

GUAM PUBLIC UTILITIES COMMISSION
REGULAR MEETING

July 27, 2017

3rd FLOOR CONFERENCE ROOM
GCIC BUILDING, HAGATNA



MINUTES

The Guam Public Utilities Commission [PUC] conducted a regular meeting commencing at 6:50 p.m. on July 27, 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 April 13 and May 25, 2017. 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 17-03, Establishment of an E911 Surcharge for Voice Over Internet Protocol, ALJ Report, and Proposed Order. Counsel indicated that in 2013, the Legislature had previously amended the E911 Surcharge law and required that Voice Over Internet Protocol Calls should also be subject to the E911 surcharge. The Commissioners had previously approved the establishment of a VOIP E911 surcharge docket. This year Counsel contacted all collection agents to arrange a meeting for discussion of the process for collecting the E911 surcharge on VOIP calls. The meeting occurred on July 6 at the PUC office, with two collection agents present, Lucy Perez from GTA and Josephine Chong from PDS. As a result of this meeting, an implementation protocol for imposition of the E911 surcharge on VOIP calls was developed. By October 31 of this year, each collection agent will file a report indicating whether such agent is presently reporting and collecting the E911 surcharge on VOIP lines, if so, when the company started collecting such surcharges, how many VOIP accounts each has, and how much it has collected on those accounts.

Second, it was clarified that the E911 surcharge would be charged for lines or stations that have full access to VOIP such that VOIP calls can be made and received. Third, commencing on December 30, 2017 each collection agent will be required to fully set up the procedure for implementation of the E911 surcharge on VOIP calls. The company administrative costs must be approved by the Commission. By January 1, 2018, each company will bill the E911 surcharge to customers for VOIP calls if it is not already

doing so. Each VOIP provider will remit the amounts collected from the VOIP E911 surcharge to the Department of Administration no later than 45 days after the end of the month in which the amount is collected. Counsel presented a proposed Order for the Commissioners' consideration. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the surcharge implementation protocol for VOIP calls, and adopted the Order made *Attachment "B"* hereto.

The Chairman indicated that the next item of business was GTA Docket 17-04, GTA Complaint to Terminate Dark Fiber Service, ALJ Report, and Proposed Order. The ALJ indicated that previously, the PUC ordered that Dark Fiber Services provided by GTA to PDS would be billed until the expiration of the current Interconnection Agreement in August of 2017. In a prior docket, the ALJ had indicated that the present ICA would terminate on August 28, 2017. GTA now states, based upon the prior Orders, that it is entitled to terminate Dark Fiber service on August 28, 2017. However, PDS contends that, since the Parties are currently renegotiating the ICA, a provision therein requires that Dark Fiber service continue to be provided until a subsequent ICA becomes effective. According to PDS, there is a requirement that Dark Fiber service continue during the renegotiation period.

In reviewing this matter, the ALJ sought to determine the intent of the PUC. In its prior Order, the PUC indicated that the ICA would terminate in August 2017 and that the pricing for Dark Fiber would also terminate at that time. Since the Commission used specific dates, it is likely that it intended to terminate Dark Fiber service as of August 2017. The actual term of the current ICA terminates on August 28, 2017. There had been no renegotiation request when the Commission held that the ICA would terminate in August of 2017. That is when the PUC intended that Dark Fiber service should end. At the July 28, 2016 hearing, the Commissioners added a provision to the Order that the duty to provide Dark Fiber would not bind ICA 4, the next ICA, or negotiations for ICA 4. The obligation to continue Dark Fiber would not extend during the negotiation period. Even since the July 2016 Order, PDS has had over a year to make arrangements. Overall it has had a period of longer than 18 months to address this situation. With regard to the regulatory fees charged in the docket, Counsel recommended that payment be shared equally by the Parties.

John Day, President of Pacific Data Systems, respectfully disagreed with the conclusions and recommendations made by the ALJ. PDS believes that Dark Fiber services must continue during the renegotiation of the ICA. It is not appropriate that some parts of the ICA dealing with Dark Fiber would be terminated while the rest of the ICA should be extended. Section 2 of the ICA makes no such exception. The extension in the agreement should apply to the entire agreement. The issue of termination of Dark Fiber service under the current ICA Section 2 was not argued by the Parties during the Dark Fiber docket. For those reasons PDS requests that the PUC reject the recommendations contained in the ALJ Report and Proposed Order. Section 2 of the ICA should be

applied to Dark Fiber service without the ability of GTA to prematurely terminate such service.

Mr. Day also argued that the ALJ failed to file his recommendation in this case in accordance with Rule 4.h.9 of the Dispute Resolution Rules. The hearing was completed on June 16, so the ALJ reports should have been filed on July 1. It was not received by the Parties until July 26. There was a 25 day delay. This delay gives PDS barely 30 days to implement the changes to its network to replace the GTA Dark Fiber. This Order would allow termination of Dark Fiber services on August 28. These services are PDS backbone links that connect various service locations, a total of 16, around the island. Voice data and internet are carried over these links. The loss of these essential services will have a negative impact on PDS customers. PDS is making alternative arrangements, but is not certain if alternative services can be installed prior to the proposed termination date. PDS is requesting a 90 day transition period.

Dan Tydingco, Executive Vice President of GTA, indicated that there had been considerable previous discussion with regard to PDS moving off from Dark Fiber service. Commissioner McDonald had indicated to Mr. Day that PDS needed to start moving off those services. The PUC had indicated that GTA was contractually obligated for the three year term, through August 2017, to provide Dark Fiber services to PDS. GTA had to bring this docket to terminate such services in accordance with Commissioner McDonald's ordering provision in July 2016.

Serge Quenga, Counsel for GTA, indicated that there was no need to amend Section 2 of the ICA. The PUC has the authority to interpret sections of the ICA when there is a dispute. GTA concurs with the interpretation of the ALJ. As to the impact on PDS customers, PDS has had years to anticipate the termination of Dark Fiber. GTA will expeditiously provision the services that will replace Dark Fiber when and if it gets orders from PDS. It will ensure as much as possible that there is no interruption of PDS customers.

The ALJ indicated that Section 2 does state that, if there was a request for renegotiation, the agreement will remain in effect. However, here, before there was any request for renegotiation, the Commission already held that Dark Fiber would terminate in August of 2017. There was already a specific Order from the PUC that Dark Fiber would terminate in August 2017. Section 2 is not inconsistent. As to docket irregularities and timing of the Order, the ALJ was led to believe that Mr. Day was off island for the month of July or most of it in any event. He was not aware of pressing time pressure. This matter is being considered at the first available Commissioners' meeting. The alleged irregularities are not material and there is no prejudice to the rights of the Parties.

Commissioner Niven asked the ALJ if a general rule was that the agreement stays in effect during the re-negotiation, that there was a specific exception for the provision of Dark Fiber, and whether that was the only exception. The ALJ indicated it was the only

exception. It was based upon the PUC prior arbitration award that the term ends on August 28, 2017. The ALJ also indicated that renegotiation does not commence a new term. The word "term" is defined as a three year term, which indicates the Commission meant that Dark Fiber service terminated at the expiration of the term, August 2017. The term is not extended by re-negotiation.

Commissioner Montinola indicated that the GTA Attorney had requested that Dark Fiber service be terminated at the end of the current agreement, and that it have nothing to do with the next agreement. Chairman Johnson asked Mr. Day if PDS needed more time. Mr. Day indicated that preparations had been made, and that this was not a total surprise. With the earlier ICAs services continued beyond the expiration date, PDS had the same expectation with regard to Dark Fiber. PDS lost that 26 day period during which the ALJ report had not been issued. A 60 to 90 day transition would be adequate. The Chairman asked Mr. Day whether GTA had indicated that there are other remedies to assure that PDS could continue providing services even without Dark Fiber. Mr. Day had ordered replacement circuits from GTA yesterday. There are hundreds of services involved here. It will be difficult to transition that many circuits in such a short period of time. 90 days would be a "safe transition period."

Mr. Tydingco indicated that PDS had already been given 18 months. But PDS did not do enough to build its own network or negotiate with someone else. Docomo or other carriers could have provided those LIT services so that its customers were not disrupted. PDS can order circuits now from GTA or from another competitor, i.e. for LIT services, not Dark Fiber. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the termination of Dark Fiber services to PDS by GTA effective August 28, 2017, and adopted the Order made *Attachment "C"* hereto.

3. Guam Power Authority

The Chairman indicated that the next item of business was GPA Docket 17-19, LEAC, PUC Counsel Report, and Proposed Order. Counsel indicated that GPA originally sought an increase in the LEAC factor from .1050151 per kwh to .117755 per kwh, for meters read on or after August 1, 2017. GPA indicated that oil prices are continuing to rise, in a general range of \$50 to \$55 per barrel. The Commission requests that GPA update the fuel prices for the period 10 days before the PUC meeting and five days before that. A chart in the Counsel Report indicates this. There is pricing for July 10 to 14, 2017. GPA has agreed that for two LEAC periods it will forgo recovery of 100% of the fuel under recovery and accept recovery of 50% of the under recovery. A Full Recovery would cost over 13 cents per kw hour to recover \$15.65M. For one half recovery, \$7.8M, GPA agrees to set the LEAC at \$0.117718. This is slightly less than the amount requested in GPA's original filing. This factor would represent a 6.3% increase in the total bill for the average residential customer using a thousand kilowatts a month. The price increase for the average ratepayer per month would be \$12.67. GPA is attempting to mitigate the impact of LEAC by only requesting recovery of one half of

the under-recovery for the upcoming LEAC period. The appropriate power factors are indicated in the Proposed Order. There is no change in the working capital surcharge for this period.

The Chairman asked GPA GM Benavente what the under-recovery was for the last period. Mr. Benavente indicated that it was approximately \$10M. This time one half of the under-recovery is \$7.8, so hopefully it will slow down and stabilize. The Chairman indicated the situation had to be monitored so the LEAC does not get too "far out of whack." Commissioner Niven asked GM Benavente whether deferral of the full under-recovery had caused any cash flow or other financial concerns. Mr. Benavente indicated that it had not. Commissioner Niven then asked whether, during the last month, oil prices had been fairly stable. Mr. Benavente indicated that it had turned down, but was now creeping up this past week. Commissioner Niven asked whether the five day period that PUC is using is fairly representative. Mr. Benavente indicated that it was. Commissioner Montinola asked where GPA was with fuel hedging. CFO John Kim indicated that GPA has had a hedging program for the past two years. At this time the model says, on fuel prices, hedging is not recommended. Mr. Kim indicated that there were no existing hedges at present, because the price has been stable. Prices are inputted daily into the model.

Commissioner Perez asked whether the 50% previous under-recovery is inclusive with the under-recovery to be recovered here. GM Benavente indicated that it was. The present LEAC factor is based on the total under-recovery. Commissioner Montinola, for the record, indicated that for full recovery GPA would have been requesting a 12% increase, but it was now only asking for a 6.3% increase. GM Benavente concurred. The LEAC factor would have gone from 11.7 cents up to 13 cents. Upon motion duly made, seconded and unanimously carried, the Commissioners approved an increase in the LEAC Factor from .1050155 per kilowatt hour to \$0.117718, and adopted the Order made *Attachment "D"* hereto.

The Chairman indicated that the next item of business was GPA Docket 17-05, Application to Award Contract for Environmental Engineering and Technical Services to Leidos, PUC Counsel Report, and Proposed Order. Counsel indicated that in October 2016, PUC had authorized GPA to issue a procurement for Environmental Engineering and Technical Services. GPA issued a bid, and Leidos was the bidder determined to be most qualified. Counsel recommends that GPA does need the services of Leidos for certain tasks related to the IPP and Piti Plant 7, 8 and 9 (Piti 8 and 9 are also referred to as MEC 8 and 9). These are the TEMES plants and the other two MEC plants. These plants are being transitioned back to GPA ownership. The TEMES plant will revert back to the ownership of GPA at the end of this year. MEC 8 and 9 will revert back to GPA ownership, and the IPP agreements terminate, in 2019. GPA needs to plan how these plants will be operated. GPA likely will need to issue RFPs for operation and maintenance services. Someone like Leidos will have to do a plant condition assessment, environmental assessments, etc.

In October 2016 PUC had authorized a contract amount for these services not to exceed \$1.5M for the 5-year base period, 2017 through 2021. GPA already indicates that the first tasks under this contract will cost \$601,900, and that GPA will spend \$1M in 2017 and 2018 alone. It's already clear -- there will only be \$500,000 left for 2019 and 2020. The PUC can expect that, in the future, GPA will bring additional petitions to increase the amounts due to Leidos. Counsel wonders what steps could be taken to cut costs under the contract. One item included in the tasks listed for Leidos is "a waste-to-energy feasibility study." Under Guam law waste-to-energy feasibility are presently illegal. Should this service be included in the work orders for Leidos? If GPA's goal is to save costs, it can do so in reducing the cost of these multi-million dollar contracts. Other tasks are not well defined and will "be discussed in 2018." Counsel does not recommend that, at this point, there be any increase in the cost of this contract.

Another work order with Leidos will involve transitioning the MEC 8 and 9 plants to ultra-low sulfur diesel. This will be an extremely expensive undertaking. GPA could still make efforts to negotiate transitioning to ultra-low sulfur diesel with USEPA. The Proposed Order would approve the contract with Leidos at \$1.5M cost. GPA would be required to further report on those services that it expects Leidos to provide with a full explanation of the status of its plan to transition MEC 8 and 9 to ultra-low sulfur diesel, and an explanation of what efforts, if any, GPA has taken to persuade the USEPA to allow GPA to continue to run those plants for the remaining life of the units with RFO. GPA should further explain the current legality of waste energy units and why it believes that such an assessment should be a priority for tasks assigned to Leidos.

Commissioner Montinola questioned two different contract figures given for \$601,000 and \$543,000. Counsel explained that the \$543,000 was basically for the work tasks, and the difference was made up on travel, housing, car expense etc. but the total is \$601,000. The cost is high, but Leidos has a team of perhaps 9 experts to handle these matters. GPA could do more to reduce the cost. Commissioner Montinola asked about the pricing. GPA Counsel Graham Botha indicated that Leidos would be evaluating the condition of the plant. Leidos would also provide support in developing contract specifications for whether the plants would be operated by an IPP or a PMC. An independent assessment must be done. Unless Leidos does the work, it will be difficult for anyone else other than the current operators to know what should be bid or how high a bid the bidders need for the necessary services.

Commissioner Perez indicated that she had thought GPA was attempting to train our own personnel in these matters. But here, critical information concerning a plant that is going to be returned to us is not known in-house. She is surprised because she thought there would be GPA personnel that would know the operations and understand the core. GM Benavente indicated that Cabras 1 and 2 are under a PMC, but TEMES 7 and MEC 8 and 9 are under the control of Independent Power Producers. The personnel are their employees. Commissioner Perez asked whether GPA employees are ever placed there. GM Benavente indicated that they were not. The IPPs hire their own employees

and GPA has made the decision not to put TEMES 7 under a PMC at this point. At the end of December, GPA will take over TEMES 7. The MEC 8 and 9 employees are still MEC employees. GPA has no employees at TEMES 7 and MEC 8 and 9.

GM Benavente indicated that he supported the ALJ recommendation at present not to increase the \$1.5M for the contract. He indicated that the WTE analysis would likely be done in-house. In response to Commissioner Perez's question about the use of GPA employees, GPA Attorney Botha indicated that the new generation will be the IPP model as well. With IPPs, GPA cannot interfere with plant operations. Upon motion duly made, seconded and unanimously carried, the Commissioners approved GPA's Environmental Contract with Leidos, and adopted the Order made *Attachment "E"* hereto.

4. Guam Waterworks Authority

The Chairman announced that the next item on the agenda was GWA Docket 17-07, Petition for Approval of Contract with Duenas, Camacho & Associates for surveying of GovGuam Properties, ALJ Report, and Proposed Order. ALJ Alcantara indicated that this matter concerned GWA's petition to approve its contract with Duenas, Camacho & Associates, or DCA, for the performance of its Phase 2 Land Registration Survey Project. In 1997, the Government of Guam and PUAG conveyed over 200 pieces of real property to GWA. The grant contained the requirement that GWA complete and pay for survey maps for these properties. If survey maps are not completed, the properties revert back to the Government of Guam. On March 9, 2017 GWA issued an RFP that sought qualified professional land surveyor services to provide land surveys, mapping, and associated services. On April 24, 2017, GWA evaluated four proposals and selected the DCA firm. The contract was negotiated for a total cost of \$1,048,657.77. There was a need for GWA's properties to be surveyed so that the remainders can revert back to the Government of Guam.

GWA submits that the contract fees were fairly and openly procured. GWA requested that an additional 10% contingency be added to the contract for a total cost of \$1,153,523.54. The contract work load primarily consists of survey and mapping, preparing a broker's price opinion, registration of properties at land management for unregistered properties, and conduct of a field survey to establish property boundaries and legal boundary survey. Upon approval of the maps by Land Management, DCA will proceed with the monumentation of the property corners and recording of the maps. The ALJ felt that the surveys must be done as they are conditions of the conveyance of over 200 pieces of real property to GWA. The terms of the survey work and the costs associated are fair, reasonable and necessary. These tasks involve 93 pieces of property. The ALJ recommends that PUC ratify the procurement at a cost of \$1,048,657.77. The 10% contingency is not needed as the contract is already subject to the 20% contingency under GWA's contract review protocol.

Commissioner Pangelinan established that the contingency would then be larger than what GWA has requested. ALJ Alcantara indicated that we do not wish to add the 10% contingency. Commissioner Pangelinan asked about the fact that 200 properties had been returned to GWA, but only 93 are being surveyed. GWA GM Bordallo indicated that GWA initially did 100 or so properties. The 93 are the ones left. Of those 93, some are fairly easy retracement mapping. Some are subdivision lots. There are few firms large enough to handle this type of work in doing the survey. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the DCA Contract with GWA, and adopted the Order made *Attachment "F"* hereto.

The Chairman indicated that the next item of business was GWA Docket 17-08, Petition for Approval of Contract with JMI Edison for Submersible Pumps and Motors, ALJ Report, and Proposed Order. Commissioner Pangelinan recused himself as his firm provides services to JMI Edison. The ALJ indicated that the matter concerns GWA's request for a PUC approval of its contract with JMI Edison for the purchase of submersible pumps and motors. In January 2015 GWA issued an IFB soliciting the purchase of submersible pumps and motors for GWA's drinking wells. A three year contract was awarded to JMI Edison. The contract contains two year-long options to renew. GWA is entering into the third year of the contract in 2018. In particular, GWA ordered Grand Pumps and Franklin Electric Motors. These pumps and motors are utilized at 110 of GWA's water wells. The remaining 10 will also be converted to these brands. GWA believes that these products improve service and operational efficiency and therefore result in a savings of time and money for the agency. Pursuant to the bid JMI provides submersible motors ranging from \$2,000 to \$6,000 and to \$19,000.00 depending on the strength and horse power of the motor. The cost of submersible pumps ranges from \$1,000.00 to \$9,000.00 depending on the size and number of stages contained in the pump. In its petition GWA seeks approval of its contract with JMI Edison under which it has already issued purchase orders to JMI in the amount of \$736,164.47. Additional pumps and motors are required at a cost of \$226,854.15, for a total cost of \$968,318.62.

Additional purchase orders will also be needed, so that the contract will exceed \$1M (which requires PUC review). GWA will require an estimated additional \$337,000.00 for the remainder of 2017 and about \$600,000.00 for 2018. The ALJ recommends that PUC ratify the underlying procurement, and approve the contract between GWA and JMI Edison for the purchase of submersible pumps and motors for an estimated cost of \$1.3M. The ALJ recommends that GWA appear before the PUC at a later time, closer to 2018, to present the PUC with its estimated purchases.

Commissioner Perez asked whether this was a new contract. The Chairman indicated that it was an extension of an existing contract. Commissioner Montinola asked whether the contract was for an open price or a definite quantity purchase order. GM Bordallo indicated that the prices were fixed for all models listed when the initial procurement was done. These prices are good for the initial three year term. The prices

are good for whatever quantity GWA needs. Commissioner Montinola asked whether there was a cap on how many GWA can purchase. GM Bordallo indicated that JMI will provide what GWA anticipates it will need for the remainder of 2017 and 2018. The estimate is around \$600,000 for 2018. Upon motion duly made, seconded and unanimously carried, the Commissioners approved JMI's contract with GWA for submersible pumps and motors, and adopted the Order made *Attachment "G"* hereto.

The Chairman announced that the next item on the agenda was GWA Docket 17-09, Petition for Approval of Contract Extension with Island Equipment Company for Liquid Chlorine, ALJ Report, and Proposed Order. ALJ Alcantara indicated that the matter concerns GWA's petition for approval so that it can extend the life of an existing contract it has with Marianas Gas Corporation doing business as Island Equipment Company. In 2014 the PUC approved a procurement related to the purchase of liquid chlorine and GWA issued an invitation for bid. An award was made to Island Equipment, and on July 28, 2014, GWA entered into a multi-year contract with Island Equipment. GWA's amended petition now requests ratification of purchases made under its existing contract with Island Equipment as well as authorization for GWA to exercise two year-long options for renewal. The contract expires on July 28, 2017; if the two year-long options are exercised, GWA may extend the contract through July 28, 2019. The contract renewal agreement will increase the price to \$586.86 per 150-pound cylinder, and \$6,097.78 per 1-ton cylinder (an increase of about 5%). GWA seeks approval of \$2.4M in purchases under the existing contract. With regard to the two-year extension, GWA submits that it would purchase an additional \$1.8M.

While CCU and PUC approved the procurement of the liquid chlorine, neither body formerly approved the resulting contract. GWA is reminded under the contract review protocol that it must return to the PUC for approval of multi-year contracts that exceed \$1M dollars over the life of such contracts, which include any options for renewal. GWA brought this contract for review before the Commission in the month when the contract is set to expire. GWA should be more mindful of termination deadlines and request approval of contracts or extensions well in advance to allow the Commission adequate time for meaningful review. The liquid chlorine is essential and indispensable to GWA's daily operations and purifying Guam's water. The PUC should ratify the existing contract with Island Equipment, and authorize GWA to proceed with the two-year extension of the contract.

The Chairman asked if GWA would run out of the chlorine. GM Bordallo indicated that it would not. Commissioner Montinola asked about the \$5M worth of chlorine. GM Bordallo indicated that GWA was taking steps to revise its procurement process so this does not happen again. GWA promises to comply with the process going forward. Commissioner Cantoria asked questions concerning the pricing of the chlorine. GM Bordallo indicated that during the first three years of the contract, GWA spent \$2.4M. GWA Counsel Kelly Clark indicated that \$2.4M was the ratification amount sought, which had been already spent. Commissioner Pangelinan indicated that GWA did not

get approval for three years and now sought approval after the fact. The PUC approved the procurement. But GWA did not get the contract approved. Commissioner Cantoria asked whether this was the first time GWA had done this. The Chairman indicated it was not, it has happened in the past. The ALJ indicated that when it was clear to GWA that the purchase of chlorine would exceed \$1M, it came to the PUC for approval of the procurement.

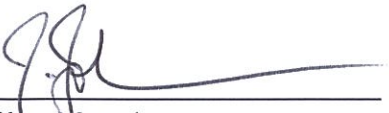
Commissioner Perez asked whether the price would be \$900,000 per year for the two-year extension. GWA Counsel Clark indicated that it possibly would be. GM Bordallo indicated that an additional supply of chlorine was needed for the Tumon well which GWA has taken over, the Tumon Maui well. Commissioner Perez asked whether GWA owns the Tumon Maui well. GM Bordallo indicated that GWA was operating the well under license from the Navy. It has been operating the well for over one year and the Navy extended the GWA license. Upon motion duly made, seconded and unanimously carried, the Commissioners ratified the existing contract between GWA and Island Equipment, and authorized GWA to proceed with the two-year extension of the contract, and adopted the Order made *Attachment "H"* hereto. In response to questions, GM Bordallo indicated that GWA's water loss was still around the 50 percentile range. 100 new fire hydrants have been installed. There are still 200 more in inventory. The submersible pumps should have 5 to 10 years of life.

5. Administrative Matters

PUC Counsel indicated that primary credit for preparing the 2016 PUC Citizen Centric Report goes to Administrator Lou Palomo, with some collaborative work from Counsel. Ms. Palomo has filed the report for the Public Auditor, which is required yearly. A highlight is that the report indicates that there was nearly a 30% reduction in PUC professional fees between 2015 and 2016, from \$988,000+ down to \$700,000. The Chairman complemented PUC Administrator Palomo and Counsel Horecky.

Counsel also indicated that testimony of the Chairman had been submitted to the Legislature concerning proposed legislation authorizing GPA's request for bond refunding. It is provided to the Commissioners for information purposes. CCU Commissioner Simon Sanchez' testimony in support of the refunding is also provided to the Commissioners. Counsel proposed a workshop between PUC and GWA/GPA concerning the refunding. Certain Commissioners commented favorably upon the proposal. Also presented is the Barclay's presentation concerning GPA Bond refunding.

There being no further administrative matters or business, the Commissioners moved to adjourn the meeting.



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., July 27, 2017**

Agenda

- 1. Approval of Minutes of April 13 and May 25, 2017**
- 2. TeleGuam Holdings LLC**
 - **GTA Docket 17-03 (Establishment of E911 Surcharge for Voice Over Internet Protocol Calls), ALJ Report, and Proposed Order**
 - **GTA Docket 15-06, GTA Complaint to Terminate Dark Fiber Service, ALJ Report, and Proposed Order**
- 3. Guam Power Authority**
 - **GPA Docket 17-19, Levelized Energy Adjustment Clause Filing dated June 8, 2017, PUC Counsel Report, and Proposed Order**
 - **GPA Docket 17-05, GPA Application to Award Contract for Environmental Engineering and Technical Services to Leidos. PUC Counsel Report, and Proposed Order**
- 4. Guam Waterworks Authority**
 - **GWA Docket 17-07, Petition for Approval of Contract with Duenas Camacho & Associates for Surveying of GovGuam Properties, ALJ Report, and Proposed Order**
 - **GWA Docket 17-08, Petition for Approval of Contract with JMI-Edison for Submersible Pumps & Motors, ALJ Report, and Proposed Order**
 - **GWA Docket 17-09, Petition for Approval of Contract Extension with Island Equipment Company for Liquid Chlorine, ALJ Report, and Proposed Order**
- 5. Administrative Matters**
 - **FY 2016 PUC Citizen Centric Report**
 - **Testimony of Chairman Jeff Johnson on Bill No. 139-34**
- 6. Other Business**



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:

GTA Docket 17-03

E-911 SURCHARGE

ORDER

**[Creation of Docket to Establish E911
Surcharge for Voice Over Internet
Protocol Calls]**

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon its Order establishing a Docket for the creation of an E-911 Surcharge for Voice Over Internet [VOIP] Protocol Calls.¹

BACKGROUND

2. Public Law No. 32-096, enacted on November 27, 2013, amended the existing law regarding the Collection of the 911 Surcharge to include Voice Over Internet Protocol (VOIP) Providers.²
3. In its May 26, 2016, Order, the PUC authorized the creation of a new docket to address the implementation of the E-911 Surcharge on VOIP telephone services.³
4. The Administrative Law Judge [ALJ] was authorized to conduct appropriate proceedings, and to then recommend a procedure for implementation of the E-911 Surcharge on VOIP calls.⁴
5. On June 12, 2017, the ALJ notified the Collection Agents and the PUC Consultant Slater Nakamura that a meeting to establish the implementation of the E-911 Surcharge on VOIP calls would be held on July 6, 2017, at the PUC Office.⁵

¹ PUC Order, GTA Docket 16-01 [Creation of a Docket to Establish E911 Surcharge for Voice Over Internet Protocol Calls] , dated May 26, 2016.

² Public Law No. 32-096, enacted on November 27, 2013.

³ PUC Order, GTA Docket 16-01 [Creation of a Docket to Establish E911 Surcharge for Voice Over Internet Protocol Calls] , dated May 26, 2016, at p. 2.

⁴ Id.

⁵ Email from ALJ Fred Horecky to Five Collection Agents, Telecom Parties, and PUC Consultant Slater Nakamura.

6. The ALJ and the Parties collectively developed an implementation protocol for the creation of an E-911 Surcharge for Voice Over Internet [VOIP] Protocol Calls.

DETERMINATIONS

7. The ALJ filed his Report herein on July 10, 2017. The PUC adopts the protocol recommended by the ALJ and the Telecom Parties.
8. The recommended protocol is a reasonable and appropriate procedure for implementation of an E-911 Surcharge for Voice Over Internet [VOIP] Protocol Calls.

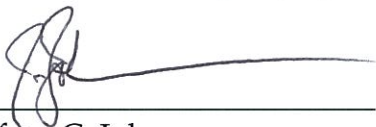
ORDERING PROVISIONS

Upon consideration of the record herein, the prior Order of the PUC and the ALJ Report, and for good cause shown, on motion duly made, seconded, and carried by the affirmative vote of the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY ORDERS** that:

1. The following protocol is hereby adopted; each ILEC, CLEC, and CMRS Carrier shall comply with all provisions of the protocol:
 - a. On or before October 31, 2017, each Collection Agent shall file a report with the PUC and Slater Nakamura which includes the following: whether such ILEC or CLEC inclusive of CMRS Carriers is presently reporting and collecting E911 surcharges on VOIP lines, and if so, when such company started collecting such surcharges; how many VOIP accounts it has and how much it has collected on VOIP accounts.
 - b. The E911 Surcharge shall be charged for lines/stations that have full access to VOIP, such that VOIP calls can be made and received.
 - c. On or before December 30, 2017, each Collection Agent for ILEC/CLEC/CMRS shall have fully set up the procedure for implementation of the E911 Surcharge on VOIP calls. Each Collection Agent shall also submit an application to the PUC by that date for approval of any administrative expense sought to be claimed for implementation of the E911 Surcharge on VOIP Calls.

- d. Commencing on January 1, 2018, each ILEC/CLEC/CMRS shall commence billing the E911 Surcharge to customers for VOIP Calls.
1. Each VOIP provider shall remit the amounts collected from the VOIP E911 Surcharge to the Department of Administration no later than forty-five (45) days after the end of the month in which the amount is collected.
 2. All requirements in law or established by the PUC relative to the E911 Surcharge in general shall also be applicable to the VOIP E911 Surcharge.
 3. PUC Consultant Slater Nakamura will amend the Collection Agent Reporting worksheet to include VOIP under the landline spreadsheet as a separate Row.
2. The PUC regulatory fees and expenses for this matter shall be paid from E-911 Surcharge Collection Funds.

Dated this 27th day of July, 2017.



Jeffrey C. Johnson
Chairman



Joseph M. McDonald
Commissioner



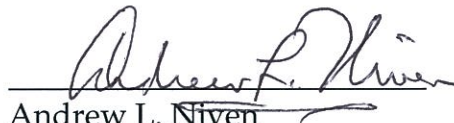
Rowena E. Perez
Commissioner



Peter Montinola
Commissioner



Michael A. Pangelinan
Commissioner



Andrew L. Niven
Commissioner



Filomena M. Cantoria
Commissioner



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:

)
) GTA Docket 17-04
)

Formal Complaint of TeleGuam
Holdings, LLC, Regarding Termination
of PDS Dark Fiber

) ORDER
)
)
)

INTRODUCTION

This dispute between the parties, TeleGuam Holdings LLC ["GTA"] and Pacific Data Systems Inc. ["PDS"] concerns the provision of certain services by GTA to PDS referred to as "Dark Fiber transport" or Dark Fiber IOF [inter office facility]. In this proceeding, GTA seeks an Order from the Guam Public Utilities Commission ["PUC"] denying PDS' claim that Dark Fiber service must continue until a new Interconnection Agreement becomes effective and a finding that GTA is within its rights under the PUC Order in the Dark Fiber Docket (GTA Docket 15-06) to terminate Dark Fiber services to PDS on August 28, 2017.¹ PDS opposes termination of Dark Fiber services and contends that such service must continue while the parties are negotiating a new Interconnection Agreement pursuant to Section 2 of the current ICA.²

BACKGROUND

In January of 2015, GTA made certain changes to its network which consolidated GTA end offices and wire centers into one central office/wire center in Hagatna, Guam. This network change had the effect of eliminating transport between GTA offices/wire centers, known as inter-office facilities.³ A provision of the current ICA between the parties, Network Elements ATT. §8.1, provides that "GTA shall not be required to provide, and PDS shall not request or obtain, Dark Fiber Transport that does not connect a pair of GTA UNE Wire Centers." However, in GTA Docket 15-06, the PUC held that GTA was contractually required to provide Dark Fiber IOF Service to PDS at the rates agreed to under the ICA: "[T]he rates established in the ICA dated August 11,

¹ Formal Complaint of TeleGuam Holdings, LLC Regarding Termination of PDS Dark Fiber Transport Pursuant to GTA Docket 15-06, GTA Docket 17-04, filed June 9, 2017.

² Answer of Pacific Data Systems, Inc., GTA Docket 17-04, filed June 14, 2017.

³ Formal Complaint of TeleGuam Holdings, LLC Regarding Termination of PDS Dark Fiber Transport Pursuant to GTA Docket 15-06, GTA Docket 17-04, filed June 9, 2017, at p. 2.

Order
GTA Complaint to
Terminate Dark Fiber
GTA Docket 17-04
July 27, 2017

2014, will remain in effect until the expiration of the current ICA in August 2017 or unless otherwise changed or altered by the PUC.”⁴

On August 31, 2016, GTA advised PDS that, in accordance with the PUC Dark Fiber Order dated July 28, 2016, Dark Fiber Services would be billed until the expiration of the current Interconnection Agreement on August 28, 2017, and that Dark Fiber services would be terminated on that expiration date.⁵ On September 19, 2016, PDS’ response letter contended that GTA’s obligation to provide Dark Fiber to PDS extended beyond August 28, 2017, and continued during the period of negotiation of a new ICA until a new agreement became effective (pursuant to Section 2 of the ICA). Discussions between GTA and PDS were unable to resolve these issues. GTA subsequently filed this Complaint to resolve the dispute with PDS.

FINDINGS AND CONCLUSIONS

The ALJ issued his Report dated July 20, 2017. The PUC adopts the findings and conclusions of the ALJ.

In its February 25, 2016, Order, the PUC held that dark fiber rates would remain in effect until the expiration of the current ICA in August 2017 or unless otherwise changed or altered by the PUC. That Order was affirmed by the PUC Order of July 28, 2016. The PUC has not changed or altered that provision to date. The February 25, 2016, Order adopted certain findings and conclusions of the ALJ, including his Conclusion of Law §109. That Conclusion of Law provides that “Dark Fiber IOR, pricing, the current “Interim Rates”, should remain in effect until the present ICA terminates on or about August 11, 2017, unless otherwise changed in accordance with law. Upon the termination of the current ICA, the parties can negotiate such service/pricing arrangements as they desire concerning Dark Fiber Transport in negotiation/arbitration proceedings.”⁶ As GTA has indicated in its Complaint, the actual date of termination of the current ICA is August 28, 2017, not August 11, 2017 as had been indicated in the ALJ Recommendations.⁷

⁴ PUC Order, GTA Docket 15-06, dated February 25, 2016, at pgs. 3-4. The Order was affirmed by the PUC in its Final Arbitration Order upon Limited Rehearing, dated July 28, 2016, at p. 2.

⁵ Formal Complaint of TeleGuam Holdings, LLC Regarding Termination of PDS Dark Fiber Transport Pursuant to GTA Docket 15-06, GTA Docket 17-04, filed June 9, 2017, Attachment 3.

⁶ Recommendations of the Administrative Law Judge, GTA Docket 15-06, dated February 18, 2016, Conclusions of Law §109 at p. 17.

⁷ The Effective date of the ICA is the date it was approved by the PUC, not the date it was signed or submitted by the Parties to the PUC. Formal Complaint of TeleGuam Holdings, LLC Regarding Termination of PDS Dark Fiber Transport Pursuant to GTA Docket 15-06, GTA Docket 17-04, filed June 9, 2017, at p. 3.

Order
GTA Complaint to
Terminate Dark Fiber
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July 27, 2017

In its February 25, 2017, Order, the PUC indicated the clear intent that Dark Fiber Service to PDS would terminate on August 28, 2017. The PUC specified a date certain for termination of Dark Fiber Service. The plain language of the Order intended that the Dark Fiber Service terminate at a specific time, August 28, 2017. However, PDS' argument is that the term of the ICA has been extended by virtue of Section 2 of the current ICA, which provides:

"2. Term and Termination

The initial term of this Agreement shall be three (3) years ("Initial Term") beginning on the Effective Date and shall apply to the territory of Guam. If, as of the expiration of this Agreement, a subsequent agreement has not been executed by the Parties, this Agreement shall automatically renew for successive one-year periods, unless, not less than one hundred twenty (120) days prior to the end of the Initial Term or any renewal term, either Party notifies the other Party of its Agreement shall remain in effect until such time that a subsequent agreement becomes effective..."

On April 28, 2017, GTA issued a request to negotiate the Interconnection Agreement pursuant to Section 2 of the GTA-PDS Interconnection Agreement approved by the PUC on August 28, 2014.⁸ In accordance with Section 2 of the ICA, the parties are now in a renegotiation period and the ICA remains in effect until a subsequent agreement becomes effective. However, when the PUC indicated that Dark Fiber Service would terminate on August 28, 2017, no automatic renewal of the agreement had occurred, and neither party had yet notified the other of intent to renegotiate a new agreement. The PUC made its determination pursuant to the first sentence of Section 2 of the ICA, which indicated that the term of the ICA was three years and would terminate on August 28, 2017. By specifying a date for termination of Dark Fiber Service, August 2017, the PUC intended Dark Fiber Service to terminate at that time.

Even though PUC indicated a specific date for termination of Dark Fiber Services, PDS contends that renegotiation of the ICA by GTA extends the period during which GTA must continue to provide Dark Fiber to PDS. The fact that other ICA services in the Agreement will continue, because the Agreement is in effect until a subsequent agreement becomes effective, does not mean that Dark Fiber will continue in effect. The PUC Dark Fiber recognized that the network changes by GTA in January 2014 effectively eliminated DFIOF and that GTA was no longer required to provide such

⁸ Formal Complaint of TeleGuam Holdings, LLC Regarding Termination of PDS Dark Fiber Transport Pursuant to GTA Docket 15-06, GTA Docket 17-04, filed June 9, 2017, Attachment 5.

service pursuant to §8.1 of the ICA; the holding was that GTA had a contractual obligation to continue the service until the end of the contract.⁹

The PUC Order makes clear that Dark Fiber Services will not continue beyond the expiration of the ICA. The rates in the ICA for Dark Fiber were only to remain in effect until the expiration of the current ICA in August 2017.¹⁰ There is no apparent purpose for extending the expiration of the ICA for a service that will not be continued under the next ICA. During the renegotiation period for the next ICA, GTA has no obligation to negotiate for Dark Fiber Service. It also has no obligation to provide Dark Fiber Service to PDS in the next ICA.

PDS contends that the Final Arbitration Order dated July 28, 2016, required GTA to provide Dark Fiber to PDS “for the remainder of the term”, which also includes the renegotiation period for the subsequent ICA. However, when the PUC made this determination, the term ended on August 28, 2017. Subsequent exercise by a part of renegotiation does not extend the period during which Dark Fiber is required to be in effect. Regardless of a renegotiation of the ICA, the term still remains as three years. PDS did not have the right to rely upon the continuation of Dark Fiber Services beyond August 28, 2017.

If there were any doubt about the foregoing interpretation of the PUC intent, reference is made to amendment made by the PUC to the proposed Final Arbitration Order at the PUC Meeting on July 28, 2016. Commissioner McDonald requested the inclusion of a new provision in the proposed Order to the effect that it does not bind ICA 4 or the **negotiations for ICA 4**.¹¹ Ordering Provision 4 of the Final Arbitration Order provided as follows: “This Order shall not be binding upon the parties in their negotiations concerning the Fourth ICA. Each Party shall be free to take the position of its choice without regard to the determinations in this Order.”¹² The meaning of the Order is that GTA would not have the same contractual obligation to continue to provide Dark Fiber to PDS during the negotiations for the Fourth ICA. Since GTA had no further obligation to provide Dark Fiber during the negotiation period, the right of PDS’ to such service terminates on August 28, 2017.

⁹ PUC Order, GTA Docket 15-06, dated February 25, 2016, Ordering Provision par. 7 at p. 3.

¹⁰ Id. at p. 4.

¹¹ Depo Resources, Transcript for the PUC Meeting on July 28, 2016, at pgs. 44-45 and 48.

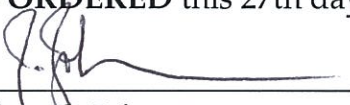
¹² PUC Final Arbitration Order, GTA Docket 15-06, dated July 28, 2016, at Ordering Provision No. 4, pg. 3.

ORDERING PROVISIONS

Having considered the record of the proceedings herein, the filings of GTA and PDS, and the ALJ Report, good cause appearing, the Guam Public Utilities Commission hereby **ORDERS** as follows:

1. The relief requested in GTA's Formal Complaint is granted.
2. GTA is entitled to terminate Dark Fiber Services to PDS on August 28, 2017.
3. PUC regulatory fees and expenses in this Docket shall be apportioned equally between the parties. Neither party's position was taken in bad faith or without at least an arguable position.


SO ORDERED this 27th day of July, 2017.




Jeffrey C. Johnson
Chairman



Rowena E. Perez
Commissioner



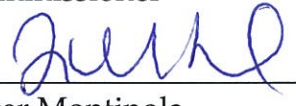
Michael A. Pangelinan
Commissioner



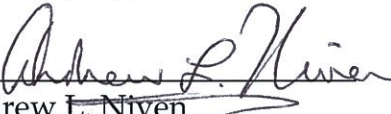
Filomena M. Cantoria
Commissioner



Joseph M. McDonald
Commissioner



Peter Montinola
Commissioner



Andrew L. Niven
Commissioner

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:) GPA Docket 17-19
)
The Guam Power Authority Levelized)
Energy Adjustment Clause (LEAC)) **PUC ORDER**
)
)
)
_____)

On May 23, 2017, the Guam Consolidated Commission on Utilities, in Resolution No. 2017-16, authorized GPA Management to Petition the PUC for an increase in the LEAC factor from \$0.105051/kWh to \$0.117755/kWh effective for meters read on or after August 1, 2017.¹ Said factor would be effective for a six month period. 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 June 8, 2017, to the PUC.²

Pursuant to CCU Resolution No. 2017-16, GPA requested that the Levelized Energy Adjustment Clause Factor ["LEAC"] be increased from \$0.105051/kWh to \$0.117755/kWh effective for meters read on or after August 1, 2017.³ This change would reflect a 12.7% increase in the LEAC factor, or a 6.4% increase in the total bill.⁴ If implemented, this change would result in a \$12.70 increase for a residential customer utilizing an average of 1,000 kilowatt hours per month.⁵

The basis indicated by GPA for the change in the LEAC factor is primarily the "continuing increase in worldwide fuel prices."⁶ The increase in fuel price is also attributable at least in part to "the recent news that OPEC and major non-OPEC producers will extend their existing output cuts for nine months to support oil prices."⁷ GPA believes that the market will remain within the \$50-55/bbl. range during the period.⁸ GPA also anticipates that the fuel price, effective August 1, 2017, will be \$56.79 per Bbl. RFO and \$70.83 for Diesel.⁹

¹ Guam Consolidated Commission on Utilities Resolution No. 2017-16, adopted May 25, 2017, at p.3.

² GPA Petition to Set the LEAC Factor effective August 1, 2017, GPA Docket 17-19, filed June 8, 2017.

³ Id. at p. 1.

⁴ Id.

⁵ Id.

⁶ Id.

⁷ Letter from GPA General Manager John Benavente, to ALJ Fred Horecky, Re: Levelized Energy Adjustment Clause Petition for the period of August 1, 2017 through January 31, 2018, dated May 31, 2017.

⁸ GPA LEAC Filing, GPA Docket 17-19, filed June 8, 2017, at p. 1.

⁹ Exhibit A to CCU Resolution No. 2017-16.

If, as GPA anticipates, the projected average fuel price ending January 31, 2018, is \$56.79/bbl, GPA would experience an under-recovery of about \$15.65M (were the LEAC factor to remain at the present rate).¹⁰ To fully recover the “under-recovery”, the LEAC factor would actually need to be increased from \$0.105051/kWh to \$0.130450/kWh for the period of August 1, 2017 to January 31, 2018.¹¹

However, for the second consecutive LEAC period, 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 subsequent LEAC periods. GPA therefore recommends that the upcoming LEAC rate be one-half of what the market is projecting. Under this approach, GPA would only be recovering \$7.8M or 50% of the estimated under-recovery of \$15.65M at the end of this period.¹²

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.¹³

DETERMINATIONS

1. Counsel requested that GPA Assistant CFO Cora Montellano recalculate the 5 day average of the MS fuel forecast. On July 14, 2017, Ms. Montellano provided an updated “Proposed LEAC Rate”¹⁴. A true and correct copy thereof is attached to the PUC Counsel Report as Exhibit “1”.¹⁵
2. To determine updated applicable fuel prices herein, GPA used the average of 5 days forward pricing from Morgan Stanley Asia Noon Call from July 10-14, 2017.¹⁶
3. The updated analysis indicates that fuel prices have decreased slightly since GPA filed its Petition on June 8, 2017. As of the filing of the Petition, the average price

¹⁰ Exhibit A to CCU Resolution No. 2017-16.

¹¹ Id.

¹² Letter from GPA General Manager John Benavente, to ALJ Fred Horecky, Re: Levelized Energy Adjustment Clause Petition for the period of August 1, 2017 through January 31, 2018, dated May 31, 2017, at p. 1.

¹³ PUC LEAC Order, GPA Docket 15-27, dated January 25, 2016, at p. 2.

¹⁴ Email from Cora Montellano, GPA Asst. CFO, to PUC Counsel Fred Horecky, dated July 14, 2017, with GPA Proposed LEAC Rate, July 10-14, 2017 Pricing, Updated Filing.

¹⁵ PUC Counsel Report, GPA Docket 17-19, dated July 17, 2017, Exhibit 1.

¹⁶ Id.

per Barrel for Residual Fuel Oil was \$56.79. However, as of the date of the updated analysis on July 14, 2017, the average price per Barrel of RFO was \$55.47.¹⁷

4. As a result of the slight decrease in fuel prices since GPA filed its original Petition, GPA is now seeking a LEAC factor of \$0.117718, rather than \$0.117755/kWh, effective for meters read on or after August 1, 2017.¹⁸
5. However, GPA is only requesting that it recover \$7.805M, one-half of the \$15.65M estimated under-recovery in the upcoming LEAC period.¹⁹
6. GPA has again, for the second straight LEAC period, 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.
7. In accordance with established PUC protocol, the increased LEAC factor resulting from the fuel prices based upon the MS Noon Call from July 10-14, 2017, should be adopted. The LEAC factor should be \$0.117718/kWh as set forth in the GPA Proposed LEAC Rate-Updated Filing.

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 July 27, 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 August 1, 2017, as shown in the following table:

LEAC	
<u>Delivery Classification</u>	<u>\$ per kWh</u>
Secondary -	\$ 0.117718
Primary – 13.8 KV	\$ 0.114153
Primary – 34.5 KV	\$ 0.113824

¹⁷ Id.

¹⁸ Email from Cora Montellano, GPA Asst. CFO, to PUC Counsel Fred Horecky, dated July 14, 2017, with GPA Proposed LEAC Rate-Updated Filing, July 10-14, 2017 Pricing.

¹⁹ Id.

Transmission – 115 KV \$ 0.112423

This change represents a 6.3% increase in the total bill for a residential customer utilizing an average of 1,000 kilowatt hours per month (an increase of \$12.67 per month).

2. GPA should file for a change in the LEAC factors to be effective February 1, 2018 on or before December 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 August 1, 2017, through January 31, 2018.
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.

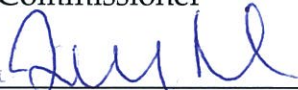
Dated this 27th day of July, 2017.



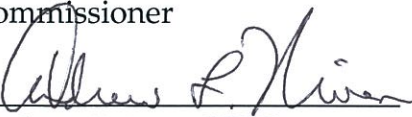
Jeffrey C. Johnson
Chairman




Joseph M. McDonald
Commissioner




Peter Montinola
Commissioner




Andrew L. Niven
Commissioner



Rowena E. Perez
Commissioner



Michael A. Pangelinan
Commissioner



Filomena M. Cantoria
Commissioner

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:) GPA Docket 17-05
)
The Application of the Guam Power)
Authority to Award a Contract for) **ORDER**
Environmental Engineering and Technical)
Services, to Leidos, Inc.)
_____)

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission [“PUC”] upon the Petition of the Guam Power Authority [“GPA”] requesting Approval for Award of a Contract for Environmental and Technical Services to Leidos Engineering LLC.¹

BACKGROUND

2. In its Order dated October 27, 2016, the PUC authorized GPA to issue a procurement for Environmental Engineering & Technical Services.²
3. The PUC authorized GPA to expend a contract amount not to exceed \$1.5M for the 5-year base period of the contract for Environment Engineering & Technical Services, to be funded through revenue funds.³
4. Subsequent to the PUC Order, GPA solicited the services of a firm or consortium of firms to provide Engineering and Technical Services supporting Resource Plans (RFP-17-002).⁴ There were seven bidders, and Leidos was determined to be the most qualified proponent.⁵
5. GPA now requests that PUC approve the award of contract for Engineering and Technical Services to Leidos Engineering LLC.

¹ GPA Petition Requesting Approval for Award of Contract for Environmental Engineering and Technical Services to Leidos, Inc., GPA Docket 17-05, filed July 12, 2017.

² PUC Order, GPA Docket 17-05, Approval of the Procurement of Environmental Engineering & Technical Services, dated October 27, 2016, at p. 4.

³ Id.

⁴ Guam Consolidated Commission on Utilities Resolution No. 2017-20, Authorizing Management of the Guam Power Authority to Award the Contract for Engineering and Technical Services to Support GPA’s Resource Plans (RFP-17-002) to Leidos, Inc., adopted on May 23, 2017.

⁵ Id., at Appendix A.

DETERMINATIONS

6. The PUC previously determined that GPA has a need to procure the Engineering and Technical Services which it now seeks to award to Leidos.⁶
7. GPA attached the proposed Contract with Leidos for Engineering and Technical Services supporting GPA's Resource Plans.⁷
8. Table 1 to GPA's proposed Contract with Leidos indicates certain tasks which GPA has negotiated or plans to negotiate with Leidos. See Attachment 1 to the PUC Counsel Report.⁸
9. GPA's Energy Conversion Agreements for Piti #7 [TEMES], Piti #8 and #9 [MEC] are expiring within the next two years, and ownership of those plants will transfer to GPA.⁹ GPA also plans to seek contractors to provide O & M services for those plants.
10. There is a need for Leidos to assist GPA in the tasks which have been identified as 17-01 and 17-02 concerning transfer of the IPP-owned Units to GPA.
11. GPA estimates that the cost of the assessment and transition to GPA for the IPP Units will be \$601,900.00 (for Leidos). The tasks include: condition assessments, Environmental Site Assessments, preparation of documents related to the procurement process for plant O & M services (including contracts with the providers), and life extension studies for the three plants. See Table 2, attached to the PUC Counsel Report as Attachment 2.
12. The transition of these plants to GPA ownership and the contracting of proficient O & M services are highly important tasks and require the type of expertise that Leidos can provide.¹⁰

⁶ PUC Order, GPA Docket 17-05, Approval of the Procurement of Environmental Engineering & Technical Services, dated October 27, 2016, at p. 3.

⁷ GPA RFP-17-002, Contract for Engineering and Technical Services Supporting GPA's Resource Plans, attached to GPA's Petition herein.

⁸ Table 1 to GPA RFP-17-002, Contract for Engineering and Technical Services supporting GPA's Resource Plans.

⁹ Guam Consolidated Commission on Utilities Resolution No. 2017-20, adopted May 23, 2017, at p. 1.

¹⁰ See Leidos Proposal for GPA-RFP-17-002, Best and Final Offer in Response to GPA Letter dated June 3, 2017, dated June 13, 2017.

13. GPA has listed three additional tasks (17-03 – 17-05), which include a transition plan to ULSD for Piti #8 and #9 and an assessment on a Waste-to-Energy Feasibility Study. It has been suggested that the Waste-to-Energy Study concept may have been dropped.¹¹ However, GPA has not provided any written change to the tasks at present. No details have been provided for these additional tasks. GPA indicates that the scope of work for those projects will be discussed and finalized in FY2018.
14. GPA indicates that it will likely need to seek increased funding levels for its Contract with Leidos for years 2019 through 2021.¹²
15. GPA should, if possible, undertake further efforts to reduce the cost of this contract.
16. GPA should advise the PUC as to what actions it has undertaken to negotiate with USEPA to allow the continued operation of Piti #8 and #9 on RFO, even after 2021. Delay or avoidance of conversion of the Piti plants to RFO could save millions of dollars for the ratepayers.
17. A Waste to Energy plant may not be lawful under the applicable Guam statutes. GPA should further justify this proposal.
18. GPA should be required to submit a report responding to the issues that Counsel has raised.

ORDERING PROVISIONS

After review of the record herein, GPA's Petition for Approval for Award of a Contract for Environmental and Technical Services to Leidos Engineering LLC , and the 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. GPA's Petition for Approval for Award of a Contract for Environmental and Technical Services to Leidos Engineering LLC is approved.
2. The total amount which GPA is authorized to award under the 5-year contract

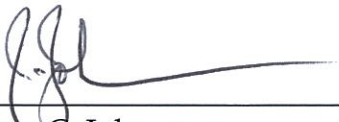
¹¹ Phone conf. between GPA Counsel Graham Botha and PUC Counsel Fred Horecky on July 24, 2017.

¹² Id.

will remain at a not to exceed level of \$1.5M (through 2021), until such time as GPA petitions the PUC for increases in the contract amount and such increases are approved.

3. On or before September 27, 2017, GPA should submit a report to PUC which includes the following:
 - (a) A current listing of the services that GPA expects Leidos to provide under the Contract;
 - (b) A full explanation of a status of GPA's plans to transition the Piti #8 and #9 to ULSD, and explanation of efforts, if any, to persuade the USEPA to allow GPA to continue to run Piti #8 and #9 on RFO for the remaining life of the units or for at least some additional period of time;
 - (c) An explanation of the current legality of Waste-to-Energy units, and why GPA believes that such an assessment should be a priority for tasks assigned to Leidos;
 - (d) An explanation of scope of services and the estimated cost for tasks 17-03, 17-04, and 17-05.
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.

Dated this 27th day of July, 2017.



Jeffrey C. Johnson
Chairman



Rowena E. Perez
Commissioner



Joseph M. McDonald
Commissioner




Peter Montinola
Commissioner


Order
Award of Contract for
Environmental Engineering
& Technical Services to Leidos
July 27, 2017



Michael A. Pangelinan
Commissioner



Filomena M. Cantoria
Commissioner



Andrew L. Niven
Commissioner



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

**IN RE: PETITION TO APPROVE THE
CONTRACT TO PERFORM
PHASE II OF THE LAND
REGISTRATION SURVEY
PROJECT WITH DUENAS
CAMACHO AND ASSOCIATES**

GWA DOCKET 17-07

ORDER

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the Petition to Approve the Contract to Perform Phase II of the Land Registration Survey Project (the “Petition”), filed by the Guam Waterworks Authority (“GWA”) on July 12, 2017.

BACKGROUND

On July 23, 1997, through a Grant Deed and an Assignment, the Government of Guam and PUAG conveyed over two hundred (200) pieces of real property to GWA. As indicated in the Grant Deed, a few conditions of the conveyance include the requirement that “real estate requirement survey map(s)” shall be completed, and that GWA shall “pay” for such “survey process.”¹ The Grant Deed further provides that for properties without “real estate requirement map(s),” such properties will revert back to the Government of Guam.²

¹ Petition to Approve the Contract to Perform Phase II of the Land Registration Survey Project (the “Petition”), Exhibit A (Grant Deed, July 23, 1997), p. 37 (July 12, 2017).

² Petition, Exhibit A, p. 38.

On March 29, 2017, GWA issued Request for Proposals RFP-03-ENG-2017 (“RFP”), which sought “experienced and qualified professional land surveyors to provide complete land surveys and associated services for GWA ISLANDWIDE REAL PROPERTY SURVEY AND MAPPING – PHASE II, GWA Project No. M17-001-BND.”³ On April 24, 2017, GWA evaluated four (4) proposals, and consequently selected the firm of Duenas, Camacho & Associates, Inc. (“DCA”) as the top offeror.

Thereafter, GWA and DCA negotiated a contract for services related to field survey work on the ninety-three (93) properties.⁴ The Consolidated Commission on Utilities (hereinafter referred to as the “CCU”) issued GWA Resolution No. 38-FY2017 (“GWA Resolution No. 38”), authorizing GWA to enter into a contract with DCA for the total amount of \$1,153,523.54, which includes a ten percent (10%) contingency.

On July 25, 2017, the Administrative Law Judge of the PUC Joepheth R. Alcantara (the “ALJ”) filed a report regarding the instant Petition, which included his findings and recommendations based on the administrative record before the PUC. The ALJ made the following findings.

DETERMINATIONS

A. Contract Review Protocol

Pursuant to 12 G.C.A. §12105,⁵ GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. In addition, GWA’s Contract Review Protocol requires that “[a]ll

³ RFP, p. 2.

⁴ Petition, p. 2.

⁵ Formerly 12 G.C.A. § 12004.

professional service procurements in excess of \$1,000,000” require “prior PUC approval under 12 G.C.A. §12004, which shall be obtained before the procurement process is begun”⁶ Further, all externally funded loan obligations and other financial obligations, such as lines of credit, bonds, etc., in excess of \$1,000,000, and any use of such funds, must be approved by the PUC.⁷

B. GWA’s Petition

In its Petition, GWA maintained that pursuant to the Grant Deed and Assignment, GWA is required to survey the lots conveyed by the Government of Guam “to provide a means to sever the property need and allow the remainder to revert back to the Grantor.”⁸ GWA submitted that “[i]f the lots are not surveyed and registered, they will revert back to the Government of Guam in their entirety.”⁹ GWA maintained that the subject contract and fees were fairly and openly procured”¹⁰

C. Request for Proposals and Proposed Contract

The subject contract seeks the service of a contractor “to survey, divide and register these properties or portions thereof as per the requirements of the grant deeds and Guam Public Law”; as well as “engage a professional land survey consultant (PLS) for survey related services including research, survey, mapping and recordation.”¹¹ As

⁶ GWA’s Contract Review Protocol (“GWA CRP”), Administrative Docket 00-04, p. 1 (Oct. 27, 2005).

⁷ *Id.*

⁸ Petition, p. 2.

⁹ Petition, p. 2.

¹⁰ Petition, p. 3.

¹¹ RFP, p. 13.

indicated in the RFP, the ultimate goal of the project “is to develop property boundary map(s) for registration at the Department of Land Management which delineate the real property required by GWA for the operation and maintenance of existing facilities and for the development of facilities required in the future.”¹² The work will primarily consist of (1) survey and mapping; (2) preparing a Broker’s Price Opinion (BPO); and (3) registration of the properties at Land Management.¹³

Pursuant to the Scope of Work indicated in the RFP, DCA will be required to conduct a field survey to establish the property boundaries required to meet GWA’s real property needs.¹⁴ In addition, DCA will be required to develop a legal boundary survey map, and to submit these completed maps to Land Management for review and approval.¹⁵

Upon approval of such maps by Land Management, DCA must then proceed with the monumentation of the property corners and the recording of the map. RFP, p. 15. Additionally, DCA will also be required to provide GWA with a “broker’s price opinion (BPO)” in order to establish an approximate value for each parcel of land acquired by GWA.¹⁶

Finally, DCA will also be required to perform field verification surveys to obtain relevant data on adjacent lots to each property; conduct additional research work at Land Management to obtain relevant information relative to each lot listed and adjacent

¹² RFP, p. 13.

¹³ RFP, p. 13.

¹⁴ RFP, p. 14.

¹⁵ RFP, p. 14.

¹⁶ RFP, p. 15.

lots including title reports or abstract of title reports which may be necessary for the land registration process; prepare a land registration map, and record the approved maps with Land Management.¹⁷

D. Cost and Funding

GWA submitted that the entire cost of the contract is \$1,048,657.77.¹⁸ GWA, however, requests an additional ten percent (10%) contingency for a total of \$1,153,523.54.¹⁹ GWA further submitted that the contract will be funded by 2016 bond proceeds.²⁰

E. CCU Resolution No. 31-FY2014

The Petition is supported by Resolution No. 38-FY2017 issued by the Consolidated Commission on Utilities (the “CCU”) at its June 6, 2017 meeting. In the Resolution, the CCU found the terms of the fee proposal submitted by DCA to be fair and reasonable; and, therefore, authorized GWA to enter into a contract with DCA for the land survey and associated services.²¹ The CCU further approved funding of \$1,048,657.77, plus a ten percent (10%) contingency, for a total of \$1,153,523.54.²²

Based on the Grant Deed and Assignment discussed above, as a condition of the conveyance of over two hundred (200) pieces of real property to GWA, GWA is

¹⁷ RFP, p. 15.

¹⁸ Petition, p. 2.

¹⁹ Petition, pp. 2-3.

²⁰ GWA Resolution No. 38-FY2017, pp. 2-3 (June 6, 2017).

²¹ GWA Resolution No. 38-FY2017, p. 3 (June 6, 2017).

²² Petition, Exhibit 2 (Resolution No. 31-FY2014), p. 3.

required to complete “real estate requirement survey map(s)”.²³ The properties conveyed to GWA include “portions of un-surveyed, undivided, and unregistered properties, portions of which have also been reserved for other agencies.”²⁴ And in the event GWA fails to satisfy this condition, the Grant Deed provides that properties without “real estate requirement map(s)” performed will revert back to the Government of Guam.²⁵ Accordingly, the record is clear that GWA is under a legal obligation to complete these survey maps or surrender its rights to those properties.

The ALJ further found that the terms of the survey work, and the costs associated with such services are fair, reasonable and necessary, especially given the tasks to research, survey and map ninety-three (93) pieces of property, and then register certain properties. In addition, the ALJ found that the record reflects GWA’s proper selection of DCA as the top bid, and that the submission of four (4) vendors for the subject procurement makes this selection relatively competitive.

Moreover, this Commission has already reviewed and approved this project, including the funding source, as CIP MC 05-02. Therefore, the ALJ recommended that the PUC ratify the subject procurement and approve GWA’s contract for the land survey services with DCA.

Accordingly, based on the documentation provided by GWA in this docket, and for the other reasons set forth in the ALJ Report, the ALJ recommended that the PUC

²³ Petition, Exhibit A (Grant Deed, July 23, 1997), p. 37.

²⁴ RFP, p. 13.

²⁵ Petition, Exhibit A (Grant Deed, July 23, 1997), p. 38.

approve the contract between GWA and DCA, for entire cost of the contract of \$1,048,657.77.

ORDERING PROVISIONS

Upon careful consideration of the record herein, the July 25, 2017 ALJ Report, 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. The PUC hereby RATIFIES the underlying procurement and APPROVES the contract between GWA and DCA for land survey services for a cost of \$1,048,657.77. This amount shall be subject to the twenty-percent (20%) contingency pursuant to Section 9 of GWA CRP.

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 the instant contract review process. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12002(b) and 12024(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 July, 2017.



JEFFREY C. JOHNSON
Chairman



ROWENA E. PEREZ
Commissioner



JOSEPH M. MCDONALD
Commissioner



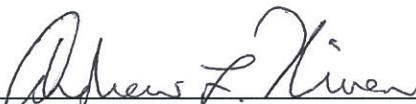
FILOMENA M. CANTORIA
Commissioner



MICHAEL A. PANGELINAN
Commissioner



PETER MONTINOLA
Commissioner



ANDREW L. NIVEN
Commissioner

P173014.JRA

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN RE: PETITION FOR APPROVAL
OF CONTRACT WITH JMI-
EDISON FOR SUBMERSIBLE
PUMPS & MOTORS

GWA DOCKET 17-08

ORDER

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the Application to Award an Indefinite Quantity Contract for Submersible Pumps and Motors to JMI-Edison (the “Petition”), filed on July 12, 2017 by the Guam Waterworks Authority (“GWA”).

In January of 2015, GWA issued Invitation for Bid Number GWA 2015-03 (“IFB 2015-03”) soliciting the purchase of submersible pumps and motors for GWA’s drinking wells.¹ In March of 2015, GWA’s procurement team evaluated and selected JMI-Edison’s indefinite quantity bid.² Thereafter, GWA awarded the bid to JMI-Edison and entered into a three-year contract with JMI-Edison, with two (2) yearlong options to renew.

On July 25, 2017, the Administrative Law Judge of the PUC Joephet R. Alcantara (the “ALJ”) filed a report regarding the instant Petition, which included his findings and recommendations based on the administrative record before the PUC. The ALJ made the following findings.

¹ Application to Award an Indefinite Quantity Contract for Submersible Pumps and Motors to JMI-Edison (“Petition”), p. 1 (July 12, 2017).

² Petition, p. 1.

DETERMINATIONS

A. Contract Review Protocol

Pursuant to 12 G.C.A. §12105,³ GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC's express approval. In addition, GWA's Contract Review Protocol requires that "[a]ll professional service procurements in excess of \$1,000,000" require "prior PUC approval under 12 G.C.A. §12004, which shall be obtained before the procurement process is begun"⁴ Further, all externally funded loan obligations and other financial obligations, such as lines of credit, bonds, etc., in excess of \$1,000,000, and any use of such funds, must be approved by the PUC.⁵

B. GWA's Petition

In its Petition, GWA sought PUC approval of the award of an indefinite quantity contract with JMI-Edison for the purchase of submersible pumps and motors.⁶ The contract is based on IFB 2015-03, which sought submersible well pumps and motors, but more specifically, "Grundfos" pumps and "Franklin Electric" motors.⁷

GWA issued IFB 2015-03 back in January, 2015.⁸ Thereafter, GWA's procurement team evaluated and selected JMI-Edison's indefinite quantity bid, and later

³ Formerly 12 G.C.A. § 12004.

⁴ GWA's Contract Review Protocol ("GWA CRP"), Administrative Docket 00-04, p. 1 (Oct. 27, 2005).

⁵ *Id.*

⁶ Petition, p. 1.

⁷ IFB 2015-03, p. 1.

⁸ Petition, p. 1.

issued an award to JMI-Edison.⁹ GWA then entered into a contract with JMI-Edison, which GWA carefully noted was for an indefinite quantity, meaning that the quantities reflected on the bid were estimates only, and may increase or decrease for the duration of the contract.

GWA sought PUC approval of its 2015 contract with JMI-Edison, in which GWA previously issued purchase orders in the amount of \$736,164.47, but requires additional pumps and motors at an additional cost of \$226,854.15, for a total cost of \$963,018.62.¹⁰ However, GWA submitted that additional purchase orders will be needed, and therefore the contract will exceed \$1,000,000.00.¹¹

C. IFB 2015-03

According to IFB 2015-03, GWA mostly utilizes “Grundfos” well pumps and “Franklin Electric” motors at 110 of its 120 drinking water wells.¹² GWA intends on converting the ten (10) remaining wells to “Grundfos” pumps and “Franklin Electric” motors, since, based on its experience, these brands have lasted the longest given the conditions on Guam.¹³

GWA further submitted that its well maintenance and repair crews are “very familiar” with the “Grundfos” pumps and “Franklin Electric” motors. GWA believes that such familiarity with these products results in improved service and operational efficiency,

⁹ Petition, p. 1.

¹⁰ Petition, Exhibit A, p. 3.

¹¹ Petition, Exhibit A, p. 3.

¹² IFB 2015-03, p. 2.

¹³ IFB 2015-03, p. 2.

and therefore, results in a savings of both time and money for the agency.¹⁴ GWA further indicated that the U.S. Air Force also utilizes the “Grundfos” well pumps, which GWA submits has worked well with them in the past during moments of critical well failures and shortages of spare parts.¹⁵ For these reasons, GWA is engaged in a standardization program to utilize only “Grundfos” pumps and “Franklin Electric” motors.¹⁶

D. JMI-Edison Bid, Contract Term, Total Cost, and Funding

Based on its bid, JMI-Edison agreed to provide submersible motors, ranging from \$2,218.17, to \$6,110.36, to \$19,393.95, depending on the strength and horsepower of the motor. JMI-Edison also agreed to provide submersible pumps, ranging from \$1,020.24 to \$9,468.84, depending on the size of, and number of stages contained in, the pump.

Based on the contract, the initial term is three (3) years, with two (2) yearlong options to renew. GWA has been authorized by the Consolidated Commission on Utilities (the “CCU”) to purchase the pumps and motors at a total cost of \$963,018.62.¹⁷ However, GWA informed the ALJ that it will require an estimated additional \$337,264.30 for the remainder of 2017, and \$597,847.18 for 2018. These purchase orders are funded by the 2013 Bond proceeds, and are also internally funded as components of GWA’s CIP.

E. CCU Resolution No. 22-FY2017

The Petition is supported by Resolution No. 22-FY2017 issued by the CCU at its February 21, 2017 meeting. In the Resolution, the CCU found that the terms of the

¹⁴ IFB 2015-03, p. 2.

¹⁵ IFB 2015-03, p. 3.

¹⁶ IFB 2015-03, p. 3.

¹⁷ Petition, Exhibit A, p. 3.

bid submitted by JMI-Edison were fair and reasonable.¹⁸ Accordingly, the CCU ratified the purchases under the previously issued purchase orders in the amount of \$736,164.47.¹⁹ The CCU further authorized GWA to purchase additional pumps and motors at an additional cost of \$226,854.15, and therefore authorized a total cost of \$963,018.62.²⁰ However, the CCU additionally authorized GWA to seek PUC approval in the event the contract exceeds \$1,000,000.00.²¹

As indicated in IFB 2015-03, GWA overwhelmingly utilizes “Grundfos” well pumps with “Franklin Electric” motors.²² According to GWA, 110 of its 120 drinking water wells utilize “Grundfos” well pumps and “Franklin Electric” motors.²³ GWA has determined, based on its experience, that the “Grundfos” pumps and “Franklin Electric” motors better serve Guam’s needs. GWA purchases these pumps and motors on an as needed basis, and to replenish its inventory of spare parts.²⁴

Based on the record established in this docket and for the reasons set forth therein, the ALJ recommended that the PUC ratify the underlying procurement and approve the contract between GWA and JMI-Edison for the purchase of submersible pumps and motors, for an estimated cost of \$1,300,282.92, which includes GWA’s estimated additional \$337,264.30 for the remainder of 2017.

¹⁸ Petition, Exhibit A, p. 2.

¹⁹ Petition, Exhibit A, pp. 2-3.

²⁰ Petition, Exhibit A, p. 3.

²¹ Petition, Exhibit A, p. 3.

²² IFB 2015-03, p. 2.

²³ IFB 2015-03, p. 2.

²⁴ Petition, Exhibit A, p. 1.

ORDERING PROVISIONS

Upon careful consideration of the record herein, the July 25, 2017 ALJ Report, 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. The PUC hereby RATIFIES the underlying procurement and APPROVES the contract between GWA and JMI-Edison for the purchase of submersible pumps and motors, for an estimated cost of \$1,300,282.92 as indicated in its Petition, and which includes GWA's estimated additional \$337,264.30 for the remainder of 2017.

2. With respect to the purchase of additional pumps and motors in 2018, GWA shall to return to the PUC with a listing of such additional purchases for 2018. The PUC shall thereafter review the need for such purchases and funding at that time.

3. 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 the instant contract review process. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12002(b) and 12024(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 July, 2017.

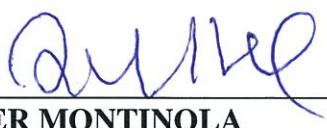



JEFFREY C. JOHNSON
Chairman

ROWENA E. PEREZ
Commissioner

JOSEPH M. MCDONALD
Commissioner

FILOMENA M. CANTORIA
Commissioner

MICHAEL A. PANGELINAN
Commissioner

PETER MONTINOLA
Commissioner

ANDREW L. NIVEN
Commissioner

P173012.JRA



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN RE: PETITION TO AWARD A TWO)
YEAR CONTRACT)
EXTENSION FOR LIQUID)
CHLORINE TO MARIANAS)
GAS CORPORATION DBA)
ISLAND EQUIPMENT COMPANY)
_____)

GWA DOCKET 17-09

ORDER

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the July 20, 2017 Amended Petition for the Authority to Award a Two Year Contract Extension for Liquid Chlorine to Marianas Gas Corporation dba Island Equipment Company (the “Amended Petition”), filed by the Guam Waterworks Authority (“GWA”).¹ The Amended Petition generally seeks PUC approval so that GWA may extend the life of its contract with Marianas Gas Corporation dba Island Equipment Company (hereinafter “Island Equipment”) for two additional years.

BACKGROUND

On January 6, 2014, GWA petitioned the PUC for approval of the procurement related to the purchase of liquid chlorine.² On January 30, 2014, the PUC authorized GWA to proceed with the procurement of liquid chlorine.³ Thereafter, GWA issued Invitation for Bid Number GWA IFB 2013-07 for the purchase of liquid chlorine. An award was subsequently

¹ On July 12, 2017, GWA filed a petition generally seeking PUC approval to extend the life of Island Equipment contract for one additional year. This Amended Petition supersedes the July 12, 2017 request.

² GWA Docket No. 14-03, Order, p. 1 (Jan. 30, 2014).

³ *Id.* at 2.

made to Island Equipment; and on July 28, 2014, GWA entered into a multi-year contract with Island Equipment for the purchase of liquid chlorine.⁴

On July 26, 2017, the Administrative Law Judge of the PUC Joephet R. Alcantara (the “ALJ”) filed a report regarding the instant Petition, which included his findings and recommendations based on the administrative record before the PUC. The ALJ made the following findings.

DETERMINATIONS

Pursuant to 12 G.C.A. §12105,⁵ GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. In addition, GWA’s Contract Review Protocol requires that “[a]ll professional service procurements in excess of \$1,000,000” require “prior PUC approval under 12 G.C.A. §12004, which shall be obtained before the procurement process is begun”⁶

With respect to multi-year contracts, “[t]he term of a contract or obligation (procurement) will be the term stated therein, including all options for extension or renewal”; and that the “test to determine whether a procurement exceeds the \$1,000,000 threshold for the PUC review and approval (the review threshold) is the total estimated cost of the procurement, including cost incurred in any renewal options.”⁷

⁴ Amended Petition for the Authority to Award a Two Year Contract Extension for Liquid Chlorine to Marianas Gas Corporation dba Island Equipment Company (“Amended Petition), p. 1 (July 20, 2017).

⁵ Formerly 12 G.C.A. § 12004.

⁶ GWA’s Contract Review Protocol (“GWA CRP”), Administrative Docket 00-04, p. 1 (Oct. 27, 2005).

⁷ *Id.*, p. 2.

Under the provisions of GWA's Contract Review Protocol, GWA is required to return to the PUC for approval of multi-year contracts that exceed \$1,000,000 over the life of such contracts, which include any options for renewal.

GWA petitioned the PUC for ratification of purchases made under its existing contract with Island Equipment, and for authorization so that GWA may exercise two (2) yearlong options for renewal. GWA sought approval of \$2,460,984 in purchases made under the existing contract. Specifically, GWA spent the following: \$107,280.00 for FY2014; \$797,538.15 for FY2015; \$782,451.90 for FY2016; and \$773,713.80 for FY2017. With regard to the two-year extension of the contract, GWA estimated that it will purchase an additional \$1.8 million.

The subject contract was executed on July 28, 2014 and provides for an initial three-year term. Accordingly, the contract is set to expire on July 28, 2017. The contract, however, provides for two (2) yearlong options for renewal, which if exercised may extend the contract through July 28, 2019.

The initial price of liquid chlorine under the initial term was set as follows: (1) \$558.75 per 150 lb. cylinder; and (2) \$5,807.40 per one (1) ton cylinder. The contract contains a provision that the price would be set annually between the parties. The renewal agreement to the contract contains an amendment to the price, which provides a new set price for two-years, specifically: (1) \$586.86 per 150 lb. cylinder; and (2) \$6,097.78 per one (1) ton cylinder.

The Amended Petition is supported by Resolution No. 49-FY2017 (the "Resolution") issued by the Consolidated Commission on Utilities ("CCU") on July 25, 2017. In the Resolution, the CCU remarked that while both the CCU and the PUC approved the procurement of liquid chlorine, neither the CCU nor the PUC formally approved the resulting

contract.⁸ The CCU further noted, however, that since GWA will continue to need liquid chlorine far into the future, the Renewal Agreement is in the best interest of GWA”⁹ Ultimately, the CCU ratified the existing contract and purchases by GWA, and also approved the execution of the contract extension.¹⁰

In the July 26, 2017 ALJ Report, the ALJ further found the following. As the CCU properly observed in Resolution No. 49-FY2017, while both the CCU and the PUC approved the procurement of liquid chlorine, neither the CCU nor the PUC formally approved the resulting contract.¹¹ Under the provisions of GWA’s Contract Review Protocol, GWA is required to return to the PUC for approval of multi-year contracts that exceed \$1,000,000 over the life of such contracts, which include any options for renewal. GWA should be reminded of this requirement.

It was notable too that the subject contract appeared before the Commission for review on the month the contract is set to expire. It was further recommended that GWA be more mindful of such termination deadlines, and to submit requests for approval of contracts or extensions well in advance so as to allow the commissions adequate time for meaningful review.

The ALJ found that, ultimately, GWA’s need for chlorine is essential and indispensable to its daily operations in purifying Guam’s water. The use of chlorine in disinfecting drinking water is common and standard industry and regulated practice. GWA is required to purchase liquid chlorine for the treatment of drinking water to disinfect impurities, and to satisfy both local and federal standards with respect to water quality.

⁸ CCU Resolution No. 49-FY2017 (“Resolution”), p. 2 (July 25, 2017).

⁹ Resolution, p. 2.

¹⁰ Resolution, p. 3.

¹¹ Resolution, p. 2.

Accordingly, based on the documentation provided by GWA in this docket, and for the other reasons set forth in the ALJ Report, the ALJ recommended that the PUC approve GWA's request for a two-year extension of its contract with Island Equipment.

ORDERING PROVISIONS

Upon careful consideration of the record herein, the July 26, 2017 ALJ Report, 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. The PUC hereby RATIFIES GWA's contract with Island Equipment; and therefore authorizes the purchases made under said contract in the amount of \$2,460,984; and APPROVES GWA's request to exercise two (2) yearlong options for renewal.

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 the instant contract review process. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12002(b) and 12024(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 July, 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

P173016.JRA