

GUAM PUBLIC UTILITIES COMMISSION
REGULAR MEETING
December 27, 2018
Suite 202, GCIC BUILDING, HAGATNA



MINUTES

The Guam Public Utilities Commission [PUC] conducted a regular meeting commencing at 6:38 p.m. on December 27, 2018, pursuant to due and lawful notice. Commissioners Johnson, Perez, McDonald, Cantoria, Pangelinan, Montinola, and Miller were in attendance. The following matters were considered at the meeting under the agenda made *Attachment "A"* hereto.

1. Approval of Minutes

The Chairperson announced that the first item of business on the agenda was approval of the minutes of November 29, 2018. Upon motion duly made, seconded and unanimously carried, the Commission approved the minutes subject to correction.

2. TeleGuam Holdings LLC

The Chairperson announced that there were agenda items that would not be heard during the meeting. ALJ Horecky stated that his report on TeleGuam Holdings LLC [GTA] Docket 18-02, PUC Investigation of Transfers of E911 funds was almost complete and he requested that this matter be heard during a special meeting to be held on January 17, 2019. The Chairperson stated that the PUC will move forward on this item in January, 2019.

3. Port Authority of Guam

ALJ Horecky stated that Port Authority of Guam [PAG] Docket 18-04, PAG's Petition for Marina Use Fee Rate Change, would not be heard during this meeting because the PUC required additional time to review the matter due to recently receiving all the materials and the ALJ report concerning this matter and he stated that the matter should be heard during the PUC's January, 2019 meeting. The Chairperson requested that PAG give a brief summary of what they are requesting. PAG Commercial Manager Nelson stated that the recent Slater/Nakamura Supplemental Report addresses phasing the implementation of the *Man'amko* Fee, the request for additional study, and the Passenger Fee. PAG Commercial Manager Nelson also stated that the petition was approved by the PAG Board of Directors and vetted by the PUC's consultants and PAG determined from their initial findings that the fees are insufficient in comparison to its market comparables. He further stated that the Slater/Nakamura

Supplemental Report takes a cost recovery approach instead of the market comparable approach used and desired by the PAG. PAG Commercial Manager Nelson stated that the PAG did not receive the Slater/Nakamura Supplemental Report until December 18, 2018 and that the PAG response to the report was in an email that the PUC received just prior to this meeting and the PAG requests that the PUC consider its response to the supplemental report contained in the email and make said response part of the record in this docket. PAG Commercial Manager Nelson stated that there are differences between what is proposed in Slater/Nakamura Supplemental Report and what PAG is proposing, such as differences concerning the *Man'amko* Fee, the Passenger Fee and the use of the review from that fee, and whether the PAG must bear additional costs for a consultant and more reports. PAG Commercial Manager Nelson also stated that PAG requires additional time to go over the Slater/Nakamura Supplemental Report. The Chairperson stated that the PUC will move forward on this item in January, 2019.

4. Guam Power Authority

ALJ Horecky stated that Guam Power Authority [GPA] Docket 19-08, Petition for Adjustment of the Levelized Energy Adjustment Clause [LEAC] would not be heard during this meeting because the LEAC Factor becomes effective on February 1, 2019 and the PUC traditionally hears this matter in January to set it to begin in February, and because the PUC will have ten days of data to consider prior to its January, 2019 meeting. The Chairperson stated that the PUC will move forward on this item in January, 2019.

The Chairperson announced that the next item of business was GPA Docket No. 19-08, Petition to Exercise Extension Option under the Diesel Fuel Supply Contract with Mobil Oil Guam, Inc. [Mobil], and Isla Petroleum and Energy LLC [IP&E], ALJ Report and Proposed Order. Legal Counsel Camacho stated that the PUC had previously authorized GPA's three-year contract with Mobil and IP&E wherein Mobil provides diesel fuel oil to GPA's baseload and combustion turbine plants, and its Talofofo Diesel Plant, and the MEC diesel plant, and IP&E provides diesel fuel oil to the Tenjo Diesel Plant only. Legal Counsel Camacho stated that the initial contract term expired on December 31, 2017 and the PUC approved GPA's first one-year option period which expires on December 31, 2018. Legal Counsel Camacho stated that GPA had planned to replace this contract with a new one that would begin on January 1, 2019, however, GPA could not do so because of an October, 2018 bid protest of the solicitation for this contract, and GPA must exercise its second one-year option on its existing contract with Mobil and IP&E to keep its plants supplied with diesel fuel oil. Legal Counsel Camacho stated that GPA estimates that the exercise of the contract's second option will cost \$76 million, inclusive of premium fees, which is \$1,425,428 less than the cost of GPA's exercise of the first option. Legal Counsel Camacho also asked the PUC to take note that GPA's soliciting for a new diesel fuel oil contract more than a year before its

existing contract for diesel fuel oil would fully expire is a good example of planned procurement. Commissioner Perez moved to approve GPA's Petition to Exercise Extension Option under the Diesel Fuel Supply Contract with Mobil and IP&E, which motion was seconded by Commissioner Cantoria. The motion carried unanimously.

5. Guam Waterworks Authority

The Chairperson announced that the next item on the agenda was Guam Waterworks Authority [GWA] Docket 19-04, Petition for approval of GWA's Bid and Proposed Contract for Lab Services with Eurofins Eaton Analytical Inc.[Eurofins], ALJ Report, and Proposed Order. ALJ Alcantara stated that in April, 2018, the PUC had previously authorized GWA to procure a contractor for laboratory services, and in May, 2018 GWA issued the solicitation and received two bids. However, GWA had to issue a second solicitation in September, 2018 because the bids submitted in response to the first solicitation were non-responsive. ALJ Alcantara stated that GWA received only one bid from Eurofins in response to the second solicitation. ALJ Alcantara stated that federal law requires GWA to test samples from its water and wastewater systems by a lab that is certified by the National Environmental Accreditation Conference and is accepted by the U.S. Environmental Protection Agency [USEPA] and the Guam Environmental Protection Agency [GEPA] and that there are no such labs on Guam. ALJ Alcantara states that GWA estimates the annual cost of the contract will be \$405,638 annually for a total cost of \$1.2 million for the contract's three-year term, and that the estimated cost for the contract will increased to \$2 million if GWA exercises its two, one-year options to extend the contract past the expiration of its initial three-year term. ALJ Alcantara further states that Eurofins is GWA's current lab services provider and has been serving in that capacity for more than 15 years, it has vast experience testing water and wastewater samples from Guam, it operates that water only testing laboratory in the U.S., and its laboratory is accredited and approved by the USEPA. ALJ Alcantara stated that the Consolidated Commission on Utilities [CCU] passed CCU Resolution No. 02-FY2019 authorizing GWA to award the laboratory services contract to Eurofins for the initial three-year term and the two one-year options to extend, and to expend \$2.4 million on the contract inclusive of a 10% contingency.

Commissioner Perez inquired as to the maximum length of the contract and ALJ Alcantara stated that it was five years, starting with the initial three-year term and ending with the two options to renew for one-year periods. The Chairperson stated that the proposed order should be amended so that the option periods would read "two one-year long options." Commissioner Perez moved to approve, with corrections, GWA's Bid and Proposed Contract for Lab Services with Eurofins, which motion was seconded by Commissioner Cantoria. The motion carried unanimously. ALJ Alcantara stated that the correct amount that the CCU authorized GWA to expend was \$2.2 million.

The Chairperson announced that the next item on the agenda was GWA Docket 19-05, Petition for approval to extend term of GWA's Laboratory Services Contract, Legal Counsel Report, and Proposed Order. Legal Counsel Camacho stated that this contract concerns the Eurofins' existing contract GWA which is being replaced by the new laboratory services contract just approved by the PUC. Legal Counsel Camacho stated that GWA solicited for its new contract for laboratory services just sixty days prior to the expiration of GWA's existing contract with Eurofins, and when GWA had to reject the bids it received in its first solicitation for a new contract, it was forced to extend its existing contract with Eurofins for a five-month period beyond its expiration date because GWA absolutely has to have these laboratory services to comply with U.S. and Guam regulations. Legal Counsel Camacho stated that GWA's Contract Review Protocol requires that GWA obtain the PUC's approval for contracts that are subject to the PUC's review but which have not received the PUC's approval for a portion of such contracts. Legal Counsel Camacho stated that in this case, the PUC had previously approved GWA's existing laboratory services contract with Eurofins for the entire five-year contract term at a cost of \$2,840,925 which exceeds the contract review threshold. Legal Counsel Camacho stated the five-month extension is estimated to cost an additional \$35,700 per month for a total amount of approximately \$178,000 beyond what the PUC had previously approved for this contract. Legal Counsel Camacho stated that the CCU ratified GWA's extension of the laboratory services contract with Eurofins on November 27, 2018. Legal Counsel Camacho stated that although the ratification is permissible under Guam Procurement Law, it is not the preferred method because of the procurement law's policy of planned procurement and GPA's soliciting for a new fuel oil contract over a year before its existing contract expires is a good example of planned procurement. Legal Counsel Camacho further stated that the five-month term is slightly higher for than the rate for the new laboratory services contract resulting in a loss of approximately \$11,000, however, this loss may not actually occur because GWA uses Eurofins laboratory services on an "as-needed" basis and the estimated loss may be much lower. Legal Counsel Camacho also stated that the proposed order seeks to minimize this loss by requiring GWA to finalize and effectuate its new laboratory contract, and its lower rates, no later than January 31, 2019.

The Chairperson inquired whether GWA will have its new contract with Eurofins by January 31, 2019 and GWA General Manager Bordallo stated that it should be effect by that date. Commissioner Miller inquired from GWA as to whether the CCU disliked ratifying the contract extension and GWA General Manager Bordallo stated that they are never happy with such requests. Commissioner Miller then inquired as to what GWA would be doing differently to avoid lapses in contracts. GWA General Manager Bordallo stated that GWA has a General Manager of Administration and with additional help GWA will push these contracts out faster and GWA has rotated one of its personnel from engineering to its legal counsel's office to assist him with tracking all contracts, and this is the only contract that was delayed in being replaced, and that the other contracting issues concerned contracts that cost more than what the CCU had

authorized. Commissioner Perez inquired as to what the GWA employee was tasked with if not for the purpose of tracking the contracts and GWA General Manager Bordallo stated that the employee was performing her assigned task and moving her to the GWA legal counsel's office was also for the purpose of the employee being involved with the administration of government claims. Commissioner Perez then inquired as to whether there were any other GWA employees who are not performing their assigned duties that could have prevented the extension of the laboratory services contract and GWA General Manager Bordallo stated that there was only the one employee that he already described. Commissioner Cantoria then inquired whether the proper name of Eurofins was "Eurofin" or "Eurofins" because the reports from ALJ Alcantara used "Eurofins" and the report from Legal Counsel Camacho used "Eurofin," and GWA General Manager Bordallo confirmed that the correct name was "Eurofins." The Chairperson stated that the proposed order would be corrected to reflect the correct name of the company. Commissioner Pangelinan inquired whether the original contract for laboratory services allowed for the additional five-month extension and Legal Counsel Camacho confirmed that it did not, and that generally, rulings on procurement protests usually affirm the original term of the contract because allowing additional terms or extensions beyond the expiration of the contract term are unfair to the other bidders. Legal Counsel Camacho further stated that the ratification process allows the purchasing agencies to ratify actions that may not be in compliance with Guam's Procurement Laws and Regulations. Commissioner Montinola inquired as to whether the ratification process was legal and Legal Counsel Camacho stated that it was, however, in this case, GWA was lucky to not have a protest because such a protest would likely be sustained by the Court. Commissioner Montinola inquired as to how many bidders responded to GWA's laboratory services solicitation and Legal Counsel Camacho stated that there were two bidders for the first solicitation that was cancelled and that Eurofins was the only bidder for the second solicitation.

Commissioner Cantoria inquired as to the January 31, 2019 date in the proposed order and Legal Counsel Camacho stated that it was a deadline for GWA to enter into its new contract with Eurofins to ensure that the higher priced extension of the existing laboratory services contract did not continue for another month. The Chairperson inquired as to whether GWA amended its second bid for laboratory services and GWA General Manager Bordallo stated that it did by clarifying the requirements for unregulated containment monitoring to make them easier to understand because he did not believe that they analytical requirements were clear enough in the first solicitation. Commissioner Perez inquired as to where Eurofins was located and whether GWA was sending the PUC any other contracts that had to be extended like Eurofins and GWA General Manager Bordallo stated that Eurofins was located in the mainland and that the other GWA contracts before the PUC were not extended like this contract. Commissioner Montinola moved to approve GWA's Petition for approval to extend term of GWA's Laboratory Services Contract, which motion was seconded by Commissioner Miller. The motion carried unanimously.

The Chairperson announced that the next item on the agenda was GWA Docket No. 19-06, Petition for Approval of the two-year Extension of the Contract with JMI Edison and Total Chemicals for the Purchase of Wastewater Chemicals for the Northern, Hagatna, and Agat Santa Rita Wastewater Treatment Plants, ALJ Report, and Proposed Order. ALJ Alcantara stated that in January, 2016, the PUC approved GWA's purchase of aluminum chloralhydrate [ACH] and cationic polymer chemicals [CPC] for a three-year term from Total Chemical Resources [TCR] for a total cost of \$3 million, and CPC from Johndel International Inc., dba JMI Edison [JMI] for the amount of \$600,000. ALJ Alcantara stated that GWA is requesting that the PUC approve GWA's exercise of two one-year options for renewal in both of these contracts because GWA requires these chemicals for the daily operation and the maintenance of its wastewater treatment plants and to comply with the November 11, 2011 Federal Court Order. ALJ Alcantara also stated that the renewal period cost for the JMI contract was \$1.56 per pound of CPC for a total cost of \$343,360 per year. ALJ Alcantara stated that the renewal period cost for the TCR contract was \$1.25 per pound of ACH for a total cost of \$1.45 million, and \$1.56 per pound of CPC for a total cost of \$285,120 per year. ALJ Alcantara further stated that the CCU passed Resolution Nos. 05-FY2019 and 06-FY2019 which approved GWA's exercise of the two one-year optional renewal periods. ALJ Alcantara summarized that the total cost for renewing the JMI contract was \$686,649, the total cost of renewing the TCR contract was \$3,484,620, and that the grand total for both contracts is \$4,171, 269.60.

Commissioner Miller recommended that GWA should consider one large bid for chemicals for both its drinking water and wastewater systems because they both use some of the same chemicals and might be able to achieve cost savings with a single bid. Commissioner Montinola inquired as to whether the cost for the exercising the renewal options was more expensive and GWA General Manager Bordallo affirmed that the renewal costs were more expensive due to a slight increase for the chemicals themselves and due to much higher shipping costs. The Chairperson and Commissioner Perez inquired as to what the shelf-life of the chemicals were and GWA General Manager Bordallo stated that he did not know, and that GWA keeps a ninety inventory on hand and is constantly ordering these chemicals to maintain this inventory level. Commissioner Miller inquired as to what safeguards were in place to prevent over-dosing of the chemicals and to ensure an efficient application of these chemicals because they were expensive. GWA General Manager Bordallo stated that the operators monitor the dosing of some of the chemicals throughout the day except for the graveyard shift and that the other chemicals were used only during special operations, and that the lab bench tests to ensure the correct application of the chemicals. Commissioner Miller stated that GWA must watch its use of the chemicals because GWA is using a very large amount of ACH. GWA General Manager Bordallo stated that the monthly numbers were large because GWA had added the Agat Santa Rita Wastewater Treatment Plant to its operations. Commissioner Montinola inquired as to how GWA was shipping the chemicals to Guam and GWA General Manager Bordallo

stated that GWA used large chemical totes to ship the chemicals to Guam and that it tries to fit the maximum number of totes into 40-foot containers. Commissioner Pangelinan moved to approve the Petition for Approval of the two-year Extension of the Contract with JMI Edison and Total Chemicals for the Purchase of Wastewater Chemicals for the Northern, Hagatna, and Agat Santa Rita Wastewater Treatment Plants, which motion was seconded by Commissioner Cantoria. The motion carried unanimously. ALJ Alcantara stated that he would amount the proposed order to read "two one-year terms."

The Chairperson announced that the next item on the agenda was GWA Docket No. 19-07, Petition or Approval of a Multi-Year Lease Agreement for Heavy Equipment, Legal Counsel Report, and Proposed Order. Legal Counsel Camacho stated that GWA seeks to rent three backhoes, three backhoe trailers, and three dump trucks from Morrico Equipment LLC [Morrico]. Legal Counsel Camacho stated that the PUC had not previously approved the solicitation for this contract because the solicitation and contract had various options and only GWA's exercise of the five-year option would bring exceed the threshold of GWA's contract review protocol, and that GWA believes that this option is the cheapest and that its cost would be \$1,160,829. Legal Counsel Camacho stated although GWA has a heavy equipment fleet, it is ageing, it requires a maintenance, and significant numbers of the fleet incur longer down times, and that GWA uses its heavy equipment fleet to perform quick fixes on its system and to use in house crews to conduct installations to improve the performance of its system. Legal Counsel Camacho stated that GWA had other options, such as improving its maintenance so that the down time of its heavy equipment is minimized, or GWA could purchase brand new heavy equipment. Legal Counsel Camacho stated that he did a rudimentary search for the cost of purchasing the types and quantities of heavy equipment that GWA was renting and determined that the purchase price was close to or slightly less than the cost to rent the equipment, however, the purchase cost did not include shipping to Guam, and the cost did not include maintenance or replacement of heavy equipment while it was being maintained as the lease would, making it more likely the five year lease for the heavy equipment was cheaper than purchasing new equipment over the same period. Legal Counsel stated that the PUC could order a more detailed cost-benefit analysis of these various options, if the PUC desired one prior to deciding this issue.

The Chairperson inquired as to whether Morrico would provide equipment to temporarily replace equipment that was down for maintenance and GWA General Manager Bordallo stated that they would, if the down time exceeded a certain time period. GPA/GWA Legal Counsel Botha stated that the loaner equipment part of the lease was important because much of the maintenance delays GWA was experiencing was caused by the long period it takes to ship parts to Guam to make the repairs. The Chairperson inquired as to whether GPA was leasing heavy equipment and GPA/GWA Legal Counsel Botha stated no, but GPA was purchasing three bucket trucks per year to control its heavy equipment inventory and GWA General Manager

Bordallo stated GPA had to do that because it is harder to lease specialty equipment like bucket trucks, and he stated that because the heavy equipment sought by GWA was common, it was easier to lease, and that GWA had not tried to lease its specialty equipment, such as vacuum trucks, and that GWA would likely have to buy such specialty equipment. Commissioner Montinola inquired as to how old GWA's heavy equipment fleet was and GWA General Manager Bordallo stated that it was from ten to fifteen years old and that they were not planning on getting rid of the heavy equipment fleet, and that the lease would free up mechanics to perform the maintenance on the heavy equipment that GWA owns. Commissioners Montinola and Miller inquired as to whether the lease included the costs of insurance and GWA General Manager Bordallo stated that the lease did not include insurance. Commissioner Montinola then inquired as to whether such insurance was required and GWA General Manager Bordallo and GPA/GWA Legal Counsel stated if there was an insurance requirement it was already covered under GWA's existing insurance policies, including its liability policy. Commissioner Cantorial inquired as to the age of the equipment being leased and GPA/GWA Legal Counsel Botha and GWA General Manager Bordallo stated that the lease required the equipment to be brand new 2019 models., and that if they break down, Morrico is required to give GWA a loaner to replace it while the broken equipment is being repaired. Commissioner Miller inquired whether the lease stated that if the contractor could make repairs within a certain turn-around time, GWA could rent a similar piece of equipment and deduct the rental price from the lease price, and GWA General Manager Bordallo stated that this was true if they did not provide a loaner, but if GWA caused the damage, GWA might be liable for the loss if the heavy equipment was a total loss. Commissioner Miller inquired as to whether GWA did a cost benefit analysis on whether the lease would remain viable after GWA had undergone its planned reorganization and General Manager Bordallo stated there was nothing in the reorganization that would result in consolidating heavy equipment usage with GPA, however, there were discussions about supplementing, or allowing GWA and GPA to borrow equipment from each other.

Commissioner Pangelinan inquired as to whether the 3, 4, and 5 year options were part of the IFB specifications and GWA General Manager Bordallo stated that the bidders were invited to bid on all of those options. Commissioner Pangelinan then inquired whether GWA anticipated that the bids would be below \$1 million and whether that was the reason why GWA did not seek PUC approval of the solicitation and GPA/GWA Legal Counsel Botha stated that was true because GWA had not solicited for a long term lease of heavy equipment for a long period and GWA could not estimate how much the bid responses would be, and he stated that GWA's normal practice is that if GWA estimates that the cost would exceed \$1 million, it would seek PUC approval of the solicitation prior to issuing it. Commissioners Pangelinan and Miller stated that GWA should document whether it estimates that the cost would be below \$1 million and include that in the procurement record. GPA/GWA Legal Counsel Botha stated that in this case GWA went with the 5 year option because it was

the cheapest option despite exceeding the \$1 million threshold. Commissioners Montinola and Cantoria inquired whether GWA had the option to purchase the heavy equipment at the end of the lease period and whether it would be worth it to exercise that option and GWA General Manager Bordallo stated that the lease had an option to purchase but he did not know what the value of the equipment would be at the end of the lease. A discussion ensued between Commissioners Montinola, Cantoria and McDonald, and GWA General Manager Bordallo over the lease with an option to buy and whether a cost benefit analysis for each of the options would benefit GWA's decision making process. The Chairperson inquired as to what the depreciation schedule was for the heavy equipment and ALJ Horecky and stated that it was ten years, and Commissioners Cantoria, Montinola, McDonald, and ALJ Horecky stated that the Department of Revenue and Tax would do seven years. Commissioner Perez inquired why the contract was not included in GWA's petition and ALJ Horecky stated that the PUC does not always receive the contracts with the petition and Legal Counsel Camacho stated that in this case, the complete contract was not included with the Petition, and that the PUC could order GWA to submit a copy of the finalized contract to the PUC, and that he tried to obtain a contract from GWA Legal Counsel Kelly prior to this meeting, however, he could not be reached because he was off-island. GPA/GWA Legal Counsel Botha stated GWA could send a copy of the finalized contract to the PUC. Legal Counsel Camacho stated that he could not confirm GWA's statements regarding the insurance provisions and the option to purchase because these parts of the contract were not submitted with the Petition. Commissioner Perez requested that GWA provide a copy of the contract to the PUC and GPA/GWA Legal Counsel Botha stated that GWA would provide a copy of the contract to the PUC.

The Chairperson asked whether the PUC should postpone deciding this matter until it receives the proper documentation. Commissioner Miller questioned whether the option to buy would make a substantial difference and he stated that a one-month delay is a month in which GWA might fail to repair, install, or make corrections to the system and that he would prefer to vote on the matter. Commissioner McDonald stated that he was fine leaving the lease with an option to buy out of the contract. Commissioner Miller moved to approve the Petition or Approval of a Multi-Year Lease Agreement for Heavy Equipment, which motion was seconded by Commissioner Montinola. The motion carried unanimously.

6. Administrative Matters

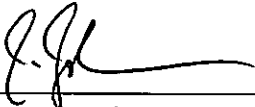
The Chairperson indicted that the next item of business was Administrative Matters. Commissioner Montinola inquired whether GPA provided the PUC a report concerning the proceeds from the Cabras 3 and 4 Insurance Settlement and ALJ Horecky stated that he would follow up on this issue.

The Chairperson announced that the next matter to be discussed was the amendment of the PUC's per diem and Travel Policy. ALJ Horecky stated that he was been working with Lou Palomo to develop a simplified policy which preserves the existing affidavit policy of the per diem rate is insufficient, and which eliminates the complex differentiation between different destinations. Commissioner Montinola suggested that they be allowed to be reimbursed for their hotel and air fare costs and to establish a per diem rate for meals and transportation. ALJ Horecky stated that he understands the concept, and that there would be an issue as to the level of hotel that the commissioner stayed at. Commissioner Montinola stated that the price of the conference hotel could be used as a cap if the commissioners wanted to stay somewhere else and ALJ Horecky stated that he would look into that. The Chairperson inquired as to whether the PUC could internally issue letters of invitation to the various meetings the commissioners and PUC staff attended and he recommended that the PUC issue these letters going forward. ALJ Horecky asked whether these letters of invitation would be approved by the Chairperson and the Chairperson stated that they would be. Commissioner Perez stated that she follows the Government of Guam Procurement Process when making her travel plan. Commissioner Cantoria stated that the University of Guam requires those who attend conferences or meetings off-island write three-page reports concerning their attendance and recommended that the PUC do the same. ALJ Horecky states that he writes reports concerning his attendance at conferences and meetings on behalf of the PUC, and he does this via an affidavit, to which he attaches copies of his expense receipts, and he believes such reports are a good idea. A discussion ensued between Commissioner Perez and ALJ Horecky stressing the importance of educational travel for the PUC's commissioners and staff and adequately documenting such travel to avoid controversy such as the recent controversy concerning government paid, off-island travel for some of the Government of Guam's elected officials. The Chairperson inquired as to whether a policy requiring pre-approval by the Chairperson and requiring a post conference report, and two conferences for commissioners per term be implemented on all PUC paid travel going forward. A discussion ensued between the commissioners concerning various conferences that would be beneficial to them and the PUC's staff. The Chairperson stated that all travel would have to be within the PUC's travel budget.

The Chairperson announced that the next item to be discussed was officer elections. The Chairperson stated that the PUC should hold officer elections every two years and that the commissioners should nominate its officers in one meeting and hold the election during the next meeting. Commissioner Pangelinan moved to nominate Commissioner Johnson as the Chairperson, which motion was seconded by Commissioner Cantoria. The motion carried unanimously. Commissioner Pangelinan moved to nominate Commissioner Perez as Vice Chairperson, which motion was seconded by Commissioner Montinola. The motion carried unanimously.

Commissioner Pangelinan moved that the candidates nominated be elected to their respective officer positions and the motion carried unanimously.

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



Jeffrey C. Johnson
Chairperson

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION
REGULAR MEETING
SUITE 202, GCIC BUILDING
414 W. SOLEDAD AVE., HAGATNA, GUAM
6:30 p.m., December 27, 2018**

Agenda

- 1. Approval of Minutes of November 29, 2018**
- 2. TeleGuam Holdings LLC**
 - **GTA Docket 18-02, PUC Investigation of Transfers of E911 Funds, ALJ Report, and Proposed Order**
- 3. Guam Power Authority**
 - **GPA Docket 19-08, Petition to Exercise Extension Option under the Diesel Fuel Supply Contract with Mobil Oil Guam, Inc. and Isla Petroleum and Energy, LLC (IP&E Guam), PUC Counsel Report, and Proposed Order**
 - **GPA Docket 19-07, Petition for Adjustment of the Levelized Energy Adjustment Clause (LEAC), ALJ Report, and Proposed Order**
- 4. Port Authority of Guam**
 - **PAG Docket 18-04, Petition for Marina User Fee Rate Change, Supplemental Report by Slater Nakamura, Supplemental ALJ Report, and Amended Proposed Order**
- 5. Guam Waterworks Authority**
 - **GWA Docket 19-04, Petition for Approval of GWA's Bid and the Proposed Contract for Lab Services with Eurofins Eaton Analytical Inc., ALJ Report, and Proposed Order**
 - **GWA Docket 19-05, Petition for Approval to Extend the Terms of GWA's Laboratory Services Contract, PUC Counsel Report, and Proposed Order**
 - **GWA Docket 19-06, Petition for Approval of the Two-Year Extension of the Contract with JMI Edison and Total Chemicals for the Purchase of Wastewater Chemicals for the Northern, Hagatna and Agat Santa Rita Wastewater Treatment Plants, ALJ Report, and Proposed Order**
 - **GWA Docket 19-07, Petition for Approval of a Multi-Year Lease Agreement for Heavy Equipment, PUC Counsel Report, and Proposed Order**
- 6. Administrative Matters**
 - **Discussion re PUC Travel Policy**
- 7. Other Business**

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:)

GPA DOCKET 19-08)

THE APPLICATION OF THE GUAM)
POWER AUTHORITY TO EXERCISE)
EXTENSION OPTION UNDER THE)
DIESEL FUEL SUPPLY CONTRACT)
WITH MOBIL OIL GUAM, INC. AND)
ISLA PETROLEUM AND ENERGY, LLC)
(IP&E GUAM))

ORDER

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Petition of the Guam Power Authority ["GPA"] to Exercise the Second Extension Option under the Diesel Fuel Supply Contracts with Mobil Oil Guam, Inc. ["Mobil"] and Isla Petroleum and Energy, LLC ["IP&E"].¹
2. GPA's First Extension of its Diesel Fuel Supply Contracts with Mobil and IP&E expires on December 31, 2018, with an option to extend for an additional one (1) year term.
3. GPA requests approval to exercise the remaining option to extend its Diesel Fuel Supply Contracts with Mobil and IP&E the contracts from January 1, 2019 to December 31, 2019.²

BACKGROUND

4. On December 1, 2014, the PUC authorized GPA to enter into three (3) year term diesel fuel supply contracts with Mobil and IP&E and the contracts had two (2) options to extend the contract term for one (1) year for each option period.³

¹ GPA Petition to Exercise Extension Option under the Diesel Fuel Supply Contracts with Mobil Oil Guam, Inc. and Isla Petroleum and Energy, LLC (IP&E Guam), GPA Docket 19-08, dated December 5, 2018.

² Id. at line 24, page 1.

³ PUC Order, GPA Docket 14-05, dated December 1, 2014, at page 3.

5. Under these contracts, Mobil Oil provides diesel fuel oil to the Baseload Plants, Combustion Turbine Plants, Manenggon Diesel Plant, and Talofoto Diesel Plant. IP&E supplies diesel fuel oil to the Tenjo Diesel Plant.⁴
6. The initial term of the fuel supply contracts expired on December 31, 2017. On December 18, 2017, the PUC approved GPA's exercise of the first option to extend the contracts from January 1 to December 31, 2018.⁵
7. The PUC authorized GPA to expend up to a total amount of \$77,425,498 for GPA exercising the first option to extend the contracts for a one (1) year period.⁶
8. GPA planned to replace its existing fuel supply contracts in 2019, and issued GPA-IFB-008-18 (Multi-Step) (Supply of Diesel Fuel Oil No. 2). The contract or contracts awarded under this solicitation were supposed to begin with an initial term of two (2) years commencing on January 1, 2019, with three (3) additional one (1) year extension options. However, there was a bid protest on October 8, 2018 and GPA anticipates that the protest will not be resolved prior to the planned commencement date.⁷
9. GPA estimates the cost of exercising the second option to extend the contracts with Mobil and IP&E for a one (1) period from January 1 to December 31, 2019 will be approximately \$76,000,000 for the estimated 700,000 barrels of fuel oil GPA believes it will consume under the contracts for that period.⁸ This price includes the premium fee for the contracts which is estimated to be \$7,212,100.⁹
10. On November 27, 2018, the Guam Consolidated Commission on Utilities ["CCU"] authorized GPA to exercise the second (2nd) one (1) year contract extensions with Mobil and IP&E for the supply and delivery of diesel fuel oil.¹⁰ Further, the CCU

⁴ Id. at page 2.

⁵ Order, GPA Docket 18-04, filed December 18, 2017, at page 2.

⁶ Id.

⁷ CCU Resolution No. 2018-30, Authorizing the Management of the Guam Power Authority to Petition the Public Utilities Commission for the Extension of the Diesel Fuel Oil No. 2 Supply Contracts with Mobil Oil Guam, Inc. and IP&E, adopted November 27, 2018, at line 11, page 1.

⁸ GPA Petition, GPA Docket 19-08, dated December 5, 2018 at line 26, page 1.

⁹ CCU Resolution No. 2018-30, Exhibit A, Estimated Diesel Expenses, 700,000 barrels x \$10.303 avg. contract premium fee per barrel = \$7,212,100.

¹⁰ Id., at line 28, page 1.

specified that the funding to pay for the cost of the second (2nd) one (1) year contract extensions would come from GPA's approved FY2019 budget.¹¹

11. PUC Counsel issued his report on December 22, 2018.
12. GPA requests approval to exercise the remaining option to extend its Diesel Fuel Supply Contracts with Mobil and IP&E from January 1, 2019 to December 31, 2019.

DETERMINATIONS

13. The PUC has previously determined that a continuous supply of diesel fuel oil is necessary for GPA to maintain its electric power generation capacity.¹²
14. If the PUC does not approve the current request, GPA would be left without a diesel fuel oil supply after December 31, 2018.
15. Exercising the second one (1) year option is an appropriate stop-gap measure to continue the necessary supply of fuel oil to GPA while it resolves procurement protest in GPA-IFB-008-18 and awards a new fuel supply contract or contracts.
16. To ensure the continued supply of fuel oil to GPA, the PUC should authorize GPA to exercise the second option to extend the diesel fuel supply contracts with Mobil and IP&E for the 1 year period of January 1, 2019 to December 31, 2019.
17. GPA's estimated \$76,000,000 estimated cost for the second extension is \$1,425,498 less than the estimated \$77,425,498 cost of the GPA's exercise of the first option to extend the contracts from January 1, 2018 to December 31, 2018.
18. GPA's request is reasonable, prudent and necessary. The PUC approves GPA's request to exercise the remaining option to extend its Diesel Fuel Supply Contracts with Mobil and IP&E from January 1, 2019 to December 31, 2019.

¹¹ Id., at line 20, page 1.

¹² PUC Order, GPA Docket 14-05, the Application of the Guam Power Authority to Approve the Contract for Supply of Diesel Fuel Oil to GPA, dated December 1, 2014, at p. 2.

ORDERING PROVISIONS

After review of the record herein, GPA's Petition for Approval of its exercise the remaining option to extend its Diesel Fuel Supply Contracts with Mobil and IP&E from January 1, 2019 to December 31, 2019, the PUC Counsel Report, and 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 its exercise of the remaining option to extend its Diesel Fuel Supply Contracts with Mobil and IP&E from January 1, 2019 to December 31, 2019 is hereby approved.
2. 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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Order
Second Extension Option
for Diesel Fuel Supply Contract
with Mobil & IP&E
GPA Docket 18-04
December 27, 2018

Dated this 27th day of December, 2018.



Jeffrey C. Johnson
Chairman



Joseph M. McDonald
Commissioner



Rowena E. Perez
Commissioner



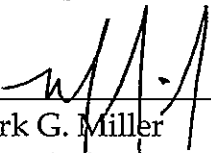
Filomena M. Cantoria
Commissioner



Michael A. Pangelinan
Commissioner



Peter Montinola
Commissioner



Mark G. Miller
Commissioner

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN RE: PETITION FOR APPROVAL)
OF GWA'S PROPOSED)
CONTRACT FOR LAB)
SERVICES WITH EUROFINS)
EATON ANALYTICAL INC.)
_____)

GWA DOCKET 19-04

ORDER

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the "Commission" or the "PUC") pursuant to the November 29, 2018 Petition for approval of a multi-year contract for laboratory services provided by Eurofins Eaton Analytical, Inc. ("Eurofins"), filed by the Guam Waterworks Authority ("GWA"). GWA seeks PUC approval so that it may enter into a multi-year contract with Eurofins for laboratory services.

On December 24, 2018, the Administrative Law Judge of the PUC (the "ALJ") assigned to this matter filed an ALJ Report that included his findings and recommendations based on the administrative record before the PUC. The ALJ found the following.

DETERMINATIONS

On April 26, 2018, the PUC approved the procurement of a contractor for laboratory services.¹ On May 7, 2018, GWA issued an invitation for bid specifically procuring a U.S. Environmental Protection Agency ("U.S. E.P.A.") certified lab to analyze water and wastewater samples to comply with the Safe Drinking Water Act and the Guam Primary and Secondary Drinking Water Regulations.² According to GWA, while two contractors submitted

¹ Order, GWA Docket 18-05, p. 4 (Apr. 26, 2018).

² Petition for Approval of GWA's Bid and the Proposed Contract for Lab Services with Eurofins Eaton Analytical, Inc. ("Petition"), p. 1 (Nov. 29, 2018).

bids, GWA determined that neither bidder was entirely responsive and thereafter rejected the two bids.³

On September 10, 2018, GWA again issued an invitation for bid procuring a contractor for such laboratory services.⁴ According to GWA, only Eurofins submitted a bid.⁵

A. Contract Review Protocol

Pursuant to 12 G.C.A. §12105, GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC's express approval. Additionally, pursuant to GWA's Contract Review Protocol issued in Administrative Docket 00-04, "[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 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."⁷

In this instance, GWA seeks PUC approval of a multi-year contract with Eurofins. GWA submits that the anticipated cost of the contract is \$405,638.00 annually, which would result in a total contract award of \$1,216,914.00 for an initial three-year term; and up to

³ Consolidated Commission on Utilities ("CCU") Resolution No. 02-FY2019 ("Resolution"), p. 1 (Nov. 27, 2018).

⁴ Resolution, p. 2.

⁵ Resolution, p. 2.

⁶ GWA's Contract Review Protocol ("Contract Protocol"), Administrative Docket 00-04, p. 1 (Oct. 27, 2005).

⁷ Contract Protocol, p. 4.

\$2,028,190.00 in the event GWA exercises two one-year options to renew, which is provided under the proposed contract.

B. GWA's Petition for Approval of the Proposed Contract for Lab Services with Eurofins Eaton Analytical, Inc.

In its Petition, GWA requested that the PUC approve a three-year contract with Eurofins for laboratory services, which also includes two one-year options to renew.⁸ GWA submitted that it is “required under federal law to conduct scheduled testing on water and wastewater samples by a laboratory certified by the National Environmental Laboratory Accreditation Conference and accepted by the U.S. E.P.A. and Guam Environmental Protection Agency.”⁹ GWA further submitted that “[t]here are no U.S. E.P.A./GEPA certified labs on-island” and it has “no reasonable alternatives to securing these essential services”¹⁰

C. Scope of Services

Based on documentation submitted by GWA, GWA's invitation to bid requires that the contractor must be able to provide monthly, quarterly, biannual, and annual tests on GWA's water, wastewater, and UCMR3 (Unregulated Contaminants Monitoring Rule 3) samples. These tests are intended to measure levels of pesticides, metals and toxicity in GWA's water and wastewater, among others. For example, Guam's water will be tested every three (3) years for lead and copper; and wastewater will be tested annually for effluent toxicity, pesticides, and priority pollutants. With every sample, the contractor is given a thirty-day turnaround to complete its analysis.

⁸ Petition, p. 2.

⁹ Petition, p. 2.

¹⁰ Petition, p. 2.

D. Term, Cost, and Funding Source

The proposed contract between GWA and Eurofins indicates an initial term of three (3) years, with two one-year options for renewal, “subject to the availability of funds and agreement between the parties.”¹¹ The annual cost of the contract is estimated at \$405,638.00. Accordingly, GWA is seeking approval for \$1,216,914.00 for the first three (3) years, and another \$811,276.00 for the two-year renewal, for a total cost of \$2,028,190.00. GWA submits that the projected source of funding for the contract will be from GWA revenues.

E. Eurofins Eaton Analytical

Based on its bid submission, Eurofins has served as GWA’s contractor for laboratory services for more than fifteen (15) years; and, therefore, is “familiar with the water quality of GWA’s village wells, springs, surface water and treatment facilities.” According to Eurofins, it is experienced in managing the samples to and from Guam; and according to its bid submission, Eurofins also has “the largest water-only testing laboratory in the United States, accredited and approved by the EPA”

F. CCU Resolution No. 02-FY2019

The instant Petition is supported by Resolution No. 02-FY2019 (the “Resolution”) issued by the CCU. Pursuant to the Resolution, the CCU found that the terms of Eurofin’s proposal were “reasonable, prudent, and necessary.”¹² Further, the CCU authorized GWA to petition the PUC to seek approval to award the lab services contract to Eurofins for three (3)

¹¹ Resolution, p. 3.

¹² Resolution, p. 3.

years, with the two one-year options to renew, for an “aggregate amount” of \$2,433,828.00, which includes a ten percent (10%) contingency.¹³

Based on the documentation provided by GWA, the ALJ found the subject contract 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 and monitoring is required under the Safe Drinking Water Act and the Guam Primary and Secondary Drinking Water Regulations.

Furthermore, the ALJ found that Eurofins is certainly qualified to provide the laboratory testing services since it is a U.S. E.P.A. certified lab, and since it has significant experience providing such services to GWA and the island of Guam. Moreover, the ALJ found that the annual cost of the contract, which is estimated at \$405,638.00, appears reasonable given that the PUC approved the annual cost of \$568,185.00 for such services in the prior contract with Eurofins.

The ALJ recommended that the PUC approve GWA’s Petition. Accordingly, GWA should be authorized to enter into a multi-year contract with Eurofins for laboratory services. Specifically, GWA should be permitted to enter in the proposed contract with Eurofins for the initial three-year term, and should also be permitted to exercise the two one-year options to renew the contract if it elects to do so.

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

¹³ Resolution, p. 4.

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 enter into the subject contract for laboratory services with Eurofins Eaton Analytical, Inc. for the initial three-year term, and is also permitted to exercise the two one-year options to renew the contract if it elects to do so, for a total amount of \$2,028,190.00.

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.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

SO ORDERED this 27th day of December, 2018.



JEFFREY C. JOHNSON
Chairman



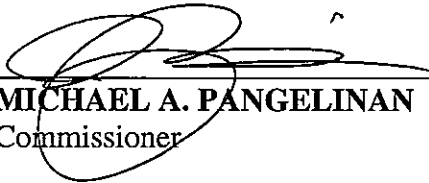
ROWENA E. PEREZ
Commissioner



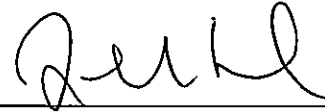
JOSEPH M. MCDONALD
Commissioner



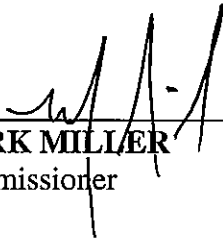
FILOMENA M. CANTORIA
Commissioner



MICHAEL A. PANGELINAN
Commissioner



PETER MONTINOLA
Commissioner



MARK MILLER
Commissioner

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BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:

)
) GWA DOCKET 19-05
)

THE PETITION OF THE GUAM
WATERWORKS AUTHORITY FOR
APPROVAL TO EXTEND THE TERM
OF IT'S LABORATORY SERVICES
CONTRACT WITH EUROFINS EATON)
ANALYTICAL, LLC)

ORDER

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] pursuant the Guam Waterworks Authority's ["GWA"] Petition for Approval to Extend the Term of GWA's Laboratory Services Contract with Eurofins Eaton Analytical, LLC ["Eurofins"].¹
2. On August 2, 2013, GWA awarded Eurofins a contract for Laboratory Services which expired on August 2, 2018, and GWA requests that the PUC approve an amendment to this contract extending its term from August 3, 2018 through December 31, 2018.²

BACKGROUND

3. GWA must have a U.S. Environmental Protection Agency certified lab to conduct testing on water and wastewater samples provided by GWA to ensure GWA is complying with the federal Safe Drinking Water Act and Guam's Primary and Secondary Safe Drinking Water Regulations.³
4. Eurofins has been providing these laboratory services to GWA since August 2, 2013 and its contract with GWA was to expire, pursuant to five (5) year maximum term, on August 2, 2018.⁴ GWA Docket 13-03, the PUC approved the one (1) year term of this contract and its four (4) year extension term for a maximum term of five (5) years of its term. GWA had estimated that the anticipated costs of this contract would be five-hundred-sixty-eight-thousand-one-hundred-eighty-five-dollars

¹ GWA Petition for Approval to Extend the Term of GWA's Laboratory Services Contract, GWA Docket 19-05, filed on November 29, 2018.

² Id. at line 21, p. 2.

³ Id., at line 28, p. 1.

⁴ Id., at line 21.

(\$568,185) per year resulting in a total contract award of two-million-eight-hundred-forty-thousand-nine-hundred-twenty-five-dollars (\$2,840,925) for the entire five (5) year term of the contract and the source of funding for this contract would come from GWA's O&M Budget.⁵

5. On May 27, 2018, GWA issued GWA-IFB-2018-05 (Laboratory Services) to replace its expiring contract with Eurofins. However, GWA only received two (2) bids in response to that solicitation and, July 16, 2018, GWA rejected both bids because they were non-conforming.⁶
6. GWA's Laboratory Services contract with Eurofins expired on August 2, 2018. However, Eurofins continued to provide laboratory services to GWA under an amendment to its expiring contract that authorized Eurofins to continue to provide the laboratory services from August 3, 2018 through December 31, 2018 at an estimated rate of thirty-five-thousand-seven-hundred-dollars (\$35,700) per month.⁷
7. On September 10, 2018, GWA re-issued its solicitation for laboratory services, and on October 19, 2018, GWA awarded this contract to Eurofins, subject to the approval of the CCU and the PUC which is anticipated to occur in early 2019.⁸
8. On November 27, 2018, the CCU adopted Resolution No. 03-FY2019 which ratified the amendment to Eurofins's prior contract and authorized GWA's management to pay Eurofins the amount of thirty-five-thousand-seven-hundred-dollars (\$35,700) per month from August 3, 2018 to December 31, 2018 in accordance with the contract amendment.⁹
9. PUC Counsel issued his report on December 21, 2018.
10. GWA requests that the PUC approve the amendment to GWA's Laboratory Services Contract with Eurofins extending its term from August 3, 2018 through December 31, 2018.

⁵ Petition, GWA Docket No. 13-03, page 2.

⁶ Consolidated Commission on Utilities ["CCU"] Resolution No. 03-FY2019, Relative to the Ratification of the Contract Extension with Eurofins for Laboratory Services, issued on November 27, 2018, page line 26, page 1 to line 3, page 2, and Exhibit B.

⁷ Id. at line 5, p. 3.

⁸ Petition for GWA Docket 19-5, line 3, page 2.

⁹ Id., at line 24, page 3.

DETERMINATIONS

11. As stated above, federal law and Guam regulations require GWA to have the laboratory services that were the subject of GWA's existing contract with Eurofins. GWA's compliance with these laws and regulations was jeopardized by the need to reject the bids submitted in response GWA-IFB-2018-05 because this resulted in GWA not having a new laboratory services contract to replace its existing contract with Eurofins that was expiring on August 2, 2018. GWA avoided the potential for statutory and regulatory non-compliance through amending its contract with Eurofins by extending its term from August 2, 2018 to December 31, 2018 so that it could solicit for and award a new laboratory services contract.
12. The extension of the GWA's laboratory services contract with Eurofins from August 3, 2018 to December 21, 2018 is estimated to cost GWA thirty-five-thousand-seven-hundred-dollars (\$35,700) per month for a total of one-hundred-seventy-eight-thousand-five-hundred-dollars (\$178,500) for that five (5) month period. This would increase the total estimated cost of the contract from two-million-eight-hundred-forty-thousand-nine-hundred-twenty-five-dollars (\$2,840,925) to three-million, nineteen-thousand-four-hundred-twenty-five-dollars (\$3,019,425).
13. The contract amendment's extension of the contract term for an additional five (5) months and the resulting cost increase to the original contract results in a loss to GWA of eleven-thousand-eight-hundred-thirty-five-dollars (\$11,835). This is the difference between GWA's estimated thirty-five-thousand-seven-hundred-dollar (\$35,700) monthly cost of the contract extension and the thirty-three-thousand-three-hundred-thirty-three-dollar (\$33,333) monthly cost of the new contract awarded to Eurofins on October 19, 2018.¹⁰
14. This loss, albeit a relatively small loss, is the result of GWA's late issuance of its solicitation for a new contract for laboratory services. Specifically, GWA knew or should have known that its contract for laboratory services with Eurofins would be expiring on August 2, 2018. Yet, GWA did not issue its solicitation for a new contract until May 27, 2018, which is only sixty-seven (67) days prior to the expiration of the Eurofins contract. Although GWA could have awarded the

¹⁰ GWA Petition, GWA Docket No. 19-05, line 5, page 2. This section states that the new contract is estimated to cost four-hundred-thousand-dollars (\$400,000) per year and when this amount is divided by twelve (12) it results in an estimated monthly cost of thirty-three-thousand-three-hundred-thirty-three-dollars (\$33,333) per month.

contract within this period, it left no time for delays or other procurement contingencies. Hence, when GWA had to reject the non-conforming bids on July 16, 2018, there were only seventeen (17) more days remaining until the Eurofins contract expired on August 2, 2018 which was not enough time to re-issue a new solicitation and award a new contract.

15. Despite the minor monetary loss, the amendment extending GWA's Laboratory Services contract with Eurofins from August 3, 2018 to December 31, 2018, is reasonable, prudent, and necessary. The PUC approves the amendment to GWA's Laboratory Services Contract with Eurofins Eaton Analytical, LLC, extending its term from August 3, 2018 to December 31, 2018.

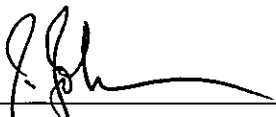
ORDERING PROVISIONS

After review of the record herein, GWA's Petition for Approval of the amendment to its Laboratory Services Contract with Eurofins Eaton Analytical, LLC, extending its term from August 3, 2018 to December 31, 2018, and the PUC Counsel Report, and for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY ORDERS** that:

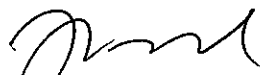
1. GWA's Petition for Approval of the amendment to its Laboratory Services Contract with Eurofins Eaton Analytical, LLC, extending its term from August 3, 2018 to December 31, 2018 is hereby approved.
2. GWA shall file a copy of its amendment to the laboratory insurance contract with the PUC.
3. GWA shall finalize, obtain necessary approvals, and enter into its new contract for Laboratory Services with Eurofins Eaton Analytical, LLC, which GWA awarded on October 19, 2018, no later than January 31, 2019 to avoid any further monetary losses that would be caused by another amendment of GWA's existing contract for Laboratory Services at its higher rates.
4. GWA 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.

Order
Petition for Approval to Extend Term
Of Laboratory Services Contract
With Eurofin Eaton Analytical, LLC
GWA Docket 19-05
December 27, 2018

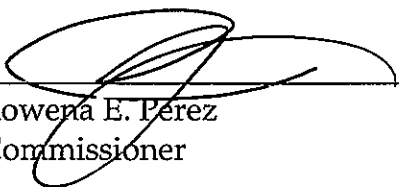
Dated this 27th day of December, 2018.



Jeffrey C. Johnson
Chairman



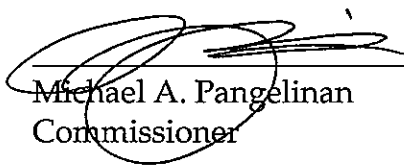
Joseph M. McDonald
Commissioner




Rowena E. Perez
Commissioner



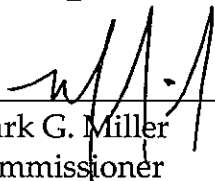
Filomena M. Cantoria
Commissioner



Michael A. Pangelinan
Commissioner



Peter Montinola
Commissioner



Mark G. Miller
Commissioner



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN RE: REVIEW AND APPROVAL OF)
TWO-YEAR CONTRACT)
EXTENSION WITH TOTAL)
CHEMICAL RESOURCES, INC.)
AND JMI-EDISON FOR)
CHEMICALS)
_____)

GWA DOCKET 19-06

ORDER

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the November 29, 2018 Petition for Approval of the Two-Year Extension of the Contract with JMI-Edison and Total Chemical for the Purchase of Wastewater Chemicals for the Northern, Hagåtña and Agat Santa Rita Wastewater Treatment Plants (the “Petition”), filed by the Guam Waterworks Authority (“GWA”).

On December 24, 2018, the Administrative Law Judge of the PUC (the “ALJ”) assigned to this matter filed an ALJ Report that included his findings and recommendations based on the administrative record before the PUC. The ALJ found the following.

DETERMINATIONS

In January, 2016, the PUC approved GWA’s purchase of anionic polymer, inorganic coagulant (aluminum chlorohydrate or ACH), and cationic polymer chemicals. Specifically, GWA was authorized to enter into a three-year contract with Total Chemical Resources, Inc. (“Total Chemical”) for ACH and anionic polymer at a total cost of \$3,024,623.64. Additionally, GWA was authorized to enter into a three-year contract with Johndel International Inc. *dba* JMI-Edison (“JMI-Edison”) for the purchase of cationic polymer

at a total cost of \$600,565.35.¹ Back in 2016, the contracts provided the following prices: anionic polymer at \$1.40 per pound; inorganic coagulant (ACH) at \$1.06 per pound; and \$1.45 per pound for cationic polymer.

DISCUSSION

A. GWA's Petition

The instant request is based on two (2) contracts that were previously reviewed by the PUC. Specifically, GWA is requesting PUC approval so that it may exercise two one-year options for renewal contained in its contracts with JMI-Edison and Total Chemical.

As indicated in its Petition, GWA seeks approval of the contract extensions based on its continued need for wastewater treatment chemicals for its daily operation and maintenance of its Northern District, Hagåtña, and Agat-Santa Rita wastewater treatment plants; and since it is required to use “Chemically Enhanced Treatment at both the Northern District Wastewater Treatment Plant and the Hagåtña Wastewater Treatment Plant (‘WWTP’) to remain in compliance with the November 11, 2011 Court Order for Preliminary Relief”² GWA, therefore, submitted that its purchase and use of these chemicals will allow it to be in compliance with federal court order.

GWA has also indicated in its petition that it will purchase additional cationic polymer from JMI-Edison for use at its Agat-Santa Rita WWTP.

The three chemicals that are the subject of the instant petition are generally used for wastewater treatment. For instance, anionic polymers aid in filtering wastewater and for

¹ Order, GWA Docket 15-11, pp. 3-6 (Jan. 25, 2016).

² Petition, p. 1.

dewatering sludge; cationic polymers also aid in the clarification of water. An inorganic coagulant, like ACH, absorbs impurities, also serving to clean the water.

B. Contract Extension with JMI Edison and Total Chemical

The subject contracts are a result of an Invitation for Bid, approved by the PUC and issued by GWA in 2015, wherein twenty (20) bids were evaluated by GWA. The best offers for the three chemicals were provided by JMI-Edison and Total Chemical; and GWA entered into contracts with JMI-Edison and Total Chemical in the beginning of 2016.

GWA's contract with Total Chemical for ACH and Anionic Polymer expressly provides an "additional two (2) one (1) year term extensions" that are subject to PUC approval. Similarly, GWA's contract with JMI-Edison for Cationic Polymer also expressly provides an "additional two (2) one (1) year term extensions" that are subject to PUC approval.

C. Cost of the Two Contracts

GWA submitted that since the initial three-year term JMI-Edison will expire, it had to renegotiate the price for cationic polymer, which was negotiated at \$1.56 per pound. GWA further submitted that since the initial three-year term with Total Chemical will also expire, it had to renegotiate the price for anionic polymer, which was negotiated at \$1.98 per pound; and the price for ACH, which was negotiated at \$1.25 per pound.

GWA submitted that the reason for the price increase, as explained to it by its vendors, is that while the price of commodities has increased, an increase in shipping fees was a large component of the increase.

Accordingly, based on these prices, along with GWA's calculations, it estimates expending \$343,360.00 per year for its supply of cationic polymer.³

Price per pound	Estimated use per month ⁴	Estimated annual cost
\$1.56	18,340 pounds	\$343,324.80

With respect to ACH, GWA estimates expending \$1,457,190.00 per year.⁵

Price per pound	Estimated use per month	Estimated annual cost
\$1.25	97,146 pounds	\$1,457,190.00

And with respect to anionic polymer, while GWA indicated a monthly use of 72,096 pounds, it has clarified with the ALJ that the correct figure is 12,000 pounds per month. Accordingly GWA, estimates expending \$285,120.00 per year on its purchase of anionic polymer.⁶

Price per pound	Estimated use per month	Estimated annual cost
\$1.98	12,000 pounds	\$285,120.00

GWA submitted that the funding source for purchase of the chemicals is GWA's FY2019 Wastewater Operations Budget.⁷

D. CCU Resolution No. 05-FY2019 and CCU Resolution No. 06-2019

The instant petition is supported by Resolution No. 05-FY2019 and Resolution No. 06-FY2019 issued by the Consolidated Commission on Utilities (the "CCU") at its November 27, 2018 meeting. In both Resolutions, the CCU found that pursuant to federal court order, GWA is required to operate the Northern District and Hagåtña WWTPs with "Chemically

³ Petition, p. 2.

⁴ Includes the additional purchase of cationic polymer for use at GWA's Agat-Santa Rita WWTP.

⁵ Petition, p. 2.

⁶ Petition, p. 2.

⁷ CCU Resolution No. 05-FY2019, p. 3 (Nov. 27, 2018); CCU Resolution No. 06-FY2019, p. 3 (Nov. 27, 2018).

Enhanced Primary Treatment” and that such treatment requires the purchase of these chemicals as part of its treatment process.⁸

The CCU further found that the new contract price agreed to by the parties was fair and reasonable; and authorized GWA to exercise the two one-year options for renewal of the contract with both Total Chemical and JMI-Edison.⁹ Based on the earlier calculations by GWA, the CCU further authorized GWA to exercise the options with JMI-Edison at a cost not to exceed \$6,974,420.11.¹⁰ The CCU also authorized GWA to exercise the options with JMI-Edison at a cost not to exceed \$755,392.00.¹¹

As indicated here and in prior dockets, these chemicals are indispensable and required for GWA’s daily wastewater operations, specifically to operate its Northern District and the Hagåtña WWTPs, and to keep GWA in compliance with federal laws, permits and federal guidelines.

The ALJ further found that GWA’s purchase of cationic polymer from JMI-Edison, along with the existing terms and new price for cationic polymer, which was negotiated at \$1.56 per pound, remain reasonable and necessary. Similarly, the ALJ also found that GWA’s purchase of anionic polymer and ACH from Total Chemical, along with the existing terms and new price for anionic polymer, which was negotiated at \$1.98 per pound; and along with the existing terms and new price for ACH, which was negotiated at \$1.25 per pound; all remain reasonable and necessary. Indeed, the ALJ further found that based on media reports, the price

⁸ CCU Resolution No. 05-FY2019, p. 1; CCU Resolution No. 06-FY2019, p. 1.

⁹ CCU Resolution No. 05-FY2019, p. 3; CCU Resolution No. 06-FY2019, p. 3.

¹⁰ CCU Resolution No. 06-FY2019, p. 3.

¹¹ CCU Resolution No. 05-FY2019, p. 3.

of these chemicals appears to have increased. Accordingly, the ALJ recommended that the PUC authorize the contract extension petitioned by GWA.

Based on the documentation provided by GWA in this docket, and for the other reasons set forth herein, the ALJ recommended that the PUC authorize GWA to exercise the two one-year options to renew GWA's contracts with JMI-Edison, at a cost of \$686,649.60, and Total Chemical, at a cost of \$3,484,620.00; for a total cost of \$4,171,269.60 for both contracts. These contracts should be subject to the usual cost contingencies provided under the Contract Review Protocol.¹²

The Commission hereby adopts the findings made in the December 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 that GWA is authorized to exercise the two one-year options to renew its contracts with JMI-Edison, at a cost of \$686,649.60, and Total Chemical, at a cost of \$3,484,620.00; for a total cost of \$4,171,269.60; and that such contract shall be subject to the usual cost contingencies provided under the Contract Review Protocol.

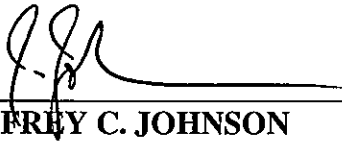
2. GWA is ordered to pay the PUC's regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with

¹² See Section 9, GWA's Contract Review Protocol, Administrative Docket 00-04, p. 1 (Oct. 27; 2005).

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]

SO ORDERED this 27th day of December, 2018.



JEFFREY C. JOHNSON
Chairman



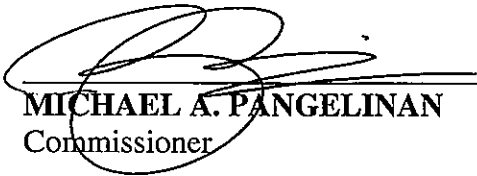
ROWENA E. PEREZ
Commissioner



JOSEPH M. MCDONALD
Commissioner



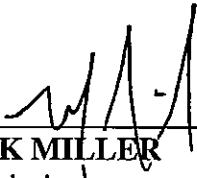
FILOMENA M. CANTORIA
Commissioner



MICHAEL A. PANGELINAN
Commissioner



PETER MONTINOLA
Commissioner



MARK MILLER
Commissioner

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BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:

GWA DOCKET 19-07

THE PETITION OF THE GUAM
WATERWORKS AUTHORITY FOR
APPROVAL OF A MULTI-YEAR LEASE
AGREEMENT FOR HEAVY
EQUIPMENT

ORDER

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] pursuant to the Guam Waterworks Authority's ["GWA"] Petition for Approval of a multi-year lease agreement between GWA and Morrico Equipment, LLC ["Morrico"].¹
2. GWA requests that the PUC approve its contract with Morrico for the five (5) year lease of heavy equipment.

BACKGROUND

3. GWA must use heavy equipment, operated by its employees, to perform many of the smaller capital improvement projects ["CIPs"] and smaller repairs to GWA's water and waste-water systems. GWA has an ageing heavy equipment fleet that requires frequent repairs which cause substantial portions of the fleet to be inoperable for extended time periods. This creates a shortage of operable heavy equipment causing delays in the performing and completion of GWA's smaller CIPs and repair operations.²
4. GWA incurs additional costs for short-term heavy equipment rentals to overcome heavy equipment shortfalls caused by the increased repair requirements of GWA's ageing heavy equipment fleet.³
5. On May 31, 2018, GWA, in an effort to alleviate its shortages in operable heavy equipment and to mitigate the costs of short-term heavy equipment rentals, issued

¹ GWA Petition for Approval of Multi-Year Lease Agreement for Heavy Equipment, GWA Docket 19-07, filed on November 29, 2018.

² Consolidated Commission on Utilities ["CCU"] Resolution No. 04-FY2019, Relative to the Approval of a Multi-Year Lease Agreement for Heavy Equipment, issued on November 27, 2018, line 15, page 1.

³ Id., at line 25, page 1.

GWA-IFB-2018-12 (Heavy Equipment Lease). GWA only received one (1) bid from Morrico in response to this solicitation and GWA determined that Morrico's five (5) year lease option was the best option and it awarded the contract to Morrico.⁴

6. GWA's heavy equipment lease contract with Morrico requires Morrico to lease three (3) four (4) wheel drive backhoes, three (3) heavy duty trailers, and three (3) tandem dump trucks inclusive of full service and maintenance programs for the full term of the lease. This contract will cost GWA nineteen-thousand-three-hundred-forty-seven-dollars (\$19,347) per month, for a total of one-million-one-hundred-sixty-thousand-eight-hundred-twenty-nine-dollars (\$1,160,829) for the entire five (5) year term.⁵
7. On November 27, 2018, the Consolidated Commission on Utilities ["CCU"] adopted Resolution No. 04-FY2019 which authorized GWA's management to enter into the heavy equipment lease contract with Morrico, expend the amount of one-million-one-hundred-sixty-thousand-eight-hundred-twenty-nine-dollars (\$1,160,829) for the entire five (5) year term of the lease, subject to the PUC's approval of the contract.⁶
8. PUC Counsel issued his report on December 22, 2018.
9. GWA requests that the PUC approve its contract with Morrico for the five (5) year lease of heavy equipment.

DETERMINATIONS

10. Based on the information provided with GWA's petition, GWA's in house capability to maintain an effective operable rate for its heavy equipment fleet is being overcome by increasing maintenance needs of its ageing heavy equipment fleet.
11. Although GWA has various options to resolve this issue, such as improving its in-house maintenance capability, outsourcing it, or obtaining new heavy equipment, the most viable option, based on the information provided by GWA, to resolve the shortage of operable heavy equipment is renting the nine (9) pieces of heavy

⁴ GWA Petition, GWA Docket 19-07, at line 30, page 1.

⁵ CCU Resolution No. 04-FY2019, pages 2-3.

⁶ Id., page 3.

equipment described above from Morrico. Additionally, shorter lease periods, such as one (1) to four (4) years, were less prudent than the five (5) year contract term because the longer five (5) year term results in lowest overall rental costs for the heavy equipment.⁷

12. The total cost of the five (5) year term of GWA's contract with Morrico is one-million-one-hundred-sixty-thousand-eight-hundred-twenty-nine-dollars (\$1,160,829).
13. It is likely that the cost of purchasing such equipment is substantially similar to, or slightly higher than the costs of the GWA's lease contract with Morrico. Further, considering the additional costs of shipping such equipment to Guam, and the additional costs of the full service and maintenance programs these types of heavy equipment require, GWA's contract with Morrico is likely cheaper than the option of purchasing, servicing, and maintaining similar equipment, over the same five (5) year term.
14. GWA's operational capability will be enhanced by its plan to organize the heavy equipment it rents from Morrico under the contract, into three teams consisting of a one (1) backhoe, one (1) dump truck, and one (1) trailer and the necessary crews to man and operate them. GWA can deploy these teams quickly throughout Guam to conduct small CIPs and line repair and installation projects.⁸
15. Based on the foregoing, GWA's heavy equipment lease contract with Morrico is reasonable, prudent, and necessary. The PUC approves GWA's contract with Morrico for the lease of heavy equipment.

ORDERING PROVISIONS

After review of the record herein, including GWA's Petition for Approval of its heavy equipment lease contract with Morrico Equipment LLC, the PUC Counsel Report, and for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY ORDERS** that:

⁷ Id., line 20, page 2.

⁸ GWA Petition, GWA Docket No. 19-07, line 15, page 2.

1. GWA's Petition for Approval of its Heavy Equipment Lease Contract with Morrico Equipment, LLC is hereby approved.
2. GWA shall file a complete copy of its Heavy Equipment Lease Contract with Morrico Equipment, LLC with the PUC.
3. GWA 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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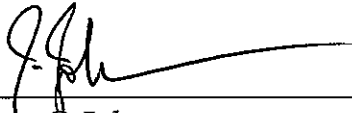
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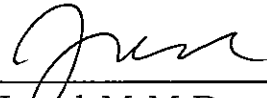
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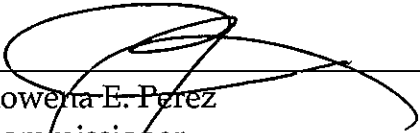
Dated this 27th day of December, 2018.



Jeffrey C. Johnson
Chairman



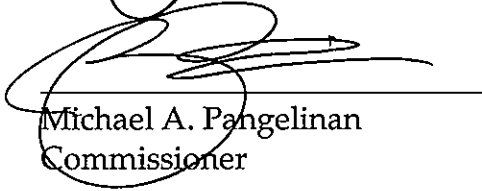
Joseph M. McDonald
Commissioner



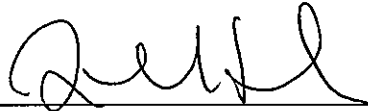
Rowena E. Perez
Commissioner



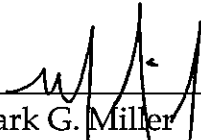
Filomena M. Cantoria
Commissioner



Michael A. Pangelinan
Commissioner



Peter Montinola
Commissioner



Mark G. Miller
Commissioner