

GUAM PUBLIC UTILITIES COMMISSION  
REGULAR MEETING  
January 26, 2017  
SUITE 202, GCIC BUILDING, HAGATNA



**MINUTES**

The Guam Public Utilities Commission [PUC] conducted a regular meeting commencing at 6:40 p.m. on January 26, 2017, pursuant to due and lawful notice. Commissioners Johnson, Perez, McDonald, Pangelinan, Montinola, Cantoria, and Niven were in attendance. The following matters were considered at the meeting under the agenda made *Attachment "A"* hereto.

**1. Approval of Minutes**

The Chairman announced that the first item of business on the agenda was approval of the minutes of December 29, 2016. Upon motion duly made, seconded and unanimously carried, the Commission approved the minutes subject to correction.

**2. Teleguam Holdings LLC**

The Chairman announced that the next item of business on the agenda was GTA Docket 16-03, GTA Tariff Transmittal No. 27 [Amendment of Tariff Transmittal No. 26], ALJ Report, and Proposed Order. Counsel indicated that, on October 27, 2016, the Commission approved GTA's proposed Tariff Transmittal No. 26 and authorized a local network interface charge (LNIC). The Commission also approved GTA's request to replace the NECA Tariff with its own proposed rates for Metro Ethernet services. Finally, the telegraph tariff was eliminated.

The Order stated that, within 60 days, GTA was required to submit a proposal for individual case basis (ICB) charges. The Commission has examined ICB charges in five or six prior dockets. These are situations where GTA makes an arrangement with a customer to give the customer a good rate, perhaps better than that which might be provided under the tariff, if there are special circumstances that justify such a rate. GTA, in compliance with Commission's Order, submitted its proposal for an ICB procedure for special access services. GTA modeled its proposal after the NECA tariff. It is appropriate for GTA to use the NECA tariff model.

GTA's ICB proposal provides that, under appropriate circumstances, GTA can engage in a negotiation with a customer and provide an ICB tariff. PDS filed comments concerning the ICB proposal. PDS requested amendments for legal matters that are already included in the statutory provisions governing PUC. PUC already has to approve any ICB rates and determine that they are "just and reasonable" under the statute. 12 GCA §12205 already provides the rates or charges shall not "unreasonably discriminate between similarly situated customers." Finally, it is not possible to



provide “exact ICB rates” as PDS requested. ICB rates are not “set” rates, but are determined on a case-by-case basis. It would not be practical.

Counsel recommends that the Commission approve the ICB proposal submitted by GTA. It does comply with applicable statutes. The Proposed Order would adopt the ALJ recommendations, and would approve the ICB provisions that are now in Section 7 of the General Exchange Tariff.

The Chairman noted that Senator Telenia Nelson had just joined the meeting, and welcomed her. He indicated that Ms. Nelson is now the head of the Utilities Committee in the Legislature.

Commissioner Pangelinan asked whether PDS had an objection to anything in the proposed NECA tariff. Counsel indicated that it did not. Upon motion duly made, seconded and unanimously carried, the Commissioners approved GTA Tariff Transmittal No. 27, the Amendment of Tariff Transmittal No. 26, and the ICB proposal. The Commissioners adopted the Order made *Attachment “B”* hereto.

### **3. Guam Power Authority**

The Chairman indicated that the next item of business was GPA Docket 17-17, the Levelized Energy Adjustment Clause Filing (LEAC), dated December 14, 2016, PUC Counsel Report, and Proposed Order. Counsel indicated that, in its original filing in December of 2016, GPA asked for an increase in the LEAC rate from its present recovery factor, 0.08661 cents per kilowatt-hour, up to a little over 10 cents per kilowatt hour. That change, if adopted, would represent an 8.1 percent increase in the total bill, or \$14.76 per month, for a residential customer utilizing an average of 1,000 kilowatt-hours per month.

At this point PUC and GPA have developed a procedure as to what the appropriate items are for inclusion in GPA’s Petition on the LEAC factor. Counsel found that GPA had properly included the items needed in its LEAC filing. In January 2017, Counsel asked GPA Assistant Chief Financial Officer Cora Montellano to do an update on the fuel prices. The Commission has set a procedure for updating the prices. At a time ten days before the PUC meeting, GPA will determine the prior 5-day average for fuel prices. The fuel price is an essential element of LEAC which is reflected in the LEAC factor. When the fuel prices go up, LEAC also goes up. The primary justification for increasing the LEAC is that fuel prices have increased by 20% since June of 2016. In June 2016 the price of fuel was \$43.00 a barrel. When GPA filed its Petition in December, the fuel price was roughly \$54.00 per barrel. One reason for the increase was the decision of OPEC to cut oil production by 1.3 million barrels per day.

LEAC is designed to make GPA whole for any under-recovery by it in fuel costs. At the time of GPA’s original filing, GPA’s under-recovery was roughly \$17 million. When Ms. Montellano did the updated fuel prices, the fuel price was even higher than it had



been when the original filing was made. For the five day period, January 5 through 11, 2017, the fuel price had gone up to \$58.00 per barrel. The under-recovery increased from \$17M up to about \$22M. It must also be noted that GPA has not asked to recover the full amount of the under-recovery through LEAC at the present time. It could ask for the entire amount, but decided not to do so because that would result in a 20% increase in the ratepayers' bills. To ameliorate the fuel charge, GPA determined that it would only ask for one-half of the under-recovery during this upcoming 6-month period. The rest of the under-recovery would be sought in the next 6-month period. GPA is agreeing to take one-half of the amounts that it would be entitled to ask for this period under the LEAC clause. GPA has also reduced the impact of LEAC by earmarking \$4.6M of insurance proceeds to offset against LEAC. GPA does not control the fuel prices. It has done everything reasonable to maintain as low as LEAC factor as possible.

The reconciliation of fuel prices in January, 2017 resulted in an increase in the LEAC factor. The Commission should be consistent and adhere to its present fuel price calculation formula. If GPA recovered the full-under-recovery, the LEAC factor would be over 12 cents a kilowatt-hour. With the fuel price increase, the LEAC will now be about 10.5 cents per kilowatt-hour. That is a 10.2 percent increase in the total bill for a customer using 1,000 kilowatts per month, and an \$18.44 cost increase per month. Here the Commissioners should err, if at all, on the conservative side so that the recovery for the next LEAC period won't be as great. The proposed Order would establish a LEAC factor of \$0.105051 for the next 6-month period.

The Chairman asked GPA Manager John Benavente what he thought fuel prices would be 6-months out and further. Mr. Benavente indicated fuel prices were unpredictable. GPA is looking at fuel hedging. GPA echoed the ALJ's recommendations. He hopes that there will be a positive situation for consumers over the next 6-months. To put things in perspective, in February 2013 LEAC was 20.9 cents a kilowatt-hour. In 2014, February, it was 17.29 cents per kilowatt-hour. In 2015, the LEAC went down to 10.2 cents per kilowatt-hour. In 2016, it went all the way down to 0.0866 cents per kilowatt-hour. Now the LEAC increase is bringing the factor back to what it was January or February of last year. Mr. Benavente believes that the price of fuel oil has doubled over the last 1-year period. GPA is trying to phase in the price increase.

The Chairman asked how much diesel fuel is GPA incurring at present. GM Benavente indicated that when Cabras No. 3 & 4 were operating, the goal was 2%. Without Cabras 3 & 4, the best that GPA can do is about 7%. So the GM is looking at running on diesel between 7% to 15%. This LEAC is actually adjusting for some of the impact from the loss of the Cabras plant.

Commissioner Niven indicated that he supported the proposed Order and appreciated GPA's effort to cut in half the rate impact. However, he wished to understand what would happen over the next 12 months. If the fuel rate does remain in the \$48 to \$54 a



barrel range, would the LEAC for the next 6-month period remain around 10.5 cents, with the full under-collection recovered at the end of 12 months? Or, would there be a further increase in 6 months? GM Benavente indicated that GPA was attempting to mitigate the increase in LEAC. The next phase of the discussion will be to determine what GPA can do to mitigate and eliminate the under-recovery over the next 6 months. Commissioner Niven wondered whether GPA would be building in another LEAC rate increase in the next 3, 6 or 9 months. GM Benavente indicated that if the fuel predictions are accurate, GPA will have recovered half of the under-recovery over the next period. The second half of the under-recovery would be recovered in the next period.

GM Benavente indicated that the under-recovery would still be about 10.5 cents if fuel remains in the \$48 to \$54 per barrel range. GPA hopes to mitigate the under-recovery through GPA action or through the market. The Chairman indicated that if prices remain relatively stable in the coming 12 months, the LEAC which the PUC may approve this evening would probably remain stable. The Chairman believed that this is essentially a 12-month LEAC. Commissioner Pangelinan clarified that, instead of a 20% increase over 6 months, there would be a 10% increase over 12 months. Commissioner Montinola indicated that the PUC would only be adjusting half of the under-recovery. The Chairman stated that the liability that still needs to be collected. Commissioner Montinola did not believe that the LEAC could remain at 10 cents over the next LEAC period if the under-recovery would still be there. GM Benavente confirmed that GPA will only be cutting the under-recovery in half over the next 6-month period.

Commissioner Cantoria indicated that this was the first time GPA had offered to use other means, such as insurance money, to cut down on the under-recovery. GPA has also mentioned "other ways" to reduce the impact. GM Benavente indicated that it is possible for GPA to look for other methods of reducing LEAC. Commissioner Cantoria asked whether GPA would use the working capital fund. GM Benavente indicated he has to work with the CCU on this matter. GPA is attempting to reduce fuel prices through the demand side management program. GPA revenues have now been growing in the last 6 months about 1 to 2 percent.

Commissioner Perez asked about the increase in diesel fuel consumption between FY2015 and FY2016, which is an over 28M increase in gallons. GM Benavente indicated that increase was for the whole year. Commissioner Perez stated that the increase in diesel consumption was because of the loss of Cabras 3 & 4. She asked whether the increase was from January through December or October 1 through September 30. GM Benavente indicated that diesel consumption was up 30%. However, moving forward, GPA was only projecting diesel consumption to be around 7% to 10%. Diesel consumption was stabilizing, and now decreasing. Chief Financial Officer John Kim stated that diesel consumption is seasonal. It is higher in the summer months. Counsel suggested that the LEAC increase resulted in part from GPA's increased usage of diesel fuel used from 9M to 37M gallons. Diesel fuel is more expensive, and is a factor in



increasing LEAC. This is an issue that should perhaps be examined in the next LEAC. Commissioner Perez looked forward to hearing what GPA's plans going forward are to mitigate LEAC. She agreed with Commissioner Cantoria that this was the first time that GPA has looked at other ways to mitigate the LEAC factor.

Commissioner Montinola asked GM Benavente about fuel hedging. GM Benavente indicated that the last occasion for fuel hedging was February 2012. The opportunity for hedging is for a slight premium, if GPA can hold the existing pricing. In the next few months GPA will get information as to what is occurring in the fuel oil market from the consultants' perspective. Commissioner Montinola asked whether there would be a hedging option in the next 6 months. GM Benavente indicated that was correct. There was a resolution before the Consolidated Commission; however the CCU wishes to obtain more information about the percentage of hedging. One type of hedging considered was on the upper limit on fuel prices. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the LEAC factor of \$0.105051 for the next 6-month period and adopted the Order made *Attachment "C"* hereto.

#### **4. Guam Waterworks Authority**

The Chairman indicated that the next item of business was GWA Docket 17-02, Petition for Approval of Remaining Funds to be expended under Amendment No. 6 to the PMO Contract with Brown & Caldwell, ALJ Report, and Proposed Order. ALJ Alcantara indicated that GWA filed a petition earlier this month for approval of the remaining half of the \$4M request for its PMO contract with Brown & Caldwell. In August of last year, GWA had petitioned for approval of the \$4M increase. GWA maintained that it needed continued assistance from Brown & Caldwell related to compliance with the Federal Court ordered projects, SRF Project Management, management for the Umatac Wastewater Treatment Plant upgrade, analysis of improvement of ground water well production, meter replacement, and other projects. GWA also informed PUC that it was developing a transition plan to reduce its reliance on the PMO. The PUC approved the initial Petition, but only authorized one-half of the \$4M; it indicated that approval of the remaining half would be considered upon GWA's submission of a transition plan. GWA did submit its transition plan late last year.

According to the transition plan, the PMO presently assists GWA with CIP planning, execution of projects, compliance efforts, etc. The court ordered projects and grant funding have created a huge work load which cannot be managed with normal GWA staffing. The agency struggles to attract qualified professionals in key operational and technical positions. With the PMO assistance, GWA admits that it has completed about 82% of the court ordered projects, which leaves a remaining 18% outstanding. GWA maintains that, with the PMO's assistance, it has improved its financial performance, streamlined the project implementation process, reduced backlogs and the time for completion of its projects, and standardized its contracting and procurement process. GWA is continuing to develop staff and capabilities to address compliance issues with



less reliance on the PMO. GWA's transitional activities began in 2015 and will continue through 2018. This transition period involves completion of the existing work authorizations which the PUC reviewed last year. These include utility planning for the Hagatna Treatment Plant and the Northern District Wastewater Treatment Plant and various other water and wastewater projects. GWA's intent is that the PMO contract will expire in 2019. However, there will be a need for an additional \$3M in funding for 2017 and another \$1.5M for 2018. The ALJ recommends that the PUC approve GWA's request for the remaining funds for the PMO, not to exceed \$2,029,138.50. These funds are necessary and critical for GWA's ongoing work.

Acting General Manager Tom Cruz stated that it was still necessary for Brown & Caldwell to provide engineering support. Brown & Caldwell is supporting GWA in project management in court ordered projects. There is now a handoff operation where GWA personnel are being trained. Chairman Johnson asked about the training efforts of GWA, and where GWA is at present with training efforts and what still needs to be done. Mr. Cruz stated that Brown & Caldwell has trained GWA engineering staff with regard to understanding and operating the water hydraulic model. The entire GWA water system is now on a computer program. It does take engineering background to know what is being inputted as well as what is coming out of the program. GWA needs the model to determine what pipe sizes should be increased, or operations of certain water wells reduced. The model can help predict GWA needs. Brown & Caldwell has provided training to GWA engineering. There is a need for GWA engineering to understand the system control center. Brown & Caldwell has submitted a work authorization for continued support for water hydraulic modeling. GWA staff has now been using the model for four or five years. GWA personnel should be able to handle this function. There is training being done for the young professionals of GWA.

Bill Chang, a representative of Brown & Caldwell, mentioned that there was an upcoming training that will be provided to GWA and its different departments. A GWA employee, who has been receiving training for the model that Mr. Cruz referred to for the past three or four years, will be a co-instructor for the upcoming training. In the future GWA will have its own internal trainer to train the younger GWA engineers and Brown & Caldwell will continue to monitor the progress of the model development. GWA is moving forward with its internal training.

Commissioner Perez asked what other kinds of training were being done, and whether GWA had provided a listing of the types of training that have been provided. Mr. Chang stated that the training he had been speaking of was included in the recent quarterly report to the PUC. Commissioner Perez requested a copy. Commissioner Niven asked whether the \$2M being requested was for the remainder of the fiscal year or the calendar year. ALJ Alcantara indicated that some of the work authorizations continue on past 2017. GM Cruz confirmed that was correct. Commissioner Niven asked if GWA would request any more money on October 1 or January 1. ALJ



Alcantara indicated that GWA states that it may need more money for the fourth quarter of 2017. It would be for the first quarter of 2018.

Commissioner Perez indicated that the SRF grant funded projects go into 2018 for the construction and completion of the projects. Commissioner Niven asked whether there would only be about half a dozen projects going into 2018 to be completed. Acting GM Cruz concurred. Commissioner Niven further asked what would be GWA's reaction if the Commission indicated it would like the PMO to terminate sooner rather than later, at the end of the fiscal year or so or at the end of the calendar year. The remaining half-dozen projects could be handled on an individual basis so that the PUC would have a closer look at the end game for this whole project. At that point there would be a manageable number of specific projects that would have already been funded by the \$2M although some might need additional funding. If projects were treated individually rather than an overall PMO pot of money, then the PUC would have an opportunity to look at them a little more closely.

Acting GM Cruz indicated that GWA was getting closer to a manageable body of projects. He would have to bring this idea up to General Manager Bordallo. Commissioner Perez asked why GWA couldn't procure one or more contracts. From 2012 up to 2016 GWA has already paid the PMO \$20M. GWA could do contracts on a project by project basis. The PUC does not know what projects the additional \$1.5M sought by GWA is connected to. Why couldn't GWA hire contractors on a project by project basis? Commissioner Perez questioned whether the PMO was using local subcontractors for the professional work.

GM Cruz said that the initial \$2M received was to cover these work authorizations; the other half GWA is hoping to obtain is to continue and finish these projects. Commissioner Perez asked Mr. Cruz whether GWA was starting any of the projects without PUC approval. GM Cruz indicated that \$2M which the PUC approved was half of the \$4M, which includes all of these work authorizations. Commissioner Montinola asked whether the additional \$2M will take care of all of the projects already commenced. Mr. Cruz confirmed that the \$2M would take care of all of these projects except the ones that are potentially planned. If the PUC authorizes the \$2M, GWA could do these existing projects with the remaining 2017, 2018 projects could be done on demand. He could do them in the matter previously indicated by Commissioner Perez.

The Chairman asked whether projects like the Umatac-Merizo Wastewater Treatment Plant upgrade, which extends to the fourth quarter of 2018, could be taken care of if PUC grants the second-half of the \$2M to GWA. Cruz indicated that was correct. The Chairman stated that, the PUC could then have a date certain when the relationship with the PMO is over. GWA could then still use Brown & Caldwell, but would do so on project-by-project basis. The PUC is concerned by the amount of money that GWA has spent for the PMO over the years. Commissioner Perez referred it to as "runaway



consulting.” The Chairman indicated that the PUC appreciates the work done by Brown & Caldwell, but the PUC has to watch the bottom line.

Acting GM Cruz agreed. The Chairman indicated that GPA has been able to do well without a PMO. Commissioner Perez indicated that the CCU and PUC have supported GWA; however there’s a time when GWA must be able to sustain itself on its own. GWA personnel are supposed to be absorbing the knowledge to run the utility with raised standards. The professional standards of the operation should be raised, including entry-level individuals. Commissioner Perez also wanted a report from GWA on the types of training that would be needed through this time period to make sure that the GWA employees are professionally trained to sustain the utility. That should be added into the Order.

Commissioner McDonald wished to add verbiage that the Work Authorization Projects on page 9, Figure 6, are covered in this \$2M through the fourth quarter of 2018. ALJ Alcantara indicated that these matters would be added and the work authorizations would be included in the remaining \$2M. The Commissioners concurred that the work authorizations would be covered through the fourth quarter of 2018. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the expenditure of the remaining \$2M for Brown & Caldwell under the PMO Contract, and, with the requested additions, adopted the Order made *Attachment “D”* hereto.

## **5. Administrative Matters**

Counsel stated that the PUC Annual Report for FY2016 had been prepared and submitted. The PUC is required under the statute to submit an annual report every year in January. The deadline was met. The Report covers the dockets upon which the PUC has acted. The Annual Report was submitted to the Governor and the Speaker, and to the Chairwoman of the Utilities Committee, Senator Nelson. The Report also informs the Commissioners as to the actions they took in each docket.

Commissioner Montinola asked whether the Report was posted on the website. Counsel indicated that it would be. Counsel indicated that the second matter was Mr. Manning’s Report on the Community Host Premium regarding Guam Solid Waste Authority tipping fees. These are special amounts that go to the villages of Chalan Pago and Inarajan. The report is just informational.

The final matter was the scheduling of the month in which there would be no PUC meeting. June was possible, but the Commissioners wished to decide which month should be taken off so that Commissioners can make their travel arrangements. Commissioner Perez indicated that it could be a month during which the Commissioners could undertake training. Commissioners then discussed various possible rate school trainings. The Commissioners agreed that they would decide at the next meeting in which month the PUC should not have a meeting.



There being no further business, the Commissioners move to adjourn the meeting.

A handwritten signature in dark ink, appearing to be 'J. Johnson', written over a horizontal line.

Jeffrey C. Johnson  
Chairman



**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION  
REGULAR MEETING  
SUITE 202, GCIC BUILDING  
414 W. SOLEDAD AVE., HAGATNA, GUAM  
6:30 p.m., January 26, 2017**

**Agenda**

1. Approval of Minutes of December 29, 2016
2. Teleguam Holdings LLC
  - GTA Docket 16-03, GTA Tariff Transmittal No. 27 [Amendment of Tariff Transmittal No. 26], ALJ Report, and Proposed Order
3. Guam Waterworks Authority
  - GWA Docket 17-02, Petition for Approval of Remaining Funds to be Expended under Amendment No. 6 to PMO Contract with Brown & Caldwell, ALJ Report, and Proposed Order
4. Guam Power Authority
  - GPA Docket 17-17, Levelized Energy Adjustment Clause Filing dated December 14, 2016, PUC Counsel Report, and Proposed Order
5. Administrative Matters
  - FY 2016 PUC Annual Report
6. Other Business





**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF: )  
TELEGUAM HOLDINGS LLC, ) GTA DOCKET 16-03  
GENERAL EXCHANGE TARIFF NO. 1, ) ORDER  
TARIFF TRANSMITTAL NO. 26 )

**INTRODUCTION**

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon the submission of an Amendment by Teleguam Holdings LLC ["GTA"] to Tariff Transmittal No. 26.<sup>1</sup> GTA filed an Amended Tariff Transmittal No. 26 on October 20, 2016.<sup>2</sup>
2. Although GTA has denominated this "Amendment" as a separate Tariff Transmittal (i.e., Tariff Transmittal No. 27), Tariff Transmittal No. 27 is an amendment to Tariff Transmittal No. 26.
3. The "Amendment" provides Individual Case Basis (ICB) arrangements for customers utilizing certain special access services which were approved by the Commission in Tariff Transmittal No. 26.<sup>3</sup>

**BACKGROUND**

4. In its Order dated October 27, 2016, the PUC approved GTA's Proposed Tariff Transmittal No. 26. The Tariff instituted a Local Network Interphase ["LNIC"] charge, which the Commission found to be reasonable.<sup>4</sup>
5. The Commission also approved GTA's request to replace the NECA Tariff with its own proposed rates for Metro Ethernet Services.<sup>5</sup> However, the Commission required GTA to include provisions in its tariff for Metro Ethernet Services for "Individual Case Basis" (ICB).

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<sup>1</sup> GTA Tariff Transmittal No. 27, Addition of Individual Case Basis Provisions to Special Access Section of General Exchange Tariff Section 7, filed December 27, 2016.

<sup>2</sup> Amended Tariff Transmittal No. 26 Revisions to Special Access Service, General Exchange Tariff, GTA Docket 16-03, filed October 20, 2016.

<sup>3</sup> GTA Tariff Transmittal No. 27, GET No. 1, Section 7, H. SCHEDULE OF RATES AND CHARGES, G. Specialized Services or Arrangements.

<sup>4</sup> PUC Order, GTA Docket 16-03, dated October 27, 2016, at p. 6.

<sup>5</sup> Id.



6. GTA provides ICB rates for other services which it provides. In general, the Individual Case Basis Tariff, originally filed by GTA as Tariff Transmittal No. 11 on December 1, 2008<sup>6</sup>, allows GTA to provide a special rate when certain conditions are satisfied.
7. Here the parties agreed that ICB rates should potentially be available to customers of GTA that acquire special access services/Metro Ethernet Services. The Commission required GTA to include provisions in its Tariff for ICB within 60 days of the issuance of the PUC Order in this matter.<sup>7</sup>
8. In compliance with the PUC Order GTA submitted its Amendment to Tariff Transmittal No. 26 on December 27, 2016, which included an ICB provision in section 7 of General Exchange Tariff No. 1.<sup>8</sup>
9. The Administrative Law Judge ["ALJ"] submitted his Report herein on January 24, 2017. He found, *inter alia*, that no additional hearing was required on the Amendment and recommended approval of the ICB provisions.<sup>9</sup> On January 10, 2017; the ALJ received an email communication from President John Day of PDS, questioning whether GTA had published notice of the additional tariff change. PDS indicated that it would wish to file public comments regarding the proposed change.<sup>10</sup>
10. On January 24, 2017, PDS submitted additional comments:<sup>11</sup> "GTA should amend its tariff language to include language that provides the following in order to comply with Sections 12204(c)(2), 12205(a)(c), and 12206 of the Guam Telecom Act:
  - The submission and review of any ICB rates by the commission prior to implementation of these rates.
  - A statement that the rates will be offered on a non-discriminatory basis to other customers.
  - Inclusion in GTA's tariff of a listing of all services and ICB rates that are available from GTA. There is no need for GTA to provide customer information, just the service and the ICB rate that is available."

### **DETERMINATIONS**

11. The PUC adopts the recommendations of the ALJ.

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<sup>6</sup> GTA Tariff Transmittal No. 11, filed on December 1, 2008.

<sup>7</sup> Id. at pgs. 6-7.

<sup>8</sup> GTA Tariff Transmittal No. 27, GET No. 1, Section 7, H. SCHEDULE OF RATES AND CHARGES, G. Specialized Services or Arrangements.

<sup>9</sup> ALJ Report, GTA Docket 16-03, dated January 24, 2014.

<sup>10</sup> The email from President John Day of PDS to GTA and ALJ Horecky, dated January 10, 2017.

<sup>11</sup> Email from John Day, President of PDS, to ALJ Horecky, dated January 24, 2017.



12. GTA has complied with the October 27, 2016 Order of the PUC in this Docket by including provisions in its tariff for ICB.
13. GTA modelled its ICB provision related to Special Access/Metro Ethernet service provisions after similar ICB provisions in NECA Tariff No. 5. The proposed ICB provision in Tariff Transmittal No. 26 is nearly identical to the provision in NECA Tariff No. 5.<sup>12</sup>
14. As is the case with NECA Tariff No. 5, GTA provides an ICB for the specific special access and Metro Ethernet Services offered under its tariff. Special rates and charges are provided for the specialized services. The ICB arrangement must be negotiated, and agreed upon, between GTA and its customers.
15. There is not a need to include the revisions suggested by PDS in the Tariff. The matters addressed in PDS comments are already sufficiently covered in the Guam Telecommunications Act of 2004. The Commission adopts the reasoning of the ALJ in his Report.
16. By existing regulation, GTA is already required to submit any ICB rate to the Commission for prior approval; 12 GCA §12116; 12 GCA §12204 (a) and (c) (2); 12 GCA §12205 (c).
17. Similarly, existing regulations already require that rates or charges be offered on a non-discriminatory basis. 12 GCA §12205 (c).
18. There can be no “listing of ICB rates.” That is because such rates are determined on a case-by-case basis.

### **ORDERING PROVISIONS**

Having considered the record of the proceedings herein, GTA’s Amendment to Tariff Transmittal No. 26, the filings of the parties, and the ALJ Report dated January 24, 2017, and good cause appearing, the Guam Public Utilities Commission hereby ORDERS as follows:

1. GTA’s Amendment to Tariff Transmittal No. 26, the ICB provisions for special access services including Metro Ethernet Services, is approved.
2. GTA’s proposed Amendment to Tariff Transmittal No. 26 is in accordance with the provisions of 12 GCA § 12206(b).

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<sup>12</sup> Email from GTA Legal Counsel Serge Quenga to ALJ Fred Horecky, dated December 27, 2016.

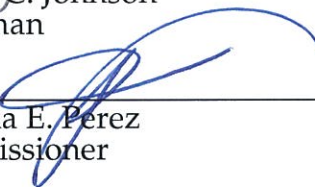


3. The ICB provisions in Section 7 of GET No. 1 are effective upon approval and execution of this Order.

4. GTA is ordered to pay the PUC's regulatory expenses and fees in this Docket.

Dated this 27th day of January, 2017.


  
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Jeffrey C. Johnson  
Chairman


  
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Rowena E. Perez  
Commissioner

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Michael A. Pangelinan  
Commissioner

  
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Filomena M. Cantoria  
Commissioner

  
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Joseph M. McDonald  
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Peter Montinola  
Commissioner

  
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Andrew L. Niven  
Commissioner

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF: ) GPA Docket 17-17  
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The Guam Power Authority Levelized )  
Energy Adjustment Clause (LEAC) ) **PUC ORDER**  
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On December 6, 2016, the Guam Consolidated Commission on Utilities, in Resolution No. 2016-72, authorized GPA Management to Petition the PUC for an increase in the LEAC factor from \$0.086613/kWh to \$0.101372/kWh effective for meters read on or after February 1, 2017.<sup>1</sup> In accordance with the protocol established by Guam Public Utilities Commission [PUC] Order dated January 29, 1996, as amended by Order dated March 14, 2002, Guam Power Authority [GPA] transmitted its LEAC Filing, dated December 14, 2016, to the PUC.<sup>2</sup>

GPA requested that the Levelized Energy Adjustment Clause Factor ["LEAC"] be increased from \$0.086613/kWh to \$0.101372/kWh effective for meters read on or after February 1, 2017.<sup>3</sup> This change reflects a 17.0% increase in the LEAC factor, or an 8.1% increase in the total bill.<sup>4</sup> If implemented, this change would result in a \$14.76 increase for a residential customer utilizing an average of 1,000 kilowatt hours per month.<sup>5</sup>

The basis indicated by GPA for the change in the LEAC factor is primarily the "continuing increase in worldwide fuel prices."<sup>6</sup> GPA indicates that the price of RFO increased by 20% from the last LEAC filing in June 2016.<sup>7</sup> The increase in fuel price is also attributable at least in part to OPEC's decision to cut production by 1.3M barrels per day. GPA believes that the market will remain within the \$48-54/bbl. range during the period.<sup>8</sup> GPA also anticipates that the fuel price, effective February 1, 2017, will be \$54.49 per Bbl. RFO and \$71.72 for Diesel.<sup>9</sup>

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<sup>1</sup> CCU Resolution No. 2016-72, adopted December 6, 2016, at p.3.

<sup>2</sup> GPA LEAC Filing, GPA Docket 17-17, filed December 14, 2016.

<sup>3</sup> Id. at p. 1.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Email from Cora Montellano, GPA Asst. CFO, to PUC Counsel Fred Horecky, dated January 11, 2017, with GPA Proposed LEAC Rate-Updated.

<sup>8</sup> GPA LEAC Filing, GPA Docket 17-17, filed December 14, 2016, at p. 1.

<sup>9</sup> GPA Petition, APPENDIX A.



If, as GPA anticipates, the projected average fuel price ending July 31, 2017, is \$54.59/bbl, GPA would experience an under-recovery of about \$17.7M.<sup>10</sup> In such case, the LEAC factor would actually need to be increased from \$0.08816/kWh to \$0.116136/kWh for the period of February 1, 2017 to July 31, 2017.<sup>11</sup>

However, GPA has taken proactive steps to lessen the large impact of a LEAC increase upon ratepayers. Rather than recovering all of the fuel oil cost in this LEAC period, GPA prefers to gradually true-up fuel oil cost by phasing in increases over two (2) LEAC periods. GPA therefore recommends that the upcoming LEAC rate be one-half of what the market is projecting. GPA's reasoning is that the present fuel market is very volatile because of the uncertainties of the political factors involving the new U.S. Administration and recent OPEC decisions.<sup>12</sup> Under the "phase in", GPA would increase the LEAC factor to \$0.101372/kWh for the next LEAC period.<sup>13</sup>

A second step GPA has taken to reduce the impact of the LEAC increase is to apply \$4.6M from the Cabras No. 3 & 4 explosion insurance proceeds to offset the fuel under-recovery. The projected under-recovery of about \$17.7M at the end of the LEAC period (July 31, 2017) is calculated after the application of \$4.6M in insurance proceeds. The reason that GPA has agreed to apply a portion of the insurance proceeds to offset LEAC is that the explosion resulted in a drastic increase in the use of diesel fuel in the combustion turbines and fast tracks. In FY 2015, diesel fuel consumption was 9,400,524 gallons. Diesel fuel consumption increased in FY2016 to 37,639,350 gallons.<sup>14</sup> Thus, it is appropriate that GPA apply insurance proceeds from the Cabras explosion to offset the LEAC under-recovery.

The PUC has previously determined that, before the LEAC factor is set for a particular period, an updated LEAC fuel forecast price should be prepared based upon the average of the five day period which is ten days before the meeting at which the PUC determines the LEAC factor.<sup>15</sup>

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<sup>10</sup> CCU Resolution No. 2016-72, adopted December 6, 2016, at p. 2.

<sup>11</sup> Id. at p. 1.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> GPA Work Session Packet, January 19, 2017, Exhibit D.

<sup>15</sup> PUC LEAC Order, GPA Docket 15-27, dated January 25, 2016, at p. 2.

### DETERMINATIONS

1. Counsel requested that GPA Assistant CFO Cora Montellano recalculate the 5 day average of the MS fuel forecast. On January 11, 2017, Ms. Montellano provided an updated "Proposed LEAC Rate"<sup>16</sup>.
2. To determine updated applicable fuel prices herein, GPA used the average of 5 days forward pricing from Morgan Stanley Asia Noon Call dated January 5-11, 2017.<sup>17</sup>
3. The updated analysis indicates that fuel prices have increased since GPA filed its Petition on December 14, 2016. As of the filing of the Petition, the average price per Barrel for Residual Fuel Oil was \$54.58. However, as of the date of the updated analysis on January 11, 2017, the average price per Barrel of RFO was \$58.56.<sup>18</sup>
4. The average price per Barrel for RFO as of the start of the prior LEAC period, August 1, 2016, was \$45.43.<sup>19</sup>
5. As a result of the increase in fuel prices since GPA filed its original Petition, GPA is now seeking a LEAC factor of \$0.105051, rather than \$0.101372/kWh, effective for meters read on or after February 1, 2017.<sup>20</sup>
6. However, GPA is only requesting that it recover \$11M, one-half of the \$22M estimated under- recovery in the upcoming LEAC period. The under- recovery increased by \$4.3M from the original filing in December 2016.<sup>21</sup>
7. If the LEAC factor fully addressed the present anticipated under-recovery, it would have to be raised to \$0.123494. Such factor would constitute a 20.4% increase in the total bill.<sup>22</sup>

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<sup>16</sup> Email from Cora Montellano, GPA Asst. CFO, to PUC Counsel Fred Horecky, dated January 11, 2017, with GPA Proposed LEAC Rate-Updated.

<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> Appendix A to GPA Petition.

<sup>20</sup> Email from Cora Montellano, GPA Asst. CFO, to PUC Counsel Fred Horecky, dated January 11, 2017, with GPA Proposed LEAC Rate-Updated.

<sup>21</sup> Id.

<sup>22</sup> Id.



8. GPA has attempted to reduce the impact of the LEAC factor by only seeking to recover one-half of the fuel under-recovery in this LEAC period, and by applying insurance proceeds to the under-recovery. The increase in the LEAC factor is due to rising fuel prices and is beyond GPA's control.
9. In accordance with established PUC protocol, the increased LEAC factor resulting from the fuel prices based upon the MS Noon Call from January 5-11, 2017, should be adopted. The LEAC factor should be increased as set forth in the GPA Proposed LEAC Rate-Updated.
10. It is also important to keep the LEAC factor at the appropriate price, as reflected by the Jan. 5-11, 2017, updated prices, so that the necessary amount to be recovered in the next LEAC period will be reduced to the extent possible.

### **ORDERING PROVISIONS**

After carefully reviewing the record in this proceeding, having considered the LEAC Filing of GPA and the PUC Counsel Report, and after discussion at a duly noticed regular meeting held on January 26, 2017, for good cause shown and on motion duly made, seconded and carried by affirmative vote of the undersigned Commissioners, the Guam Public Utilities Commission hereby **ORDERS** that:

1. The current singular LEAC factors are hereby adjusted, effective February 1, 2017, as shown in the following table:

<b>LEAC</b>	
<b><u>Delivery Classification</u></b>	<b><u>\$ per kWh</u></b>
Secondary -	\$ 0.105051
Primary – 13.8 KV	\$ 0.101987
Primary – 34.5 KV	\$ 0.101704
Transmission – 115 KV	\$ 0.100496


This change represents a 10.2% increase in the total bill for a residential customer utilizing an average of 1,000 kilowatt hours per month (an increase of \$18.44 per month).


2. GPA should file for a change in the LEAC factors to be effective August 1, 2017 on or before June 15, 2017.


3. As requested by GPA, the forecast of the Working Capital Fund Requirement will remain the same, so there will not be a change in the Working Capital Surcharge for the period of February 1, 2017, through August 31, 2017.
4. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.


Dated this 26th day of January, 2017.

  
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Jeffrey C. Johnson  
Chairman


  
\_\_\_\_\_  
Joseph M. McDonald  
Commissioner

  
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Peter Montinola  
Commissioner

  
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Andrew L. Niven  
Commissioner

  
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Rowena E. Perez  
Commissioner

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Michael A. Pangelinan  
Commissioner

  
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Filomena M. Cantoria  
Commissioner





**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

<b>PETITION FOR APPROVAL OF</b>	)	<b>GWA DOCKET 17-02</b>
<b>REMAINING FUNDS TO BE EXPENDED)</b>	)	
<b>UNDER AMENDMENT NO. 6 TO PMO</b>	)	
<b>CONTRACT WITH BROWN &amp;</b>	)	<b>ORDER</b>
<b>CALDWELL BY GUAM</b>	)	
<b>WATERWORKS AUTHORITY</b>	)	
_____	)	

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the Petition for approval of the remaining half of a \$4,059,877.00 increase in the Program Management Office (“PMO”) contract with Brown & Caldwell, specifically Amendment No. 6, filed by the Guam Waterworks Authority (“GWA”) on January 5, 2017.

**DETERMINATIONS**

**A. Review of GWA’s PMO Contract**

On August 31, 2016, GWA petitioned the PUC for approval of a \$4,059,877 increase in the Program Management Office (“PMO”) contract with Brown & Caldwell, specifically Amendment No. 6. In its Petition, GWA maintained that it “continues to need significant assistance relative to compliance with the November 2011 Court Order (“Court Order”), for matters contained in the Stipulation attached to PUC’s Order approving GWA’s 5-year rate plan covering FY2013-FY2018, SRF project management, Project Management Services for the Umatac-Merizo WWTP Upgrade, analysis and planning to improve Ground Water Production Well meter replacement among others . . . .”<sup>1</sup> Based on this need, GWA sought PUC approval to increase the

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<sup>1</sup> Petition for Approval of Amendment Number Six to Brown and Caldwell PMO Contract (“Petition”), p. 3 (Aug. 31, 2016).

existing contract value with the PMO by \$4,059,877.00 for services described in the Petition.<sup>2</sup> In addition, GWA expressed that it was developing a transition plan to reduce GWA's reliance on PMO management assistance that would detail the manner and timing of certain PMO services and activities that will be assumed by GWA staff.<sup>3</sup>

On September 29, 2016, the PUC approved GWA's August 31, 2016 petition for approval of Amendment Number Six to the PMO contract with Brown & Caldwell. However, the PUC only authorized an increase of an amount not to exceed half of \$4,059,877.00 (or \$2,029,938.50), and that approval of the remaining half would be considered upon GWA's submission of a transition plan by December 31, 2016, which plan would address GWA's current and future efforts to reduce its reliance on PMO services. On December 29, 2016, GWA filed its PMO Transition Plan ("Transition Plan" or "Report"). On January 24, 2017 the Administrative Law Judge of the PUC, Joephet R. Alcantara, (the "ALJ") filed an ALJ Report regarding the instant Petition, which included his findings and recommendations based on the administrative record before the PUC. The ALJ found the following.

**B. Review of GWA's PMO Contract**

Pursuant to 12 G.C.A. §12105,<sup>4</sup> GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC's express approval. Additionally, pursuant to GWA's Contract Review Protocol issued in Administrative Docket 00-04, "[a]ll professional service procurements in excess of

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<sup>2</sup> Petition, p. 6 (Aug. 31, 2016).

<sup>3</sup> Petition, p. 6 (Aug. 31, 2016).

<sup>4</sup> Formerly 12 G.C.A. § 12004.



\$1,000,000” require “prior PUC approval under 12 G.C.A. §12004, which shall be obtained before the procurement process is begun . . . .”<sup>5</sup> GWA must also seek PUC’s approval for any uses of bond funds.<sup>6</sup>

According to the Transition Plan, the PMO presently assists GWA primarily with capital improvement projects (“CIP”) planning, execution of these projects, support with compliance efforts, operations support, and certain special projects.<sup>7</sup> GWA has consistently maintained that “[t]he time element for both the court order projects, and the expiration of grant funding that would otherwise require ratepayer revenue, have created a CIP workload which cannot be described as ‘ordinary’ nor managed using normal staffing.”<sup>8</sup> In addition, GWA further maintained that the agency struggles with “attracting and maintaining qualified personnel in key operational and technical positions.”<sup>9</sup>

GWA submitted that with the PMO’s assistance, GWA has completed eighty-two percent (82%) of its court-ordered projects. However, GWA maintained that the outstanding eighteen percent, which is composed of sixteen (16) outstanding items, requires “significant effort and resources to complete.”<sup>10</sup>

**A. Notable Progress**

With the PMO’s assistance, GWA assured the Commission that it has improved its financial performance; that it has streamlined its project implementation

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<sup>5</sup> GWA’s Contract Review Protocol (“GWA CRP”), Administrative Docket 00-04, p. 1 (Oct. 27, 2005).

<sup>6</sup> *Id.*

<sup>7</sup> GWA’s Transition Plan (“Report”), p. 1 (Dec. 29, 2016).

<sup>8</sup> Report, p. 1 (Dec. 29, 2016).

<sup>9</sup> Report, p. 1 (Dec. 29, 2016).

<sup>10</sup> Report, p. 2 (Dec. 29, 2016).

process, thereby reducing project backlog; and has standardized its contract documents and procurement process.<sup>11</sup>

In addition, GWA further “continues to develop staff and capabilities to address compliance issues with less reliance on the PMO.”<sup>12</sup> For instance, GWA has been directly engaging the U.S. EPA with respect to GWA’s progress with court ordered projects.<sup>13</sup> In addition, GWA is working with the PMO to establish compliance programs, such as FOG prevention.<sup>14</sup>

GWA has also enhanced its operations by implementing its Computerized Maintenance Management System, a Water Systems Control Center, and comprehensive standard operating procedures.<sup>15</sup> It also continues to improve its data acquisition and management; its Geographic Information Systems; and hydraulic modeling capabilities.<sup>16</sup>

#### **B. Transition Schedule**

With regard to transition, GWA submitted that “transitional activities” began in 2015 and will continue until 2017.<sup>17</sup> GWA submitted that the PMO’s activities during this period will involve completion of existing work authorizations.<sup>18</sup>

In particular, GWA indicated that the remaining activities for the PMO include the following projects that have carried over from 2015: the facility planning for

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<sup>11</sup> Report, p. 3 (Dec. 29, 2016).

<sup>12</sup> Report, p. 4 (Dec. 29, 2016).

<sup>13</sup> Report, p. 4 (Dec. 29, 2016).

<sup>14</sup> Report, p. 4 (Dec. 29, 2016).

<sup>15</sup> Report, p. 4 (Dec. 29, 2016).

<sup>16</sup> Report, p. 5 (Dec. 29, 2016).

<sup>17</sup> Report, p. 8 (Dec. 29, 2016).

<sup>18</sup> Report, p. 9 (Dec. 29, 2016).



the Hagatna Wastewater Treatment Plant and the Northern District Wastewater Treatment Plant; and technical support for GWA's Source Control Program.<sup>19</sup> The other remaining projects involve projects that the Commission has already reviewed and authorized in 2016, which include: the Agat-Umatat Potable Waterline Analysis; Phase 1 of the Tumon Sewer Basin Study; the Mixing Zone Study for Agat-Santa Rita Wastewater Treatment Plant; Phase 3 of Hydraulic Modeling; Engineering for Groundwater Well Production Meters; Project Management for the Umatat-Merizo Wastewater Treatment Plant Upgrade Design; Backflow Prevention Program; and continued program management support. In addition, the PMO will continue to provide SRF project support.<sup>20</sup>

According to GWA, this stage will end "with the eventual PMO elimination as GWA overtakes its previous limitations and powers through sustained operations under its own efforts."<sup>21</sup> Accordingly, GWA maintained that PMO funding will decline during this transition period, and with the intent that the contract will expire in 2019.<sup>22</sup> GWA projected that the PMO contract will require an additional \$3 million in funding for 2017, and what appears to be another \$1.5 million for 2018.<sup>23</sup> GWA submitted that the additional funding will support continued program management services and the development of wastewater standards.<sup>24</sup>

GWA will further transition to more demand-type of contracts, which it will utilize for engineering services for project design or construction management;

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<sup>19</sup> Report, p. 9 (Dec. 29, 2016).

<sup>20</sup> Report, p. 9 (Dec. 29, 2016).

<sup>21</sup> Report, p. 8 (Dec. 29, 2016).

<sup>22</sup> Report, p. 9 (Dec. 29, 2016).

<sup>23</sup> Report, p. 9 (Dec. 29, 2016).

<sup>24</sup> Report, p. 9 (Dec. 29, 2016).

construction services; and specialty consulting services for “technically advanced, complex or critical compliance projects.”<sup>25</sup>

Based on the submission of the Transition Plan, the ALJ recommended that the PUC approve GWA’s request for the remaining funding for its contract with Brown & Caldwell, not to exceed \$2,029,938.50. Again, the ALJ found that the additional funds for the projects described in the instant Petition are critical and necessary in order for GWA to meet the deadlines imposed by the federal Stipulated Order, as well as to improve GWA’s water and wastewater systems. GWA shall continue to file its Program Management Office Quarterly Report, which shall be due at the end of March, so that the PUC can be updated on the progress of projects and programs under the PMO contract.

The Commission hereby adopts the findings contained in the January 24, 2017 ALJ Report and, therefore, issues the following:

### **ORDERING PROVISIONS**

After careful review and consideration of the above determinations, the January 24, 2017 ALJ Report, and the record herein, for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission hereby ORDERS the following:

1. That GWA’s January 5, 2017 Petition for approval of the remaining half of the \$4,059,877.00 (or \$2,029,938.50) increase in GWA’s PMO contract with Brown & Caldwell is GRANTED; GWA is therefore authorized to increase its contract with Brown & Caldwell for an amount not to exceed \$2,029,938.50.

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<sup>25</sup> Report, p. 10 (Dec. 29, 2016).



2. The \$2,029,938.50 shall be used to complete all of the eleven “Approved Work Authorizations” listed in “Figure 6,” on page 9 of GWA’s December 29, 2016 Report, and shall fund such projects through 2018.

3. GWA shall continue to file its Program Management Office Quarterly Report, the first of which in 2017 shall be due at the end of March.

4. In addition to the Quarterly Report, GWA shall provide the PUC with a report outlining the PMO’s training program and schedule planned for the duration of the contract, by March 1, 2017. This report shall also indicate the costs related to such trainings.

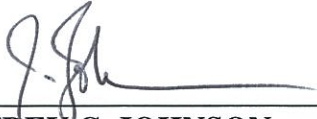
5. GWA is ordered to pay the Commission’s regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses associated with the instant proceeding. Assessment of the PUC’s regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12002(b), 12024(b) (renumbered as 12 G.C.A. §§ 12103(b) and 12125(b)), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

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[SIGNATURES TO FOLLOW ON NEXT PAGE]

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SO ORDERED this 26<sup>th</sup> day of January, 2017.



**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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