will also ensure the protection of Guam's marine resources

and freshwater. Moreover, the ALJ further found that the purchase of property has been specifically authorized by the Guam Legislature in P.L. 33-198.

Accordingly, based on the record before this Commission, the ALJ recommended the following. The ALJ recommended PUC approval of the purchase of the subject property, for the total cost of \$2,542,922.00. Further, based on the findings discussed above, the ALJ recommended that the PUC authorize GWA to utilize SDC proceeds to help fund this purchase.

The Commission hereby adopts the findings made in the March 26, 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 GWA is authorized to purchase the property described in its Petition, for the total cost of \$2,542,922.00. Further, GWA is authorized to utilize SDC proceeds to help fund this purchase.
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 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.

SO ORDERED this 29th day of March, 2018.

JEFFREY C. JOHNSON
Chairman

ROWENA E. PEREZ
Commissioner

JOSEPH M. MCDONALD
Commissioner

FILOMENA M. CANTORIA
Commissioner

MICHAEL A. PANGELINAN
Commissioner

PETER MONTINOLA
Commissioner

ANDREW L. NIVEN
Commissioner

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