

BEFORE THE GUAM PUBLIC UTILITES COMMISSION

In re: Request by the Guam Waterworks Authority for Approval of GWA's Property Insurance under the Contract Review Protocol)
GWA Docket 10-02)
_____)

PUC COUNSEL REPORT

Background

This matter comes before the Guam Public Utilities Commission [GPUC] upon the request by the Guam Waterworks Authority [GWA] for approval of its property insurance policy under the Contract Review Protocol.¹ GWA's Petition indicates that Section 6.05 of the 2005 Bond Series Indenture requires GWA to maintain insurance on its 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..."² GWA retained Iris Ltd., a risk management consultant, to advise GWA with determining the types and coverage amounts of insurance necessary to comply with Section 6.05 of the Bond Indenture.³ Mike Moody, the principal of Iris Ltd., and a long time advisor to the water and power utilities on Guam, provided GWA with a Report stating the types of insurance GWA needed and the coverage limits.⁴

On August 17, 2010 GWA issued Bid No. 2010-12 for \$50M in property insurance with a \$1M deductible.⁵ On September 14, 2010, GWA opened the bids and only AM Insurance submitted a bid in the amount of One Million Seven Hundred Seventy-One Thousand Seven Hundred Thirty Eight Dollars (\$1,771,738).⁶ The GWA Evaluation Committee recommended that AM Insurance be awarded the contract for property

¹ GWA Petition for Approval of Property Insurance Bid and Authorization to Issue Policy, GWA Docket 10-02, filed October 1, 2010; on September 28, 2010, GWA filed various documents relating to its property insurance bid with the PUC.

² Id. at p. 1.

³ Id. at p. 2.

⁴ Id.; see also Exhibit A.

⁵ Id.

⁶ Id.

insurance for a 14 month coverage period at the cost indicated.⁷ The Memorandum from Iris Ltd. indicated that AM Insurance's proposal met GWA's specifications for coverage and that said firm should be awarded the bid for property insurance.⁸

According to the IFB, GWA has assets at a total declared value of \$483,050,947. The policy will provide coverage for physical loss or damage to GWA's assets, including business interruption, boiler and machinery breakdown, or damage due to natural causes (such as tidal wave, flood, windstorm, typhoon, and earthquake shock).⁹ A review of the AM Insurance bid indicates that it is responsive to the IFB and provides the requested coverage. AM Insurance has been in operation for over 16 years.¹⁰ AM Insurance is experienced in the insurance industry.¹¹ AM Insurance administers insurance policies in the multimillion dollar range.¹² As an insurance broker for the requested property insurance, AM Insurance works through the underwriter Dongbu Insurance Co. Dongbu Insurance has Best's rating as "A" (Excellent).¹³

On September 28, 2010, the Guam Consolidated Commission on Utilities [CCU] approved the AM Insurance Bid in the amount of \$1,771,738 with a \$1M deductible.¹⁴ Based upon the fact that AM Insurance submitted the lowest responsive and responsible bid for property insurance, the CCU approved the bid award to AM Insurance "subject to the approval of the bid by the Guam Public Utilities Commission under the Contract Review Protocol..."¹⁵

Recommendation

The need for GWA to procure property insurance is clear: property insurance is required by GWA's 2005 Bond Series Indenture. As the PUC is aware, GWA intends, within the next month, to issue revenue bonds (the 2010 Bond Series Issue). Acceptance by GWA of the AM property insurance bid and compliance with the indenture is a prerequisite to GWA's issuance of the 2010 bonds.¹⁶ GWA's underwriters have

⁷ GWA Memorandum from Supply Management Administrator to General Manager, undated.

⁸ Memorandum from Mike Moody to Greg Cruz, GWA, September 23, 2010.

⁹ GWA IFB No. 2010-12, p. 9.

¹⁰ AM Proposal for Property Insurance, Introduction.

¹¹ Id.

¹² Id. at p. 29.

¹³ Id. at Section II.

¹⁴ GWA Petition for Approval of Property Insurance Bid, GWA Docket 10-02, p. 2; see Exhibit B, CCU Resolution No. 26-FY2010, adopted September 28, 2010.

¹⁵ Id.

¹⁶ Email from GWA Legal Counsel to PUC Counsel dated September 23, 2010.

indicated that GWA must have this property insurance in effect prior to approaching the rating agencies (which is scheduled for October 11, 2010).¹⁷ The AM Insurance bid complies with and responds to the coverage limits and deductibles sought by GWA in the bid. Furthermore, the availability of property insurance will potentially benefit rate payers with regard to the protection of system assets. Insurance proceeds can assist recovery efforts after natural disasters such as typhoons or earthquakes.

For the reasons set forth herein, PUC Counsel recommends that the PUC approve the AM Insurance proposal, and allow GWA to give notice to AM Insurance to issue the proposed policy. The proposal appears to be reasonable and prudent. At its special meeting of September 15, 2010, the PUC authorized the Chairman to sign an order approving GWA's property insurance, based upon the need for expeditious action prior to the new bond issuance. The Chairman is authorized to sign such approval upon an affirmative recommendation by PUC Counsel, but subject to later ratification by the PUC. The Chairman, or the acting Chairman, should approve the property insurance policy on or before October 10, 2010.

Dated this 6th day of October, 2010.

Frederick J. Horecky
PUC Legal Counsel

¹⁷ GWA's Petition for Approval of Property Insurance, GWA Docket 10-02, p. 3.