

GUAM PUBLIC UTILITIES COMMISSION  
REGULAR MEETING  
April 26, 2018  
Suite 202, GCIC BUILDING, HAGATNA



MINUTES

The Guam Public Utilities Commission [PUC] conducted a regular meeting commencing at 6:40 p.m. on April 26, 2018, pursuant to due and lawful notice. Commissioners Johnson, McDonald, Cantoria, Perez, Pangelinan, Montinola 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 March 29, 2018. Upon motion duly made, seconded and unanimously carried, the Commission approved the minutes subject to correction.

**2. Guam Power Authority**

The Chairman announced that the next item of business on the agenda was GPA Docket 18-12, Petition to Approve Invitation for Bid for Property Insurance, PUC Counsel Report, and Proposed Order. Counsel indicated that GPA was petitioning for approval of an invitation for bids for insurance. The present policy terminates on November 1, 2018. The Commission previously considered GPA insurance in 2013. It then approved an IFB and an insurance policy for a 3-year period with two 1-year possible extensions. That is the same arrangement that GPA now seeks, a three-year base period contract with two 1-year extensions.

The types of insurance GPA will seek are property and boiler and machinery, catastrophic coverage including earthquake, flood, typhoon and tsunami, business income, extra expense, terrorism, all-risk and cyber liability. Under its Bond Covenants, GPA is required to maintain its property insurance. GPA is coming to the PUC early, since the policy will expire in November, to expeditiously get out the bid. Once a bidder is selected and a contract agreed to, GPA will come back to the PUC for approval of the contract.

The policy GPA seeks to issue is from November 1, 2018 through November 1, 2021 with two possible 1-year extensions. The CCU has authorized management of GPA to issue the IFB, finding that insurance costs are a prudent expense. Along with its petition, GPA submitted the proposed format for its IFB.

In his analysis, Counsel believes that GPA has little choice, since its bond covenants do require the obtaining of proper insurance coverage. The procurement process for

issuing the insurance bid is standard, the forms are standard, and GPA will utilize the typical two-step process: technical bids and then price bids. In the past GPA's insurance would generally cost between \$6M and \$7M per year; GPA anticipates that the new insurance policy will not exceed \$6.4M. The proposed Order would approve the issuance by GPA of the IFB and would further require GPA to come back to the PUC once it has selected a bidder and proposed a contract.

Commissioner Perez asked whether, in the Order, the PUC was required to specifically name each of the different coverages, such as terrorism, all-risk and cyber liability. She asked whether those could be categories under general insurance. Counsel indicated that, factually, these are all the types of insurance. GPA lists each of them in its invitation for bids. Normally Counsel would include the factual detail to indicate what types of coverage GPA was going out for. He believes it is appropriate. Commissioner Perez clarified that she was asking whether, under paragraph 11 of the Determinations the different insurances would be covered and whether it all would fall under paragraph 11 of the Determinations. She asked whether terrorism, all-risk, and cyber liability would fall under terrorism coverage as a whole.

Counsel indicated that it would. Counsel indicated that he did not wish to repeat everything again in paragraph 11 of the determinations. Commissioner Pangelinan asked whether it needed to be in the ordering provisions that mentioned property insurance and terrorism coverage. Counsel indicated that when GPA issues its overall procurement for property insurance, it includes everything under that. That is how the insurance coverages are described in the IFB.

Commissioner Cantoria asked whether the bond indentures specify what kind of insurance coverage is necessary. Counsel indicated that the bond covenants do not specify. They only require insurance that is ordinarily procured by a business in the power industry. Insurance should be at a reasonable cost, but the covenants do not mandate specific insurance. What is required is the type of insurance a business in the power industry would ordinarily obtain.

Commissioner Pangelinan indicated that Determination 11 explains that the property insurance policy includes boiler coverage and terrorism. Upon motion duly made, seconded and unanimously carried, the Commissioners authorized GPA to issue its invitation for bids for property insurance and the other coverages requested in the petition, and adopted the Order made *Attachment "B"* hereto.

The Chairman stated that the next item on the agenda was GPA Docket 18-13, Petition to Approve the Piti 8 & 9 Contract Extension with Marianas Energy Corporation. The Chairman asked Counsel whether this was still a work in progress. Counsel indicated that it was. Counsel had issued some PUC Information Requests to GPA. Those came in late and Counsel did not have sufficient time to process everything. In the meantime, a few new issues have arisen. PUC Counsel will continue to work with GPA Counsel to have this matter prepared for the Commission at the next meeting.

### **3. Guam Waterworks Authority**

The Chairman announced that the next item of business on the agenda was GWA Docket 18-05, Petition for Approval of GWA IFB for Laboratory Services, ALJ Report, and Proposed Order. The ALJ indicated that this matter concerns GWA's petition for issuance of an IFB related to laboratory services. GWA's existing contract for laboratory services expires August of this year. In its petition, GWA requests approval of an IFB for a multi-year contract. The IFB requires that the contractor be able to provide monthly, quarterly, bi-annual, and annual tests on GWA's water and wastewater samples. These tests measure the levels of matters such as pesticides, metal, lead, copper and toxicity in GWA's water and wastewater. Water and wastewater samples are required to be tested by labs certified by the USEPA. Since GWA has no testing facilities on site, it must utilize a third-party vendor for its laboratory testing.

It is estimated that laboratory services will cost approximately \$540,000 per year, which triggers the contract review protocol of the PUC, since GWA seeks approval of a multi-year contract. The prior contract with EUROFIN was a three-year contract with 2-year long options for renewal, which expires in August. GWA submits that securing a multi-year contract lessens the costs as the price for these services would be fixed over a longer period of time and GWA would not need to spend time procuring these services yearly.

The projected funding source for this contract will be GWA's operation and maintenance budget. The ALJ found that GWA was required to have water and wastewater samples tested by a lab certified by the USEPA and that no reasonable alternatives exist for these services. The procurement is reasonable, considering that such testing is required under Guam's Safe Drinking Water Act and the Guam Primary and Secondary Water Regulations. The use of a multi-year contract is appropriate and has been used by GWA in the past. The ALJ recommends that the PUC approve GWA's issuance of the IFB.

Commissioner Montinola asked whether the contract was \$550,000 per year. GWA GM Bordallo indicated that the contract was slightly under \$520,000 a year average over the 5-year period. Upon motion duly made, seconded and unanimously carried, the Commissioners authorized GWA to issue an IFB for laboratory services, and adopted the Order made *Attachment "C"* hereto.

### **4. Port Authority of Guam**

The Chairman indicated that the next item of business was PAG Docket 18-03, Petition for Approval of Issuance and Sale of Revenue Bonds, ALJ Report, and Proposed Order. Commissioner Pangelinan indicated that he would recuse himself on this matter. The Port's filing had included an attachment that references a case handled by his law firm. The ALJ indicated that matter came before the PUC upon a petition by the Port Authority of Guam for approval of the issuance of certain 2018 revenue bonds. PAG

seeks PUC approval to issue up to \$72.6M in revenue bonds; PAG submits that the proceeds of these bonds will be used to fund capital improvements, refinance four outstanding loans, fund a deposit to the 2018 bond debt service account, fund capitalized interest on a portion of the 2018 bonds, and pay certain costs related to the issuance of the subject bonds.

PAG submits that these improvements are necessary to increase the efficiency of, and create additional cargo handling at the Port to accommodate growth and population, tourism, as well as the military buildup. In Public Law 34-17, the Legislature found that “the Port must increase capacity, execute infrastructure development, and undertake Port expansion to meet the community’s needs in order for the Port to modernize.” The Guam Legislature approved the issuance and sale of the revenue bonds, subject to certain conditions; the bonds are mainly to finance certain Port Improvements such as the rehabilitation of HR, replacement of the old admin building, the placement and relocation of water lines, the repair and expansion of its equipment, maintenance and repair of Warehouse 1 and repair of the Gulf Pier.

In addition, the bonds are to be also used to refinance all or a portion of PAG’s outstanding loans. The bond proceeds may fund capitalized interest, pay any cost expenses related to the issuance of the bonds, not to exceed the 2% of the value of the bonds. A deposit needs to be funded in the debt service reserve fund which will not exceed \$6M. The bonds shall have a maturity no later than 2048. They must bear interest at a rate of 6.5% or less. With respect to the loans that PAG will refinance, it must meet the statutory percent of net present value savings requirement.

The ALJ has reviewed the authorizations given by the PAG Board and GEDA. In the GEDA resolution, it determined that it is in the public interest for the Authority to issue the 2018 bonds. GEDA approved the issuance and also approved the documents related to the bonds, such as the general indenture, supplemental indenture, bond purchase agreement, and preliminary official statement. The general and supplemental indenture are in the same form as other indentures that the PUC has reviewed in the past; with the exception of certain covenants such as that requiring the Port to properly collect rent and charges due for occupancy or use of the Port, provisions relating to certain funds and accounts such as the construction fund, the bond reserve fund and prepayment of the outstanding loans, the forms are the same.

The Bond Purchase Agreement contains reasonable terms and conditions for the bond sell including a detailed list of necessary documents to be submitted prior to the closing of the bond issuance. In the PAG Consulting Engineer’s Report, PAG Consultants discuss the capital improvement projects for which the bond proceeds are going to be used to fund. These include hotel wharf and access road revitalization project, Gulf Pier improvement project, the new admin building, Warehouse 1 repairs, equipment maintenance and building repairs, as well as the water line replacement and relocation. The total cost of these particular projects is about \$47.5M.

The WSP Report also indicates that 84% of the PAG's operating revenue will be pledged to the payment of the 2018 bonds and these include the cargo throughput revenue, excluding the facility maintenance fees, but including the equipment and space rentals (excluding certain marina fees); wharfage charges and other operating special services are included. According to the WSP, the following streams of revenue will not be pledged: the facility maintenance fee, the crane surcharge, and PAG's public revenues from the Agat Marina and the Perez Marina in Hagatna.

The WSP concluded, based on its analysis, that the debt service coverage is forecasted to be strong. Based upon the financing assumptions, the debt service covered from the 2018 bond issuance forecast will far exceed the 1.25 minimum. PAG Consultants have recommended that the purchase of additional gantry cranes would require future debt issuances.

After review of all the documents and records, the ALJ determined that the terms and conditions contained in the bond documents appeared reasonable and did not contradict the intended purposes of Public Law 34-40. The indenture and supplemental indenture appear to be in similar form to other indentures approved by the PUC. The issuance of the 2018 bonds has been authorized by the Legislature, GEDA, and PAG's Board of Directors. Based upon the record, the ALJ recommends that the PUC approve PAG's petition for the amounts indicated and in accordance with the terms and conditions of the 2018 revenue bond documents, which documents will also require PUC approval.

The Chairman asked the ALJ if he had prepared two Orders. The ALJ indicated that was correct; one order concerns the approval of the long-term debt issuance and the other order just approves PAG's issuance of the 2018 bonds. Commissioner Niven asked what the schedule was for capitalized interest. CFO Duenas indicated that it would depend on the rate which PAG obtained. The higher the rate, the shorter the period for capitalized interest. The lower the rate, the longer the period. However, the term would not exceed two years.

The Chairman asked whether the Port anticipated being able to hit the target of under 6.5%. PAG General Manager Brown indicated PAG was hopeful that it could, but would not know until it went through the process. With PUC support, PAG hopes to execute the bonds and have them sold. The Chairman asked whether PAG would go out soon, in May. GM Brown indicated that the Port extended its appreciation to the PUC and the ALJ for their assistance in reviewing the documents. There are many matters that need to be examined, and the Port has been successful in maintaining its schedule.

PAG appreciates PUC's expediting the matter for the April schedule. With PUC approval, PAG would look towards the end of May or perhaps mid to late June, to actually market the bonds. PAG has an optimistic schedule to put its projects in construction because of the need to address an infrastructure that is close to 50 years

old. It is critical for PAG to maintain its timeline and to obtain the financing that it needs. Upon motion duly made, seconded and unanimously carried, the Commissioners authorized PAG to issue 2018 Revenue Bonds in the amount of \$72.6M, approved the applicable bond documents, approved the applicable indenture and supplemental indenture, and adopted the Order made *Attachment "D"* hereto.

## 5. Administrative Matters

The Chairman indicated that the next item on the agenda was Status of E911 Report. Counsel indicated that there had been some delay in the preparation of the E911 Report. The delay relates to personnel medical issues. The issue is whether our consultant Slater Nakamura will be able to complete the Report in a timely fashion. A second legal issue is whether the PUC is required by current law to even prepare an E911 Report annually. That requirement for an annual report by the PUC was first enacted in Public Law 28-44. However, Public Law 32-96 amended the law and basically took out the requirement that PUC issue an annual E911 report and deleted it. Whether intentional or not, the Legislature simply took the requirement out of Public Law 32-96 by amending the section of law which included the annual report requirement.

The Compiler of Laws was instructed in Public Law 32-96 to codify all requirements relating to E911. In Article 3 of the law governing the PUC, the PUC still determines the E911 surcharge. However, the Compiler of Laws, in codifying E911 Requirements, did not include the provision that previously required the PUC to issue an annual report. Counsel feels that PUC now has no obligation to issue an annual E911 Report. An option would be to complete the report for this year, Counsel feels that the PUC has no obligation to prepare the report any longer.

The Chairman asked whether the PUC could obtain the relevant E911 information from the telecom companies and prepare a short report. The Chairman felt that perhaps the PUC could just collate the annual reports from the telecom companies. Commissioner Perez indicated that this would be accountability. She asked whether the surcharge was still being charged. Counsel indicated that it was, it has always been \$1.00 per line. Counsel indicated that the Legislature recently amended the law that indicates that no funds from the E911 Fund can be spent without express legislative authorization. The E911 Report is essentially an accounting function. The PUC should determine rates for the surcharge, and perhaps the accounting function would be better placed with another entity other than the PUC.

The Chairman indicated that the PUC could take the four quarterly reports of each company and put them together, and then send it to the Legislature. Commissioner Perez concurred. The Chairman indicated that our Bookkeeper Mr. Kim could assist with that. Commissioner Pangelinan asked whether the reports go to the Legislature. Counsel indicated that they go to the Legislature, the Governor, and the Office of Public Accountability. The Chairman was concerned that, since the PUC had a history of preparing this report, whether legally obligated or not, it would not be appropriate for

PUC to be in a position where it is determined a couple of years later that the PUC did not perform its function. And it should be kept going. Commissioner Perez indicated that it could be kept "in-house." The Chairman believed that perhaps there could be a spreadsheet for a one-page report.

Commissioner Pangelinan asked whether there was anything in the law concerning legislative intent about removing the requirement. Counsel felt the Compiler of Laws was aware that the former provisions, including the reporting requirement of PUC, were not picked up in Public Law 32-96. She seemed to feel that there was an amendment of the law. Had the law establishing the reporting requirement not been amended, there could be an argument that Public Law 28-44 would still be valid.

Commissioner Cantoria pointed out that it is the Fire Department that receives the money and the report would probably be compiled because it goes through the Legislature to ask to spend the money. Counsel indicated that the E911 funds were in a separate fund account, not in the general fund. Commissioner Pangelinan asked whether the PUC reports generally reference the public law. Counsel indicated that it did reference Public Law 28-44. Counsel, in considering a possible RFP for the E911 work, researched the reporting requirement and he found that it had been deleted. Commissioner Montinola wondered whether the Legislature could have taken the PUC reporting requirement out purposely. He agreed that the PUC could not now reference a specific law.

Commissioner Pangelinan suggested that if PUC submits anything this year, it should attach a cover letter explaining that the law has been repealed, and that PUC is filing the report this year to be consistent. It could be noted that PUC is not required to file a report under the law. The report could be identified as the PUC's "final report." Then there is a record of why PUC is not submitting a report. And then the authorities which receive the report could look back and determine that was the reason why a report was not filed in 2019. The Chairman indicated that the legislature could then let the PUC know otherwise if it wished the reporting requirement to be carried on. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the E911 reporting proposal of Commissioner Pangelinan, and indicated that the E911 Reporting should be handled in the manner suggested by Commissioner Pangelinan.

The Chairman indicated that the next item for consideration was the Request for Proposals for the various consultant positions with the PUC. Counsel stated that the Commissioners have Ads for the various consultant positions in their packets. There are six Requests for Proposals. Solid Waste is a new area for which PUC needs an RFP. The first RFP is for a combined GPA and GWA consultant; PUC would be hiring two, one could be water, one could be power, or both could do either function. The second RFP would be for Solid Waste. It is not clear yet when the federal receivership will end. The PUC should be prepared to undertake its regulatory responsibilities for Solid

Waste. All parties will have until July 10 to respond to the RFPs. The PUC Commissioners should make decisions no later than the August meeting.

The third RFP is for the Port Authority consultant services. There would be one consultant. In addition, there would be a Telecommunications Consultant (fourth RFP). The fourth RFP is for Legal Services, Attorney. Commissioner Perez asked whether preparation of the annual E911 report would be kept in the RFP. Counsel indicated that was in the legal services RFP because legal counsel does have the responsibility for monitoring the consultant and preparing the E911 report.

Commissioner Pangelinan confirmed that the PUC would only do one more report for E911 and then not do it anymore. Counsel indicated that there were duties other than the E911 report for Counsel, including the surcharge for VOIP calls and other duties concerning the surcharge. Commissioner Pangelinan indicated that the ad could be revised to reference assistance with E911 related matters. Counsel indicated he would change that.

The fifth RFP is for Administrative Law Judge. Counsel changed this RFP to allow for the hiring of two ALJs. Commissioner Pangelinan asked whether a person would have to submit two responses to be considered both for Legal Counsel and ALJ. Counsel indicated that he thought that was correct. Commissioner Niven asked about the PIO responsibilities of Counsel. Counsel indicated procurement officer could also be included. Counsel indicated that the Legal Services RFP only called for one applicant.

Counsel did not feel that two applicants were needed for legal services. Commissioner Pangelinan pointed out that some agencies have more than one lawyer, for conflict purposes. Counsel indicated that to date, PUC has not needed a conflicts attorney. Other duties as required are permitted in the Legal Services RFP. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the Ads for the six requests for proposals, including Water/Power, Solid Waste, Telecommunications, Port Authority, ALJ, and Legal Services/Attorney.

The Chairman indicated that the final item was the extension of PUC contract for Administrative Bookkeeping Services. Counsel indicated that those services were presently provided by George Kim, who works three days a week, and four hours in the morning. Administrator Palomo indicated that she was generally pleased with the services that Mr. Kim performs. Ms. Palomo gives bookkeeping aspects regarding billings and other financial reports to Mr. Kim. Commissioner Perez asked whether his fee has always been \$1,200 per month. Counsel indicated that it had. This extension is for one year, as it has been done in prior years. Ms. Palomo indicated that this was the fourth year of Mr. Kim's services. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the extension for one year of the contract for bookkeeping services.



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

A handwritten signature in black ink, appearing to read "J. Johnson", written over a horizontal line.

Jeffrey C. Johnson  
Chairman

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION  
REGULAR MEETING  
SUITE 202, GCIC BUILDING  
414 W. SOLEDAD AVE., HAGATNA, GUAM  
6:30 p.m., April 26, 2018**

**Agenda**

- 1. Approval of Minutes of March 29, 2018**
- 2. Guam Power Authority**
  - **GPA Docket 18-12, Petition to Approve Invitation for Bid (IFB) for Property Insurance, PUC Counsel Report, and Proposed Order**
  - **GPA Docket 18-13, Petition to Approve the Piti 8 & 9 Contract Extension with Marianas Energy Corporation, PUC Counsel Report, and Proposed Order**
- 3. Guam Waterworks Authority**
  - **GWA Docket 18-05, Petition for Approval of GWA's IFB for Laboratory Services, ALJ Report, and Proposed Order**
- 4. Port Authority of Guam**
  - **PAG Docket 18-03, Petition for Approval of Issuance and Sale of Revenue Bonds, ALJ Report, and Proposed Order**
- 5. Administrative Matters**
  - **Status on E911 Report**
  - **Proposed PUC Requests for Proposals for Consultants**
  - **Extension of PUC Contract for Administrative and Bookkeeping Services**
- 6. Other Business**

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:	)	GPA DOCKET 18-12
	)	
THE PETITION OF THE GUAM	)	
POWER AUTHORITY FOR APPROVAL	)	ORDER
OF INSURANCE INVITATION FOR	)	
BID	)	
_____	)	

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission [“PUC”] upon the Guam Power Authority [“GPA”] Petition for Approval of Insurance Invitation for Bids.<sup>1</sup>
2. GPA seeks to obtain Property Insurance for the policy period beginning November 1, 2018. The current GPA Property Insurance Policy will expire on November 1, 2018.<sup>2</sup>

BACKGROUND

3. GPA’s Bond Indenture Agreement requires GPA to “secure and maintain property insurance on all facilities constituting the system against risks of loss or damage to the extent that such insurance is obtainable at reasonable cost...”. The Indenture further requires GPA to carry insurance “of a scope and nature as that usually carried in the industry...”.<sup>3</sup>
4. The insurance coverages for which GPA seeks to issue an IFB are: Property and Boiler & Machinery, Catastrophe Coverage including Earthquake, Flood, Typhoon and Tsunami, Business Income/Extra Expense, Terrorism, All Risk, and Cyber Liability.<sup>4</sup>
5. In 2013, the PUC approved GPA’s last property insurance procurement.<sup>5</sup>

<sup>1</sup> GPA Petition for Approval for Insurance Invitation for Bids, GPA Docket 18-12, filed April 10, 2018.

<sup>2</sup> Id. at p. 1.

<sup>3</sup> Guam Consolidated Commission on Utilities Resolution No. 2018-06, Relative to Petitioning the Public Utilities Commission for Authorization to Begin Procurement for Property Insurance, issued March 27, 2018.

<sup>4</sup> Attachment to the Petition of the Guam Power Authority for Approval of Insurance Invitation for Bids, Property Insurance Bid, GPA Docket 18-12, filed April 10, 2018.

<sup>5</sup> PUC Order, GPA Docket 13-04, in the Matter of Petition for Approval of Insurance Invitation for Bid, dated May 28, 2013.

6. The PUC approved GPA's request and authorized it to extend its Property Insurance and Casualty Policy through November 1, 2018.<sup>6</sup>
7. On March 27, 2018, the Consolidated Commission on Utilities adopted Resolution No. 2018-06, which approves the GPA draft Invitation for Bids for Property Insurance to include Boiler and Machinery and Terrorism coverage, and further determines that such property insurance costs are a prudent expense. The General Manager was authorized to submit the bid documents to the PUC.<sup>7</sup>
8. Since its current Property Insurance Policy will expire on November 1, 2018, GPA now seeks to obtain property insurance for the policy period from November 1, 2018 through November 1, 2021.

#### DETERMINATIONS

9. GPA is required by its Bond Indenture Agreement to maintain insurance coverage. Thus, it has little choice as to whether to issue the proposed Invitation for Bids. Its present policy is expiring on November 1, 2018.
10. The Invitation for Bid documents submitted by GPA are in a standard form and contain the provisions which GPA has ordinarily included in its insurance procurement bids. This bid has been reviewed by GPA's independent Insurance Consultant.<sup>8</sup>
11. GPA is required to seek PUC review under the Contract Review Threshold of \$1.5M for its Property Insurance Policy, which includes Boiler and Machinery Coverage and Terrorism Coverage.

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<sup>6</sup> Id. at p. 3.

<sup>7</sup> Guam Consolidated Commission on Utilities Resolution No. 2018-06, Relative to Petitioning the Public Utilities Commission for Authorization to Begin Procurement for Property Insurance, issued March 27, 2018, at pg. 2.

<sup>8</sup> On April 17, 2018, GPA Legal Counsel confirmed to PUC Counsel that GPA's Insurance Consultant has reviewed the IFB.

12. GPA's current property insurance costs exceed \$6.4M.<sup>9</sup> GPA estimates the projected cost of the policy for which it now seeks to issue bids will be "between \$6-\$7M per year."<sup>10</sup>
13. GPA has demonstrated that it is required by its Bond Indenture to have property insurance. Therefore, its request to issue an Invitation for Bids for its property insurance program is reasonable, prudent, and necessary.

### ORDERING PROVISIONS

After review of the record herein, GPA's Petition for Approval of Insurance Invitation for Bids, 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 of Insurance Invitation for Bids for GPA Property Insurance Policy for the period of November 1, 2018, to November 1, 2021, with two one-year extension options, is hereby approved.
2. GPA is authorized to issue an IFB in the form attached to its Petition.
3. However, since the price of the cost of which GPA seeks to procure is presently unknown, GPA shall be required to seek approval from the PUC for the cost of the policy before it makes a final award.
4. GPA shall file a copy of its property insurance contract with the PUC when such policy is finalized.
5. 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 the PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

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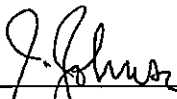
<sup>9</sup> Guam Consolidated Commission on Utilities Resolution No. 2018-06, Relative to Petitioning the Public Utilities Commission for Authorization to Begin Procurement for Property Insurance, issued March 27, 2018, at p. 1.

<sup>10</sup> GPA Petition for Approval for Insurance Invitation for Bids, GPA Docket 18-12, filed April 10, 2018, at p. 1.

Order  
Petition for Approval of  
Insurance Invitation for Bid  
GPA Docket 18-12  
April 26, 2018

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Dated this 26th day of April, 2018.



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Jeffrey C. Johnson  
Chairman



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Joseph M. McDonald  
Commissioner




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Rowena E. Perez  
Commissioner



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Filomena M. Cantoria  
Commissioner



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Michael A. Pangelinan  
Commissioner



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Peter Montinola  
Commissioner



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Andrew L. Niven  
Commissioner



\$1,000,000” require “prior PUC approval under 12 G.C.A. §12004, which shall be obtained before the procurement process is begun . . . .”<sup>1</sup>

With respect to “multi-year contracts,” “[t]he test to determine whether a procurement exceeds the \$1,000,000 threshold for PUC review and approval (the review threshold) is the total estimated cost of the procurement, including cost incurred in any renewal options.”<sup>2</sup>

**B. GWA’s Petition to Procure Lab Services**

In its petition, GWA requested that the PUC approve an IFB for a multi-year contract for laboratory services.<sup>3</sup> GWA submitted that it is required to have water and wastewater samples tested by a lab certified by the U.S. E.P.A.<sup>4</sup> GWA further submitted that since it does not have testing facilities in-house, it must utilize a third-party vendor for the laboratory testing.<sup>5</sup>

GWA estimates that the laboratory services will cost approximately \$540,000.00 per year.<sup>6</sup> Accordingly, it submitted that a three-year contract for laboratory services will exceed \$1 million. GWA believes that procuring a multi-year contract would lessen costs, as the price of the services would be fixed over a longer period of time, and that GWA would not need to spend time procuring these services yearly.<sup>7</sup>

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

<sup>2</sup> GWA CRP, p. 4.

<sup>3</sup> Petition, p. 2.

<sup>4</sup> Petition, p. 2.

<sup>5</sup> Petition, p. 2.

<sup>6</sup> Petition, p. 2.

<sup>7</sup> Petition, p. 2.



**C. Scope of Services**

Based on the IFB submitted for review by GWA, the IFB requires that the contractor must be able to provide monthly, quarterly, biannual, and annual tests on GWA's water, wastewater, and UCMR3 (unregulated contaminants) samples. These tests will measure levels of pesticides, metal, lead copper, and toxicity in GWA's water and wastewater, among others.

The IFB requires that samples be analyzed under the Standardized Monitoring Requirements of the Guam Environmental Protection Agency, in compliance with Guam's Safe Drinking Water Act, and Primary and Secondary Safe Drinking Water Regulations. The IFB also requires that samples be analyzed under the National Pollutant Discharge Elimination System (NPDES) requirements, in compliance with the Clean Water Act and Guam Water Quality Standards.

**D. Projected Funding Source and Estimated Cost**

According to GWA, the projected source of funding for this contract will be from its Operations and Maintenance budget. GWA estimates that the laboratory services will cost approximately \$540,000.00 per year.<sup>8</sup>

**E. CCU Resolution No. 27-FY2018**

The instant Petition was supported by Resolution No. 27-FY2018 issued by the Consolidated Commission on Utilities ("CCU") ("Resolution"). Pursuant to the Resolution, the CCU found that the subject procurement is "reasonable, prudent, and necessary," thereby authorizing the procurement.

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<sup>8</sup> Petition, p. 2.

## **CONCLUSION**

Based on the documentation provided by GWA, the ALJ found that GWA is required to have water and wastewater samples tested by a lab certified by the U.S. E.P.A., and that no reasonable alternatives to such services exist. The ALJ, therefore, found the procurement to be reasonable, particularly for services of a U.S. E.P.A. certified lab to analyze the water and wastewater samples GWA provides to the Guam Environmental Protection Agency, considering that such testing is required under Guam's Safe Drinking Water Act and the Guam Primary and Secondary Water Regulations. The ALJ further found that the use of a multi-year contract, which will allay some costs, is appropriate under the circumstances.

Accordingly, based on the record before the PUC, the ALJ recommended that the PUC approve GWA's petition and that GWA should be authorized to issue GWA IFB No. 2018-06, related to the procurement of laboratory services.

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

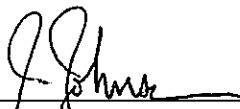
### **ORDERING PROVISIONS**

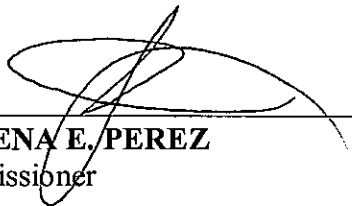
Upon careful consideration of the record herein, and for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS the following:

1. That the instant Petition is hereby APPROVED and GWA is authorized to issue GWA IFB No. 2018-06, related to the procurement of laboratory services.

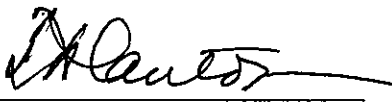
2. GWA is ordered to pay the PUC's regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with this matter. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.

**SO ORDERED** this 26<sup>th</sup> day of April , 2018.

  
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**JEFFREY C. JOHNSON**  
Chairman

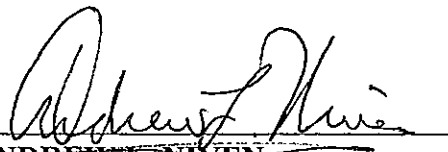
  
\_\_\_\_\_  
**ROWENA E. PEREZ**  
Commissioner

  
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**JOSEPH M. MCDONALD**  
Commissioner

  
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**FILOMENA M. CANTORIA**  
Commissioner

  
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**MICHAEL A. PANGELINAN**  
Commissioner

  
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**PETER MONTINOLA**  
Commissioner

  
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**ANDREW L. NIVEN**  
Commissioner

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF GUAM



REQUEST BY THE PORT AUTHORITY )  
OF GUAM FOR APPROVAL OF THE )  
ISSUANCE OF PORT REVENUE BONDS )  
AND TO APPROVE ASSOCIATED )  
DOCUMENTS )  
\_\_\_\_\_ )

PAG DOCKET 18-03

**ORDER**

On April 19, 2018, the Port Authority of Guam (the “Authority”) petitioned the Commission for authority to issue up to \$72,600,000 in revenue bonds for the purpose of financing and/or refinancing projects authorized to be financed thereby in accordance with Article 2, Chapter 10, Title 12, Guam Code Annotated (as amended from time to time, the “Act”).

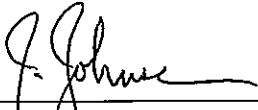
The Commission has examined the petition and the findings and recommendations of its Administrative Law Judge (“ALJ”). After discussion at a duly convened meeting of the Commission, and upon the specific finding that the Authority’s petition is in the best interests of the Authority, the Commission, by vote by the Commissioners, hereby **ORDERS THAT** the order approving long term debt, in form attached (“Debt Order”), shall be and is hereby adopted by the Commission.

PAG is ordered to pay the PUC’s regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with this matter. Assessment of the PUC’s regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

ATTACHMENT D

Dated this 26<sup>th</sup> day of April, 2018.



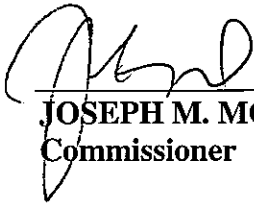
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**JEFFREY C. JOHNSON**  
Chairman



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**ROWENA E. PEREZ**  
Commissioner



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**JOSEPH M. MCDONALD**  
Commissioner



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**FILOMENA M. CANTORIA**  
Commissioner



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**PETER MONTINOLA**  
Commissioner

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**MICHAEL A. PANGELINAN**  
Commissioner



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**ANDREW L. NIVEN**  
Commissioner

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF GUAM**



REQUEST BY THE PORT AUTHORITY )  
OF GUAM FOR APPROVAL OF THE )  
ISSUANCE OF PORT REVENUE BONDS )  
AND TO APPROVE ASSOCIATED )  
DOCUMENTS )  
\_\_\_\_\_ )

**DOCKET 18-03**

**ORDER APPROVING LONG-TERM DEBT**

Pursuant to Article 2 of Chapter 10, Title 12, Guam Code Annotated (as amended, the “Act”), the Jose D. Leon Guerrero Commercial Port, also known as the Port Authority of Guam (the “Authority”) is authorized to issue revenue bonds (“Bonds”) to raise funds for the purpose of acquiring, constructing, improving, equipping, maintaining, repairing, renewing, replacing, reconstructing or insuring the Port system, or any part thereof, or for the purpose of refunding any such bonds or any other prior obligations of the Authority, or for any combination of such purposes, in accordance with and subject to the requirements and limitations set forth in the Act, subject to the approval of the Legislature and the Board of Directors of the Guam Economic Development Authority (“GEDA”).

Pursuant to such authority the Authority has now applied to the Commission for approval of the issuance of one or more series of tax-exempt and/or taxable Bonds (the “2018 Bonds”) for the purposes set forth, and in an aggregate principal amount not to exceed \$72,600,000 under and subject to the applicable limitations of Public Law 34-70 (the “Bond Law”) adopted by the Legislature, and of such other terms and conditions pursuant to which such 2018 Bonds are to be issued pursuant to Resolution No 2018-01 adopted by the Board of Directors of the Authority on April 19, 2018, and pursuant to Resolution No. 18-002 adopted by the Board of Directors of GEDA on April 12, 2018.

The proposed form of an indenture, to be executed by the Authority, Bank of Guam, as trustee (the “Trustee”) and U.S. Bank National Association, as co-trustee (the “Co-Trustee”) pursuant to which the Bonds are proposed to be issued (the “General Indenture”) has been presented to the Commission, together with the proposed form of supplemental indenture to be executed by the Authority, the Trustee and the Co-Trustee, pursuant to which the 2018 Bonds are proposed to be issued (the “First Supplemental Indenture”). The current forms of the General Indenture and the First Supplemental Indenture are attached hereto as Exhibit A.

The Commission, having duly considered the application of Authority and the information presented on Authority’s behalf, and having determined that the issuance of the 2018 Bonds for such purposes is just and reasonable, orders as follows:

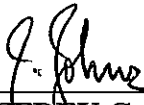
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Request by the Port Authority of Guam for Approval of the Issuance  
of Port Revenue Bonds and to Approve Associated Documents  
Page 2

1. The issuance of the 2018 Bonds and the execution and delivery of the General Indenture and First Supplemental Indenture pursuant to which the 2018 Bonds are to be issued are hereby approved. Significant modifications or amendments of the terms and conditions of the 2018 Bonds set forth in such documents from the form attached as Exhibit A shall be subject to prior Commission review and approval prior to the issuance of the 2018 Bonds. The Authority shall have the responsibility of bringing any such significant modification or amendment affecting terms and conditions of the issuance of the 2018 Bonds to the Commission's attention; provided, however, that, at the request of the Authority, the Commission's administrative law judge is hereby authorized to provide such review and approval of any modifications or amendments to the forms of General Indenture and First Supplemental Indenture, or to determine and confirm that the form of General Indenture or First Supplemental Indenture to be executed and delivered by the Authority does not contain any such significant modification or amendment from the forms of such documents included as Exhibit A hereto.
  
2. As provided in the Bond Law, the principal amount of 2018 Bonds that may be issued may not exceed \$72,600,000. The 2018 Bonds shall have a final maturity not later than 2048, and shall bear interest at such rate or rates, and shall be sold for such price or prices as shall result in a yield to bondholders not exceeding six and one-half percent (6.5%) per annum (treating payments and receipts under any interest rate hedging contracts as if they were payments to and receipts from the bondholders). In accordance with the Bond Law, the present value of debt service on the 2018 Bonds applied to refinance any or all of the Prior Loans (as such term is defined in the Bond Act) in the aggregate shall be at least two percent (2%) less than the present value of debt service on the refinanced Prior Loans in the aggregate, using the yield on the refunding bonds as the discount rate, and shall be issued and sold in the manner, for the purposes and subject to the requirements and limitations provided in the Bond Law and the Indenture.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

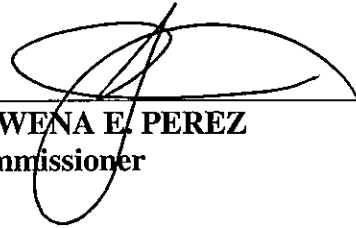
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of Port Revenue Bonds and to Approve Associated Documents  
Page 3

Dated this 26<sup>th</sup> day of April, 2018.



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**JEFFREY C. JOHNSON**  
Chairman



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**ROWENA E. PEREZ**  
Commissioner



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**JOSEPH M. MCDONALD**  
Commissioner

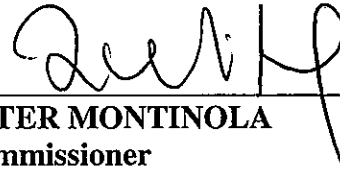


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**FILOMENA M. CANTORIA**  
Commissioner

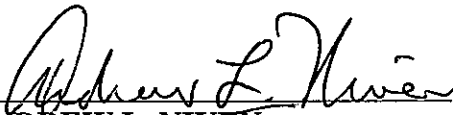
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**MICHAEL A. PANGELINAN**  
Commissioner



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**PETER MONTINOLA**  
Commissioner



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**ANDREW L. NIVEN**  
Commissioner



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of Port Revenue Bonds and to Approve Associated Documents  
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**EXHIBIT A**

**[Forms of General Indenture and First Supplemental Indenture]**