

GUAM PUBLIC UTILITIES COMMISSION
REGULAR MEETING
May 30, 2019
Suite 202, GCIC BUILDING, HAGATNA



MINUTES

The Guam Public Utilities Commission [PUC] conducted a regular meeting commencing at 6:35 p.m. on May 30, 2019, pursuant to due and lawful notice. Commissioners Johnson, Perez, Montinola, McDonald, Cantoria, and Miller were in attendance. The following matters were considered at the meeting under the agenda included as *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 April 25, 2019. Upon motion duly made, seconded, and unanimously carried, the Commission approved the minutes subject to correction.

2. Teleguam Holdings, LLC

The Chairperson announced that the next item of business was Teleguam Holdings, LLC [GTA] Docket No. 18-02, Request for Investigation of Certain Transfers of Money from the Enhanced E911 Emergency Reporting System Fund, Administrative Law Judge [ALJ] Status Report, and Proposed Order. ALJ Horecky stated that during the January 17, 2019 PUC meeting, the Commission determined that certain transfers amounting to almost \$4 million from the E911 fund to the general fund violated various laws in the Surcharge Subchapter of the PUC's enabling act which make it illegal to transfer monies from the E911 fund and use them for purposes other than the E911 System, and the Commission ordered the Department of Administration to reimburse the E911 fund in the amount of the illegal transfers within 120 days. ALJ Horecky stated that in early May, 2019, he wrote to the director of the Department of Administration asking whether the E911 fund had been reimbursed as ordered by the Commission and its response was that the reimbursement occurred in late April, 2019. ALJ Horecky stated that he contacted the Guam Public Auditor to confirm whether the reimbursement actually took place and the Public Auditor indicated that over \$3,880,000 was paid back to the E911 Fund. ALJ Horecky stated that a few days later, the Governor's Administration issued a press release indicating that the E911 Fund had been reimbursed as ordered by the Commission. ALJ Horecky stated that based on this evidence, the Department of Administration has complied with the Commission's January 17, 2019 Order and that this docket is now ready to be closed.

Commissioner Miller inquired about the Commission's order's provision that the fire chief had to approve, via signature, all expenditures made from the E911 Fund. ALJ Horecky stated that there was no prior finding that the fire chief violated any law or order by approving the transfers after they had been withdrawn from the fund, and he stated that he would have to check to determine whether the provision of the Commission's January 17, 2019 Order requiring the fire chief to approve expenditures from the E911 Fund was being complied with. A discussion ensued between the Chairperson, Commissioners Perez and Montinola and ALJ Horecky as to whether the Commission should close the docket now or wait until ALJ Horecky reported back on whether the provision requiring the fire chief to approve expenditures from the E911 was being complied with wherein ALJ Horecky stated the only withdrawals from the E911 Fund after the reimbursement were made for E911 purposes, and that they could pursue future violations of the order even if the docket was closed. A discussion ensued between the Commissioners as to whether they should vote to close the docket or table the issue until the next meeting. ALJ Horecky stated that the docket was not time sensitive and not holding up any services, and that he would contact the Department of Administration and the fire chief to ensure that they were complying with the order. Commissioner Miller moved to table the matter until the PUC's next meeting, which motion was seconded by Commissioner Cantoria. The motion carried unanimously.

3. Port Authority of Guam

The Chairperson announced that the next item of business was Port Authority of Guam [PAG] Docket No. 19-01, Petition to Approve Invitation for Bids [IFB] for two Loaded Container Handlers, ALJ Report, and Proposed Order. ALJ Alcantara stated that PAG is requesting the Commission's approval of the award of the IFB contract to Morrico Equipment, LLC for two 80,000 pound loaded container handlers at the cost of \$1,639,176. ALJ Alcantara stated that the IFB solicited for four 80,000 pound loaded container handlers and the IFB specifications required that the container handlers use ultra-low sulfur diesel fuel, that they have an 80,000 pound to 40 ton minimum lifting capacity, that they have a vertical exhaust compliant with federal Department of Transportation and Environmental Protection Agency standards, that the successful bidder provide operation and maintenance classes and that the container handlers they provide comply with the federal Buy-American Act. ALJ Alcantara stated that two firms submitted bids in response to the IFB with the other bidder submitting a no-bid and Morrico's primary bid complying with the specifications and offering the amount of \$819,998 for each of its proffered XLC-975 Taylor Loaded Container Handlers. ALJ Alcantara stated that PAG determined Morrico's primary bid was the lowest responsive and responsible bid and PAG decided to only purchase two of the four loaded container handlers it was seeking because Morrico's price exceeded PAG's budgeted amount. ALJ Alcantara stated that the purchase of the loaders is 100% federally funded from the

U.S. Maritime Administration's port modernization project and the IFB contract award was approved via PAG Board Resolution 19-04. ALJ Alcantara stated that he found Morrico submitted the lowest responsive and responsible bid, that the PAG's purchase of only two loaded container handlers was reasonable due to the PAG's budget restrictions, that the loaded container handlers would enhance PAG's cargo handling capabilities, and he recommends that the PUC approve the PAG's award of the IFB contract to Morrico for two loaded container handlers for the amount of \$1,639,976.

A discussion ensued between the Chairperson, Commissioner Montinola, and PAG General Manager [GM] Respicio wherein PAG GM Respicio stated that compliance with the federal Buy American Act was a requirement to use the federal funds and this restricted the purchase to only two loaded container handlers, and that the PAG is not planning to purchase any more of them in the near future. Commissioner Perez inquired as to whether the funding came from a federal grant and PAG GM Respicio confirmed that the funding came from a \$2 million federal grant. A discussion ensued between Commissioners Montinola and Miller and PAG GM Respicio wherein PAG GM Respicio stated that the loaded container handlers were not cranes but were similar to forklifts that could lift and move five loaded containers, up to 80,000 pounds, at a time. A discussion ensued between the Commissioners and PAG GM Respicio about giving the Commissioners a tour of the PAG facilities around January, 2020 after the loaded container handlers arrive on Guam.

Commissioner Miller inquired as to whether the GSA approved the Purchase Orders for the loaded container handlers prior to obtaining the Commission's approval and PAG GM Respicio stated they would not have obtained the federal funding if GSA had not taken that action. PAG's Muna stated that there was a 60 day window to issue the purchase order to lock in the price otherwise the price would have gone up and there was a sense of urgency to approve the purchase order and that the PAG's prior management did not inform the Commission. A discussion ensued between Commissioners Perez and Montinola, and PAG GM Respicio wherein Commissioner Perez stated that the Commission should have been informed that the PAG was getting the Purchase Order approved prior to obtaining the Commission's approval. Commissioner Perez requested that the proposed order be amended to include a clause requiring the PAG to at least notify the Commission with justification if they have to approve a purchase order because there is no time to obtain the Commission's prior approval. Commissioner Perez moved to approve the proposed order approving PAG Docket No. 19-01, Petition to Approve IFB for two Loaded Container Handlers, as amended, which motion was seconded by Commissioner McDonald. The motion carried unanimously.

4. Guam Waterworks Authority

The Chairperson announced that the next item of business was Guam Waterworks Authority [GWA] Docket No. 19-09, Petition to Extend the Terms of GWA's Security Services Contract, PUC Legal Counsel Report, and Proposed Order. PUC Legal Counsel Camacho stated the GWA/G4S Contract for Security Services was entered into in 2015 and that the contract had an initial one-year term and three one-year renewal options and the contract has completely run through its initial term and all three of the renewal options. PUC Legal Counsel Camacho stated that in the last one-year renewal period GWA implemented a policy that required some of its customer service facilities to be open on Saturdays and G4S posted uniform security guards for additional hours at these facilities which increased the contract cost to \$800,000 for the first half of its last renewal period. PUC Legal Counsel Camacho stated that the Consolidated Commission on Utilities [CCU] authorized GWA to increase the cost of the contract up to \$1 million, however, when the final invoices came in, the total cost of the contract exceeded the \$1 million cap by the amount of \$15,356.09, and the CCU subsequently ratified this increase of the contract cost over \$1 million subject to the Commission's review. PUC Legal Counsel Camacho stated that the Commission has not previously reviewed this contract because its original budget was less than the review threshold. PUC Legal Counsel Camacho stated that GWA cited one security incident justifying its policy that increased the contract costs, and he stated that a review of news stories from 2016 to 2018 indicated the occurrence of a couple of highly-publicized security incidents. In 2016 someone called GWA and stated that there were bombs planted in all of Guam's public and middle schools, that they were set to go off, and that they were going to shoot the survivors, and last year, persons were impersonating GWA employees. PUC Legal Counsel Camacho stated that these incidents co-exist alongside the ever-present threats of internal and external active shooters and terrorism. PUC Legal Counsel Camacho stated that based on the petition, the CCU's gradual approval of the increases in the contract's cost to the point they exceeded the CCU's \$1 million cap, and the security threats, the increased contract costs are reasonable, prudent, and necessary and he recommended that the Commission approve the petition.

GWA GM Bordallo stated that the incident referred to in the petition concerned an assault that occurred in their upper Tumon facility that resulted in requiring an additional sentry to guard the employee entrance at that facility. The Chairperson inquired as to whether the security guards at that facility were armed and GWA GM Bordallo stated that they were uniformed but not armed and that the extra security guard was posted at the employee entrance to control access that that area. The Chairperson inquired as to whether GWA splits the cost of security at that facility with GPA. GWA GM Bordallo stated that GWA does not split the cost of security for the upper-Tumon facility but the cost of security is included in GWA's rent for the Fadian facility. The Chairperson inquired as to whether GWA and GPA used the same vendor for security and GPA Legal Counsel Botha stated that GPA uses PISA to secure its Fadian facility and not G4S.

Commissioner Miller inquired as to whether GWA's contract with G4S had expired and GWA GM Bordallo confirmed that it had expired and that GWA had moved on to another procurement for security services and the petition concerned the expired contract with G4S. Commissioner Perez inquired as to whether GWA knew that the contract would exceed the \$1 million review threshold and GWA GM Bordallo stated that GWA put the new security contract out to bid in December or January. Commissioner Perez inquired as to whether the Commission had a protocol wherein the Chairperson can approve an emergency cost increase and bring it before the Commission thereafter so there can be compliance with the contract review requirement despite the emergency. ALJ Horecky stated that there was nothing like that in the protocol and that the Chairperson had the authority to act on behalf of the Commission during an emergency. Commissioner Montinola inquired as to how the Commission could prevent agencies from entering contracts under \$1 million, increasing the costs in excess of that amount, and seeking the Commission's approval after the fact so that practice does not become the norm, and he expressed his preference, in such cases, for the Chairperson to review and approve such cost increases and bring it before the Commission afterward. ALJ Horecky stated that so long as the utility brought it before the Chairperson, the Chairperson could do that subject to ratification by the Commission. Commissioner Perez stated that the Commission could require the utility to submit a memo or letter to the Chairperson and then the Commission could ratify it thereafter.

The Chairperson inquired as to whether the cause of the contract increase was the Saturday coverage. GWA GM Bordallo stated that the Saturday coverage was probably okay but once the incident occurred it put GWA over and they did not know how much over until they got the invoices. Commissioner Perez inquired when GWA received the invoices indicating that the cost exceeded \$1 million and GWA GM Bordallo stated that GWA probably knew fifteen days after receiving the invoices. A discussion ensued between Commissioner Perez and GWA GM Bordallo concerning what mechanisms could be put in place to prevent incidents like this. Commissioner Perez inquired as to whether the order could be amended to allow the utility to communicate with the Commission directly. PUC Legal Counsel Camacho inquired as to whether the Commission wanted to amend the order granting GWA's Petition or place that requirement in another order. PUC Legal Counsel stated that under the Contract Review Protocol, if a multi-year contract with fixed terms and annual costs exceeds \$1 million, the utility must bring it before the Commission. Commissioner Montinola inquired as to whether the Contract Review Protocol required the utilities to inform the Commission if a contract's cost was getting within plus or minus 10% of the contract review amount and ALJ Horecky stated that it was 20%. PUC Legal Counsel Camacho stated that this contract had not been previously approved by the Commission because there was no expectation that the cost would exceed the contract review amount.

A discussion ensued between the Commissioners as to whether the utilities should be required to give advance notice to the Commission that a contract's cost would exceed

the contract review amount wherein the Commission instructed PUC Legal Counsel Camacho to draft a directive or order requiring the utilities to submit a request the Commission or the Chairperson if they need immediate action prior to the Commission's next scheduled meeting with the Chairperson being able to approve the action subject to the Commission's ratification within the existing Contract Review Protocol thresholds. Commissioner Perez moved to approve the proposed order approving GWA Docket No. 19-09, Petition to Extend the Terms of GWA's Security Services Contract, which motion was seconded by Commissioner Montinola. The motion carried unanimously. A discussion ensued between the Commissioners and GWA GM Bordallo wherein he invited the Commissioners to the ribbon cutting ceremony for GWA's new wastewater facility in Santa Rita in late June, and the CCU's meeting for the GWA Rate Case on June 5, 2019.

5. Guam Power Authority

The Chairperson announced that the next item of business was Guam Power Authority [GPA] Docket No. 19-04, Petition of Modification of Net Metering Rider, ALJ Report, and Proposed Order. ALJ Horecky stated that he and Daymark independently determined that the GPA Petition to modify the net metering rider should be denied. ALJ Horecky stated that GPA is seeking to reduce the 26 cents per kilowatt hour that it is currently paying for solar energy provided by GPA net metering customers through the net metering system to 16 cents per kilowatt hour. ALJ Horecky stated that GPA indicates that it wants to replace the net metering program with the Buy All Sell All program which entails two calculations. For the first calculation, GPA bills the net metering customers for the power they use at the normal per kilowatt hour rate, and for the second calculation, GPA will pay the net metering customers 16 cents per kilowatt hour for the energy they produce. ALJ Horecky stated that the two purposes of the laws establishing the net metering program, P.L. 27-132 and P.L. 29-62, were to create an alternative energy source that would reduce GPA's investment in its generation facilities and to develop the solar energy industry on Guam. ALJ Horecky stated that the net metering rider provided that the Commission would review this matter, but did not mandate any changes to the program, when GPA had a thousand net metering customer, and he stated that GPA reached this threshold in 2016, and that presently, GPA has over two thousand such customers who produce approximately 21 megawatts of electricity.

ALJ Horecky stated that Daymark recommended that the program be kept as it is because net metering was a legislative mandate and because the solar energy produced and distributed by the program is a good resource for Guam. ALJ Horecky stated that Daymark recommends that the Commission should review this matter again when the net metering program produces 10% of GPA's power generation which is approximately 26 megawatts, Daymark also recommends that GPA conduct a full and

balanced cost benefit analysis of the impact of distributed generation which is location specific, and, as to whether there is a shift in cost responsibility from net to non-net metering customers, Daymark believes that more study and evidence is needed to justify these points. ALJ Horecky also stated that he agrees with Daymark's recommendation that the Commission should review this matter again when the 10% kilowatt cap is reached.

ALJ Horecky stated that the Commission conducted three public hearings concerning this petition, with 20 to 30 people testifying, and over 30 other people providing written testimony. ALJ Horecky stated that the presentations by the solar system owners and the individual net metering customers that have third party providers indicate their belief that GPA did not fairly value their solar contribution to the system and their desire to be grandfathered in if the system is changed. ALJ Horecky stated that GPA argued that it was unfair for non-net metering customers to pay for the net metering program, however, this was not supported at the hearings because no non-net metering customers complained about the program or indicated it discriminated against them. ALJ Horecky stated that GPA's first argument to change the net metering program was that net metering customers are not paying for the grid services they use to distribute the power they produce. ALJ Horecky stated that GPA's second argument is that it spends \$3.4 million annually to pay for the power the net metering customers produce.

ALJ Horecky stated that his main reason for recommending that the Commission deny GPA's petition is the legislation establishing the net metering program and its purpose which was to expand the island's supply of renewable solar power without a capital investment by GPA and to stimulate economic growth by encouraging private investment in renewable energy resources. ALJ Horecky stated that the law intended a netting of the bills of net metering customers offsetting the power that they used and GPA's recommendation would replace this netting principle with two separate calculations of what their bills should be which makes GPA's Buy All Sell All proposal inconsistent with the law establishing the net metering program. ALJ Horecky stated that he believes that the Commission has the power to change the compensation for net metering but does not have the authority to abolish the program in total. ALJ Horecky stated that the number of net metering customers has been declining until recently and this is not a good time to reduce the compensation under the program because that would discourage people from participating in the program. ALJ Horecky stated that GPA contends that solar energy is not available for the nighttime load, however, the solar companies are now offering battery storage systems that alleviates that problem and more time is needed to allow a greater use of these battery storage systems. ALJ Horecky stated that Daymark also recommends that the DSM Program include battery storage for customers to alleviate this situation.

ALJ Horecky stated that the Commission should continue to allow net metering customers to receive 100% of their power generation value because the majority of U.S. jurisdictions, at least 25 of them, have retail compensation for net metering customers,

no jurisdictions have adopted a value of solar determination, and only 6 jurisdictions have adopted the avoided cost method that GPA is asking for. ALJ Horecky also stated that the evidence provided by GPA needs further explanation such as their claim that there is a \$3.4 million subsidy to net metering customers which is based on an estimate and a multiplier that is not based on the actual power produced by Guam's net metering customers and other factors such as cloudy or rainy days or the degradation of solar panels. ALJ Horecky also stated that subsidies already exist such as the subsidization of residential rate payers by government and commercial customers, the subsidy for the first 500 kilowatt hours of electricity for Guam ratepayers, and this subsidy that the Guam Legislature implemented to have more solar energy. ALJ Horecky stated that Daymark indicates that GPA's \$3.4 million in lost revenue, \$10 million since 2008, is generally not recoverable because in a rate case, the utility can report that they have a loss their revenues are not sufficient to pay for, but they are not awarded their lost revenues. ALJ Horecky stated that he did not find evidence that GPA \$3.4 million in annual loss was transferred to non-net metering customers. ALJ Horecky stated that Daymark found holes in GPA's testimony and evaluation concerning the value of solar fixed plant, O&M reserve, transmission, and distribution capacity costs.

ALJ Horecky stated that net metering customers benefit GPA by increasing GPA's renewable energy portfolio standards which require GPA to have 25% of the power it produces be solar power by 2035 which the legislature might increase to 50%. ALJ Horecky stated that Daymark indicates that we need additional study of the full benefits of distributed energy before the Commission makes another order. ALJ Horecky stated that 60% of the net metering customers have third party providers who build and own the system on the customer's house and who have contracts with the customers, and these contracts and he believes that we need a better understanding about how these contracts and the monthly payments the customers would be affected by a change to the net metering program. ALJ Horecky stated that in the proposed order, the Commission would be denying GPA's petition to modify the net metering rider, the rider's existing 1,000 net metering customer cap would be amended to an aggregate kilowatt cap of 10% of GPA's August 1, 2017 system peak demand to give the solar industry on Guam time to develop, and GPA would be ordered to complete the plant distribution impact study and to include a rebate program to battery storage. ALJ Horecky stated that once the aggregate kilowatt cap reaches 10% and GPA has conducted its distribution system impact study, the Commission can consider changes to the interim net metering rider, and GPA still has the remedy of filing a rate case for its lost revenue.

GPA GM Benavente stated that Daymark did not focus on the core of GPA's petition which was the cost impact of net metering customers on GPA's other customers and that Daymark did not provide any evidence concerning Daymark's recommendations. GPA GM Benavente stated that GPA's petition is based on the numbers which show that the net metering customers use GPA's system during peak hours in the evening

which costs 19 to 20 cents per kilowatt hour while providing power during the day at a rate of 12.50 cents per kilowatt hour and GPA's petition is only trying to find a fair and equitable compensation. GPA GM Benavente stated that GPA used a national estimate to determine that GPA's net metering customers produce 19% of GPA's energy and when you put the cost in it is a \$3.4 million avoidance cost and that letting anyone use GPA's system for free will create more issues down the road. GPA GM Benavente stated that the definition of Net Metering is full credit and GPA is trying to replace that with a reasonable allocation of cost because full credit is unfair to the non-net metering customers. GPA GM Benavente stated that GPA is not asking to stop the distribution of solar power in its system. GPA GM Benavente stated that the net metering customers are not paying for the system's debt and the non-net metering customers are and the avoidance costs will continue to rise as time goes by and that we are kicking the can down the road if we do not resolve these issues now. GPA GM Benavente stated that Daymark's recommendation to resolve these costs in a rate case is unrealistic because GPA is trying to avoid a rate case which would likely increase rates. GPA GM Benavente stated that the Commission could order that a study be done by an independent party to determine the true cost of net metering on the system and then come back for a decision by the Commission. GPA GM Benavente stated that Hawaii Electric stopped full credit net metering and he stated that GPA is paying for a cost that is really a 5.5 cent saving to the customer and GPA is acting like a fuel hedge for its net metering customers. GPA GM Benavente stated that there are savings to GPA from reducing the amount of transmission lines to bring power from where it is produced to where it is used, but the real cost avoidance comes from line and fuel losses. GPA GM Benavente stated that instead of closing GPA's petition, the Commission should order GPA to do a rate analysis and the Commission should consider whether providing a full credit is still a prudent thing to do because GPA is paying 25 cents per kilowatt hour to its net metering customers while it can produce power at the rate of 16 cents per kilowatt hour. GPA GM Benavente stated that GPA will have battery power by October this year for the 24 megawatts from net metering and the 16 megawatts from the Dandan NRG solar farm facility. GPA GM Benavente stated that the solar farm facility tripped 13 times in the last three months and GPA had to use its combustion turbines to prevent a blackout, but customers experienced 5 to 10 minutes of being without power during these trips. GPA GM Benavente stated that this indicates that distributed generation is overcoming the system and GPA will have to add another combustion turbine that will take the load from the efficient base load unit and increase its costs, or GPA has to wait until it gets its batteries online before it adds any more solar power to the system. GPA GM Benavente emphasized that he is not against continuing solar power, but he believes that there must be parity in the whole system. GPA's John Cruz stated that GPA has been using the estimate for many years and he stated that net metering is not a hedge because GPA is paying its net metering customers the retail rates so whatever the fuel does, so does the compensation to net metering.

ALJ Horecky stated that it seems that GPA agrees that precise information about what a net metering customer should be contributing to the system is lacking which supports not making a final determination on this issue now but waiting until the 26-megawatt standard is met. The Chairperson inquired as to whether GPA agreed to point D on page 5 of the ALJ's Report concerning benefit-cost analysis as part of the distribution system study and GPA GM Benavente agreed and stated that perhaps the Commission and GPA can agree on an independent third party to do the study to avoid a bias. The Chairperson inquired as to whether GPA considered the five hours of energy production from its net metering customers as a benefit to the system and GPA GM Benavente stated that it is a benefit because it reduces GPA's fuel costs and line losses and that all GPA is asking for is to create parity by getting the payment closer to the costs. A discussion ensued between the Chairperson and GPA GM Benavente concerning the Dandan NRG solar farm facility and what effect the batteries coming on line in October will have on the system. GPA's John Cruz stated that as to the law's purpose of encouraging private investment, there are other ways to encourage this because every time GPA does a utility scale project, private investment occurs without risk to GPA's capital.

The Chairperson inquired as to whether any of the Commissioners had any questions. A discussion ensued between the Chairperson and Commissioners Perez and Montinola wherein they stated their concerns about the impact on families that were under contracts with third party providers and wherein they discussed the possibility of "grandfathering" such contracts to avoid negative effects on them. Commissioner Montinola inquired as to whether the study would determine the actual cost to the consumer, whether GPA only uses a flat rate because it does not have a peak and non-peak rate, and whether GPA's costs for a twelve-month period roll over to the next twelve-month period and never go away. GPA's John Kim stated that last year GPA paid out \$80,000 to its net metering customers who elected to receive cash because most elect to receive an applied credit instead of cash and that every year this amount is doubling. GPA GM Benavente stated that the total amount is \$170,000 for both the payout and the credit rollover. The Chairperson stated that one of the first modifications should be the amount the excess power producers are getting in checks and credits and he asked GPA to provide a spreadsheet indicating what those numbers are and where they have been trending together and GPA GM Benavente agreed to provide that information. ALJ Horecky stated that the issue of those costs was not properly before the Commission because they were not part of the net metering rider but GPA can bring a motion or a petition to address it.

Commissioner Perez inquired as to whether the Commission should table this matter until the study is done or whether they should act on the order. ALJ Horecky stated that the order has a requirement for a cost study analysis and GPA could also include a cost of service analysis if it chooses to do so. Commissioner Montinola inquired as to whether the order permanently denied the petition and ALJ Horecky stated that the order would not permanently deny GPA the relief it is seeking in the petition and only

deny it for the present. Commissioner Montinola inquired if the Commission could take up this matter again if GPA completes the study and realizes that there is a cost impact before the penetration cap is reached and ALJ Horecky stated that the current level of penetration is low and that other jurisdictions waited until they reached the 10% cap and then determined whether the net metering program should be altered. GPA GM Benavente stated that the amount of 10% was not based on any science and that when considering net metering and solar PV we should be location sensitive and there are great differences between Hawaii and California which used the 10% amount and Guam because those locations have more generators that can help absorb the intermittency and Guam only has four to five generator at one time and he stated that he would like to do the studies and continue moving forward even if Guam does not hit the 10% cap instead of closing this case until the cap is reached. ALJ Horecky stated that there was nothing in the order preventing GPA from doing the studies now, and that the original net metering rider set the amount of a thousand customers as the limit and he stated his belief that 10% is not arbitrary and its more reasonable because the amount of a thousand customers does not have anything to do with the amount of net metering energy produced, and he stated that the 10% level is what other jurisdictions are using and that the 10% level is what the consultants believed to be a sufficient level of penetration to evaluate the net metering program. The Chairperson inquired as to whether the plan distribution impact study could be done at any time and ALJ Horecky stated that was in the order and that that GPA had already agreed to do it. The Chairperson inquired as to whether GPA agreed to allow the Commission to participate in the selection of a consultant to perform the study and GPA GM Benavente agreed to do so. The Chairperson inquired as to whether the Commission can move on this now and not wait to get to the 10% level because that level will likely be reached in 20 months due to Guam's solar industry's current rate of growth and the strong likelihood that the consultant will take time to gather information and complete the study. A discussion ensued between the Chairperson and GPA concerning the status of bringing the batteries into the system and some of the challenges other jurisdictions have had using that technology.

The Chairperson inquired as to whether GPA was amenable to starting a rebate program for net metering customers who use battery storage and GPA GM Benavente stated that they would have to do a cost benefit analysis prior to doing so to determine how much the rebate should be and whether there is a benefit for giving such rebates. The Chairperson inquired about the status of the demand side management program and GPA GM Benavente stated that a more sustainable fund source had to be found because of the \$3.8 million in the program, \$3 million has been exhausted and \$2.5 million of that amount went toward rebates for air conditioning units with higher seer which reduced the customers energy costs and demand on the system and GPA's fuel costs and that the current program can continue to run until September or the end of this year. The Chairperson inquired as to whether the demand side management program had resulted in a drop in the peak overtime and GPA GM Benavente stated

that the biggest cost drop in peak occurred when the Commission approved GPA's LEAC request last year and that GPA will likely not ask to increase the LEAC until January or February next year. The Chairperson inquired as to what GPA's predicted under-recovery would be for the next six months and GPA GM Benavente stated that it would be approximately \$9 million.

The Chairperson then asked ALJ Horecky to go through the ordering provisions again and ALJ Horecky stated that the order would deny GPA's request, the order would change the net metering cap from 1,000 customers to an aggregate kilowatt cap set at 10%, the order requires GPA to a plan distribution impact study, and once that cap is met and GPA complete its studies the Commission would then consider whether to make any changes to the net metering compensation, and an order for a rebate program for battery storage in the demand side management program. Commissioner Perez inquired as to whether GPA can file another petition prior to the 10% cap being reached and ALJ Horecky stated that the draft orders would prohibit changes to the net metering program until the 10% cap is reached. Commissioner Miller inquired as to whether GPA would have to wait the full twenty months for the 10% cap to be reached even if the studies are completed in an eight-month period and ALJ Horecky stated that GPA would have to wait until the 10% cap was reached. Commissioner Miller stated his concern about not letting GPA collect its costs now if the non-net metering customers were in fact absorbing the costs of the net metering customers.

Commissioner Montinola inquired as to whether the 10% cap language in the proposed order could be removed. Commissioner McDonald inquired as to whether they could have a separate vote on the 10% cap. ALJ Horecky stated that the Commission should keep the 10% cap because he believed that it would take GPA at least a year, if not more, to complete the studies, and simply allowing GPA to come back when the studies are complete would make the 10% cap meaningless.

A discussion ensued between the Commissioners and ALJ Horecky about alternate amendments to the proposed order wherein ALJ Horecky was directed to amend ordering provision number 8 of the order by replacing the term "and/or" or "or," and wherein he was instructed to include language in the order wherein GPA and the Commission would agree on an independent party to conduct the study in a fair and balanced manner, and to amend ordering provision number 5 to comply with the amendment made to ordering provision number 8. Joe Rosario of the Solar Industry requested that the industry be involved in the study so that the industry can work with the Commission and GPA to find common ground that meets the needs of GPA, the industry, and the industry's customers and the Chairperson stated that they would hold public hearings in which everyone would have the opportunity to participate in the discussions. Commissioner Montinola moved to approve the order denying GPA Docket No. 19-04 as amended, which motion was seconded by Commissioner Perez. The motion carried unanimously.

6. Administrative Matters

The Chairperson announced that the next item of business was the FY2018 Citizens Centric Report. ALJ Horecky stated that Lou Palomo and he were still working on it, that it should be ready to file in a few days, and that the deadline to file the report was in September, and that the report would include updated pictures of the Commission and its staff.

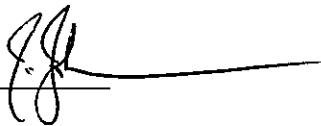
The Chairperson announced that the next item of business was the Update on the PUC Website. ALJ Horecky stated that the content of the website was being updated and being brought up to speed and that they were working with the website company Ideal to resolve some issues regarding the ordering presentation of the numbering for new dockets which is a complicated issue, he stated that they would be updating the pictures on the website, and he stated that they should be caught up with this project in a month or two. Commissioner Montinola inquired as to whether the website is up to date with the dockets and whether the public can access documents from the website and ALJ Horecky and Lou Palomo confirmed that this was so and that they would be working together to make sure that dockets on the website are updated on an ongoing basis and that going forward, they would also include the original agency petition in the dockets. A discussion ensued between the Chairperson, Commissioner Montinola, and ALJ Horecky as to whether the Commission's meeting minutes were up to date and searchable and ALJ Horecky confirmed that they were up to date but not fully searchable at this time.

Commissioner Perez inquired as to whether the Commission had sent anyone to procurement training because that issue had been brought up in the OPA Audit Report. ALJ Horecky stated that the Commission responded to the OPA by informing them that the law requiring the procurement training only applies to government employees and that the Commission does not have any government employees to send to the training. Commissioner Perez stated that the OPA website indicates that there was no response from the Commission and she asked ALJ Horecky to look at the OPA's website and ALJ Horecky stated that he would.

The Chairperson announced that the next item was other business. A discussion ensued between the Commissioner concerning whether they should hold a meeting in June, 2019 because three of the Commissioners and ALJ Horecky would be off-island that month and it was agreed they would hold their next meeting in July, 2019.

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., May 30, 2019**

The following business will be transacted:

Agenda

- 1. Approval of Minutes of April 25, 2019**
- 2. Teleguam Holdings LLC**
 - **GTA Docket 18-02, Request for Investigation of Certain Transfers of Money from the Enhanced E911 Emergency Reporting System Fund, ALJ Status Report, and Proposed Order**
- 3. Port Authority of Guam**
 - **PAG Docket 19-01, Invitation for Bid Award to Morrico Equipment for purchase of two (2) 80 thousand pounds loaded container handlers (Top Loader)**
- 4. Guam Waterworks Authority**
 - **GWA Docket 19-09, Petition to Extend the Terms of GWA's Security Services Contract, PUC Counsel Report, and Proposed Order**
- 5. Guam Power Authority**
 - **GPA Docket 19-04 Petition for Modification of Net Metering Rider, ALJ Report, and Proposed Order**
- 6. Administrative Matters**
 - **FY2018 Citizen Centric Report**
 - **Update on PUC Website**
- 7. Other Business**



BEFORE THE PUBLIC UTILITIES COMMISSION

IN RE: REQUEST FOR REVIEW) PAG DOCKET 19-01
AND APPROVAL OF)
IFB AWARD TO MORRICO)
EQUIPMENT, LLC FOR THE)
PURCHASE OF TWO (2)) ORDER
LOADED CONTAINER)
HANDLERS (TOP LOADERS))
BY PORT AUTHORITY)
OF GUAM)

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the April 19, 2019 Petition for review and approval of the Invitation for Bid Award to Morrico Equipment, LLC (“Morrico”) for the purchase of two 80,000 Pounds Loaded Container Handlers (the “Petition”), filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG” or the “Port”). PAG seeks PUC review and approval of the bid award to Morrico in the amount of One Million Six Hundred Thirty-Nine Thousand Nine Hundred Seventy-Six Dollars (\$1,639,976.00).

On May 28, 2019, 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 August 20, 2018, PAG issued Invitation for Bid No. GSA/PAG-009-18 to purchase four 80,000 Pounds Loaded Container Handlers (“IFB”).¹ Two firms submitted bids in

¹ Petition, p.1.

response to the IFB, which were evaluated by PAG's procurement personnel.² Morrico submitted a "Primary Bid" and an "Alternate Bid."³ The other bidder submitted a "No Bid."⁴ PAG's procurement personnel thereafter determined that Morrico's Primary Bid qualified as the lowest responsive bid and responsible bidder.⁵ On March 29, 2019, PAG's Board of Directors approved the bid award to Morrico and issued Resolution No. 2019-04, which also authorized PAG to petition the PUC for approval of the bid award to Morrico.⁶

1. PAG's Contract Review Protocol

Pursuant to 12 G.C.A. §12105, PAG may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC's express approval. Accordingly, pursuant to PAG's current Contract Review Protocol, "[a]ll professional services contracts in excess of \$1,000,000"; "[a]ll internally financed contracts utilizing O&M funds in excess of \$1,000,000, whether or not the contract extends over a period of one year or several years"; and "[a]ny contract or obligation not specifically referenced . . . which exceeds \$1,000,000, not including individual contracts within an approved capital improvement projects ('CIP') or contract"; "shall require prior PUC approval under 12 G.C.A. §12004." Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).

2. April 19, 2019 Petition

In its Petition, PAG sought PUC review and approval of its bid award to Morrico for the purchase of two 80,000 pounds loaded container handlers, or "top loaders." PAG

² Bid Analysis on IFB No. GSA/PAG-009-18, p.1 (Jan. 23, 2019).

³ Petition, p. 1; Resolution No. 2019-04, PAG Board of Directors, p. 1 (Mar. 29, 2019).

⁴ Petition, p. 1; Resolution No. 2019-04, p. 1.

⁵ Petition, p. 1.

⁶ Petition, p. 2; Resolution No. 2019-04, p. 1.

submitted that after its evaluation of the bids, it determined that Morrico's bid qualified as the lowest responsive, responsible bid.⁷ PAG further submitted, however, that "[d]ue to the Buy American Act" provision indicated in the IFB, the pricing exceeded PAG's original budgeted amount; and therefore, PAG made the determination to purchase two top loaders, instead of four. According to PAG, GSA thereafter issued Purchase Order No. 15213-OS to Morrico for the purchase of two "U.S. Made" Taylor brand top loaders.⁸

PAG has indicated that the purchase of the top loaders is "100% federally funded by [U.S. Maritime Administration]; from the Port Modernization Project and is not supplemented with local funding."⁹ It stated that it "took advantage of the funding opportunity as an effort to further enhance cargo handling capabilities" and to provide a "safe and sustainable working environment."¹⁰

PAG submitted the following in support of its Petition: Invitation for Bid No. GSA/PAG-009-18IFB; Resolution No. 2019-04, issued by PAG's Board of Directors on March 29, 2019; the January 23, 2019 Bid Analysis on Invitation for Bid No. GSA/PAG-009-18IFB; and Morrico's October 5, 2018 "Primary Bid," and October 5, 2018 "Alternate Bid."

3. Invitation for Bid No. GSA/PAG-009-18

a. Bid Specifications

Based on the Bid Specifications, the original bid sought four 80,000 Pounds Loaded Container Handlers. A few of the specifications include the following: 200 minimum

⁷ Petition, p. 1.

⁸ Petition, p. 2.

⁹ Petition, p. 2.

¹⁰ Petition, p. 2.

horsepower; runs on Ultra Low Sulfur Diesel fuel; 80,000 pounds to 40 tons minimum lifting capacity; vertical exhaust that complies with U.S. Department of Transportation and U.S. Environmental Protection Agency standards; air-conditioned cab; provide sessions on operating procedures and maintenance; and must comply with the federal Buy American Act.

b. Funding

PAG submitted that the purchase of the top loaders is “100% federally funded by MARAD; from the Port Modernization Project and is not supplemented with local funding.”¹¹ Therefore, this particular purchase is a part of the larger project to address PAG’s deficiencies and equipment purchases, as assisted by the U.S. Department of Transportation, Maritime Administration.

4. Morrigo Equipment’s Bid Submission

Based on its Primary Bid, Morrigo submitted a bid that complied with all of the bid specifications, indicated a unit price of \$819,998 per container handler, and specified an XLC-975 Taylor Loaded Container Handler. In its Alternate Bid, Morrigo submitted a bid that complied with all the bid specifications, with the exception of the “Buy American Act” requirement, and indicated a unit price of \$643,575 per container handler, and specified an H1150HD-CH Hyster Container Handling Lift Truck. Morrigo further submitted a “Letter of Deviation,” which indicated that the Hyster container top lifters did not qualify under the “Buy American Act” since its container top lifters are manufactured in the Netherlands.

¹¹ Petition, p. 2.

5. Board Approval

The instant petition is supported by Resolution No. 2019-04, issued by PAG's Board of Directors on March 29, 2019. In the Resolution, the board approved the purchase of two Taylor container handlers, as indicated in Morrico's Primary Bid, and at a total cost of \$1,639,976.¹² The Resolution further authorized PAG management to petition the PUC for approval of the bid award to Morrico.¹³

CONCLUSION

Based on the record before the Commission, Morrico's primary bid appears to be the lowest responsive, responsible bid.¹⁴ The ALJ further found that, since the bid pricing exceeded PAG's original budgeted amount, PAG's determination to purchase two top loaders, instead of four, appears reasonable based on the circumstances.¹⁵

Additionally, the ALJ found that top loaders are indisputably an integral component of PAG's operations. And since the subject purchase of the top loaders is "100% federally funded . . . and is not supplemented with local funding," PAG has utilized this opportunity to further improve its operations and with little to no impact to ratepayers.¹⁶ Moreover, ALJ further found that this purchase will add to PAG's operating equipment and will certainly "enhance [its] cargo handling capabilities."¹⁷

¹² Resolution No. 2019-04, p. 1.

¹³ Resolution No. 2019-04, p. 1.

¹⁴ See Petition, p. 1.

¹⁵ See Petition, p. 2.

¹⁶ Petition, p. 2.

¹⁷ Petition, p. 2.

Accordingly, based on the record before this Commission in the instant docket, and for the other reasons set forth herein, the ALJ recommended that the PUC approve the bid award to Morrico Equipment, LLC, for the two top loaders at a total cost of \$1,639,976.00. The Commission hereby adopts the findings made in the May 28, 2019 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:


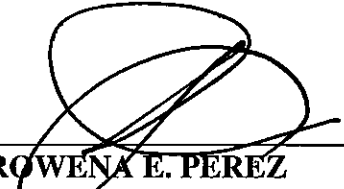

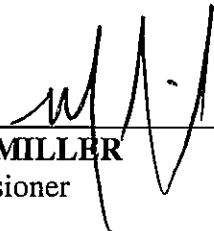
1. PAG's Petition for the review and approval of the Invitation for Bid Award to Morrico Equipment, LLC for the purchase of two 80,000 Pounds Loaded Container Handlers (Top Loaders) is APPROVED, at a total cost of \$1,639,976.00.

2. In exceptional cases where PAG must act on a contract that requires prior PUC approval, PAG shall notify the PUC in writing, which shall (i) alert the PUC that a request for review is forthcoming and (ii) indicate PAG's reasons for immediately acting on such a contract prior to PUC review.

3. 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.

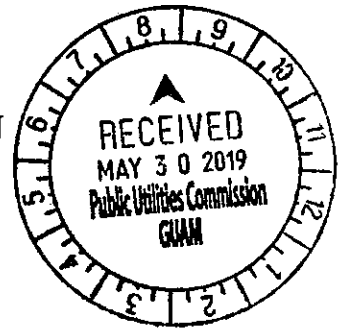
[SIGNATURES TO FOLLOW ON NEXT PAGE]

SO ORDERED this 30th day of May, 2019.


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

P193012.JRA

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:)

GWA DOCKET 19-09)

THE PETITION OF THE GUAM)
WATERWORKS AUTHORITY TO)
RATIFY EXPENDITURES FOR)
ADDITIONAL SECURITY SERVICES)
FOR ITS CONTRACT WITH G4S)
SECURE SOLUTIONS)

PUC ORDER

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] pursuant the Guam Waterworks Authority's ["GWA"] Petition for Approval to Ratify Expenditures for Additional Security Services under GWA's contract with G4S Secure Solutions for Security Services ["G4S"].¹
2. GWA requests that the PUC ratify GWA's increase of the contract amount to \$1,015,356.09 which exceeds the Contract Review Protocol by the amount of \$15,356.09.

BACKGROUND

3. In April, 2015 GWA and G4S entered into a contract for security services. The contract had a one (1) year initial term with three (3) options to renew for one (1) year.² After the one (1) year initial term expired, GWA exercised all three options to renew for one (1) year periods.³
4. GWA implemented a new policy from 2016 to 2018 wherein GWA's customer service centers at several locations were open on Saturdays. This policy increased the costs of the last two option periods of the GWA/G4S security services contract by approximately \$75,000 because it increased GWA's need for security guards who

¹ GWA Petition for Approval to Extend the Term of its Contract with G4S Secure Solutions for Security Services, GWA Docket 19-09, filed on May 10, 2019 at 1.

² Id., at 1.

³ Consolidated Commission on Utilities ["CCU"] Resolution No. 16-FY2019, Relative to Authorizing the Ratification of Expenditures for Security Services with G4S and GWA to Seek the Approval of the Public Utilities Commission to Ratify Cost Exceeding \$1 Million Dollars at 1.

had to be present during the periods in which GWA's customer service centers were open.⁴

5. On June 5, 2018, CCU ratified GWA's payment of \$75,000 for the increase in the cost of the GWA/G4S security services contract, which only covered contract costs up to April, 2018, and it authorized GWA's management to expend up to \$1,000,000 for the remaining term of the last contract option.⁵
6. Despite the CCU increasing GWA's spending authority for the GWA/G4S security services contract, by January, 2019, GWA exceeded the cap by \$15,356.09.⁶
7. On February 26, 2019, the CCU adopted Resolution No. 16-FY2019 which ratified GWA spending the additional \$15,356.09 above the prior \$1,000,000 spending cap.⁷ GWA used its internal revenue funds to pay for the additional contract costs.
8. PUC Counsel issued his report on May 28, 2019.
9. GWA requests that the PUC ratify GWA's increase of the contract amount to \$1,015,356.09 which exceeds the Contract Review Protocol by the amount of \$15,356.09.

ANALYSIS

10. The PUC's Contract Review Protocol for GWA mandates that for multi-year contracts with fixed terms and fixed annual costs, GWA must obtain PUC approval if the total costs during the entire contract term exceeds the one-million-dollar (\$1,000,000) review threshold.⁸ Here, the \$15,356.09 in additional costs for the GWA/G4S security services contract require the PUC's approval because said amount exceeds the \$1,000,000 contract review amount.
11. The security services provided by G4S are an important safeguard protecting GWA's facilities, employees, and customers. In its petition, GWA refers to a "recent

⁴ GWA Petition at 1.

⁵ Id., at 1.

⁶ Id., at 2.

⁷ CCU Resolution No. 16-FY2019 at 2.

⁸ PUC Order re Contract Review Protocol for GWA, PUC Administrative Docket 00-004, filed on October 27, 2005 at paragraph 4(c) at 2.

security incident that took place at one of its facilities.”⁹ Sadly, alongside this incident, GWA has had other recent security incidents that justify its contract with G4S. On January 31, 2016, a person called GWA to report that bombs were planted in every Guam High School and Middle School, hidden in backpacks and lockers, and that the caller would shoot survivors with an assault rifle.¹⁰ In February, 2018, suspicious persons posing as GWA employees approached several residents of Machanao, Dededo, asking them if they could check or change their water meters.¹¹ These incidents co-exist with the omnipresent threats of an internal or external active shooter and terrorism. Hence, the security services contract is a necessary one, and it was reasonable for GWA to require security guards to be present whenever its customer service centers are open to the public despite the resulting increase in contract costs resulting in the \$15,356.09 in costs that exceed the \$1,000,000 contract review threshold.

12. Based on the foregoing, GWA’s request to ratify the additional \$15,356.09 in costs exceeding the \$1,000,000 contract review threshold for its security services contract with G4S is reasonable, prudent, and necessary, and the PUC approves GWA’s petition.

ORDERING PROVISIONS

After review of the record herein, including GWA’s Petition to Ratify Expenditures for Additional Security Services under GWA’s contract with G4S for security services, 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 to ratify the additional \$15,356.09 in costs exceeding the \$1,000,000 contract review threshold for its security services contract with G4S is hereby approved.
2. GWA shall file a complete copy of its security services contract with G4S with the PUC.

⁹ GWA Petition at 2.

¹⁰ *Automated call to GWA threatens all middle, high schools*, News Story Published by KUAM News on January 31, 2016

¹¹ *GWA: Be wary of people posing as Waterworks employees*, Pacific Daily News article published on February 16, 2018.

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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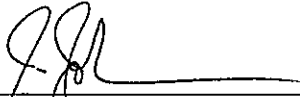
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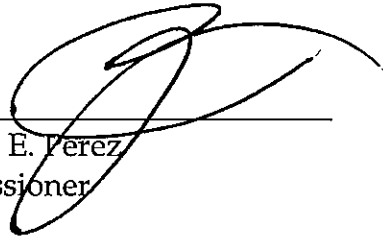
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PUC Order Re GWA Petition
to Ratify Expenditures for
Additional Security Services For
G4S Secure Solutions Contract
GWA Docket 19-09
May 30, 2019

Dated this 30th day of May, 2019.

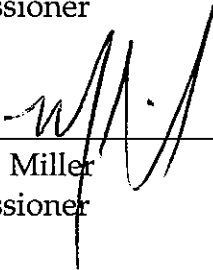


Jeffrey C. Johnson
Chairman



Rowena E. Perez
Commissioner

Michael A. Pangelinan
Commissioner



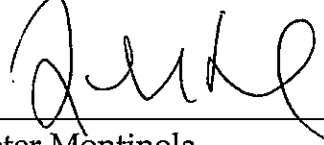
Mark G. Miller
Commissioner



Joseph M. McDonald
Commissioner

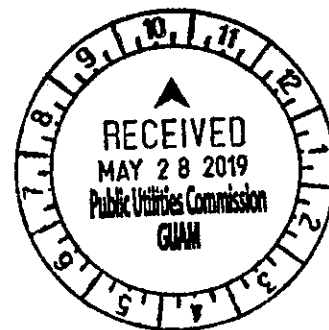


Filomena M. Cantoria
Commissioner



Peter Montinola
Commissioner

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:)

GWA DOCKET 19-09)

THE PETITION OF THE GUAM)
WATERWORKS AUTHORITY TO)
RATIFY EXPENDITURES FOR)
ADDITIONAL SECURITY SERVICES)
FOR ITS CONTRACT WITH G4S)
SECURE SOLUTIONS)

PUC COUNSEL REPORT

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] pursuant to the Guam Waterworks Authority's ["GWA"] Petition for Approval to Ratify Expenditures for Additional Security Services under GWA's contract with G4S Secure Solutions for Security Services ["G4S"].¹
2. GWA requests that the PUC ratify GWA's increase of the contract amount to \$1,015,356.09 which exceeds the Contract Review Protocol by the amount of \$15,356.09.

BACKGROUND

3. In April, 2015 GWA and G4S entered into a contract for security services. The contract had a one (1) year initial term with three (3) options to renew for one (1) year.² After the one (1) year initial term expired, GWA exercised all three options to renew for one (1) year periods.³
4. GWA implemented a new policy from 2016 to 2018 wherein GWA's customer service centers at several locations were open on Saturdays. This policy increased the costs of the last two option periods of the GWA/G4S security services contract by approximately \$75,000 because it increased GWA's need for security guards who

¹ GWA Petition for Approval to Extend the Term of its Contract with G4S Secure Solutions for Security Services, GWA Docket 19-09, filed on May 10, 2019 at 1.

² Id., at 1.

³ Consolidated Commission on Utilities ["CCU"] Resolution No. 16-FY2019, Relative to Authorizing the Ratification of Expenditures for Security Services with G4S and GWA to Seek the Approval of the Public Utilities Commission to Ratify Cost Exceeding \$1 Million Dollars at 1.

had to be present during the periods in which GWA's customer service centers were open.⁴

5. On June 5, 2018, CCU ratified GWA's payment of \$75,000 for the increase in the cost of the GWA/G4S security services contract, which only covered contract costs up to April, 2018, and it authorized GWA's management to expend up to \$1,000,000 for the remaining term of the last contract option.⁵
6. Despite the CCU increasing GWA's spending authority for the GWA/G4S security services contract, by January, 2019, GWA exceeded the cap by \$15,356.09.⁶
7. On February 26, 2019, the CCU adopted Resolution No. 16-FY2019 which ratified GWA spending the additional \$15,356.09 above the prior \$1,000,000 spending cap.⁷ GWA used its internal revenue funds to pay for the additional contract costs.

ANALYSIS

8. The PUC's Contract Review Protocol for GWA mandates that for multi-year contracts with fixed terms and fixed annual costs, GWA must obtain PUC approval if the total costs during the entire contract term exceeds the one-million-dollar (\$1,000,000) review threshold.⁸ Here, the \$15,356.09 in additional costs for the GWA/G4S security services contract require the PUC's approval because said amount exceeds the \$1,000,000 contract review amount.
9. The security services provided by G4S are an important safeguard protecting GWA's facilities, employees, and customers. In its petition, GWA refers to a "recent security incident that took place at one of its facilities."⁹ Sadly, alongside this incident, GWA has had other recent security incidents that justify its contract with G4S. On January 31, 2016, a person called GWA to report that bombs were planted in every Guam High School and Middle School, hidden in backpacks and lockers,

⁴ GWA Petition at 1.

⁵ Id., at 1.

⁶ Id., at 2.

⁷ CCU Resolution No. 16-FY2019 at 2.

⁸ PUC Order re Contract Review Protocol for GWA, PUC Administrative Docket 00-004, filed on October 27, 2005 at paragraph 4(c) at 2.

⁹ GWA Petition at 2.

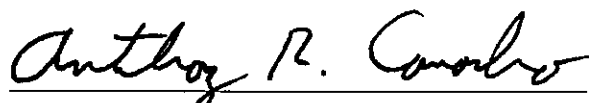
and that the caller would shoot survivors with an assault rifle.¹⁰ In February, 2018, suspicious persons posing as GWA employees approached several residents of Machanao, Dededo, asking them if they could check or change their water meters.¹¹ These incidents co-exist with the omnipresent threats of an internal or external active shooter and terrorism. Hence, the security services contract is a necessary one, and it was reasonable for GWA to require security guards to be present whenever its customer service centers are open to the public despite the resulting increase in contract costs resulting in the \$15,356.09 in costs that exceed the \$1,000,000 contract review threshold.

10. Based on the foregoing, GWA's request to ratify the additional \$15,356.09 in costs exceeding the \$1,000,000 contract review threshold for its security services contract with G4S is reasonable, prudent, and necessary.

RECOMMENDATION

14. Counsel recommends that the PUC ratify GWAs expenditure of \$15,356.09 in costs exceeding the \$1,000,000 contract review threshold for its security services contract with G4S.
15. A Proposed Order is submitted herewith for the consideration of the Commissioners.

Dated this 27th day of May, 2019.

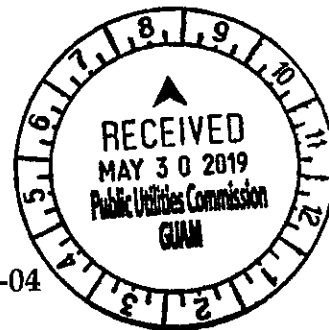


Anthony R. Camacho, Esq.
PUC Legal Counsel

¹⁰ *Automated call to GWA threatens all middle, high schools*, News Story Published by KUAM News on January 31, 2016

¹¹ *GWA: Be wary of people posing as Waterworks employees*, Pacific Daily News article published on February 16, 2018.

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:)

GPA DOCKET 19-04

GUAM POWER AUTHORITY)
REQUEST FOR MODIFICATION OF)
CURRENT NET METERING RIDER [NEM])
_____)

ORDER

INTRODUCTION

This matter comes before the Guam Public Utilities Commission ("PUC") upon the Guam Power Authority ("GPA") Petition for Modification of Current Net Metering ("NM") Rider.¹

GPA seeks approval to modify the current Net Metering Rider from providing retail rate for net metering credits to avoided cost for net metering credits, with a five-year phase-in approach.²

BACKGROUND

On December 29, 2008, the PUC approved and adopted the current Interim Rider for Customer-Generator Energy Facilities, developed by both GPA and the Georgetown Consulting Group, Inc. ("Georgetown").³ On February 27, 2009, the PUC approved and adopted GPA's Standard Interconnection Agreement for Net Metering Facilities, as well as GPA's Net Metering Program Interconnection Policy.⁴ On December 10, 2015, the PUC approved and adopted a language change to the Net Metering Rider under "MONTHLY BILLING" to allow unused kWh credits to be carried forward each month until the end of a twelve (12) month period where the account would be "trued-up" and the customer could elect to have the credits carry forward or have GPA purchase the remaining credits at a one-to-one retail rate; if no election was made, GPA must credit the customer's account with any and all unused kWh credits.⁵

In the December 29, 2008 Order, the PUC stated that "The NM Rider may be amended or modified in the future by GPA, with the approval of the Guam Public

¹ GPA Petition for Modification of Current Net Metering Rider, GPA Docket 19-04, filed October 4, 2018.

² Id. at p. 1.

³ PUC Decision and Order, GPA Docket 08-08, p. 2 (Dec. 29, 2008).

⁴ PUC Decision and Order, GPA Docket 08-10, p. 1 (Feb. 27, 2009).

⁵ PUC Decision and Order, GPA Docket 08-10, p. 7 (Dec. 10, 2015).

Utilities Commission (PUC).⁶ The Order also stated that "The NM Rider is available to all customers without limitation as to the aggregate capacity of Customer-Generator installations on the GPA System. However, at the time the number of Customer-Generators exceeds one-thousand (1000) customers this issue will be reviewed by the PUC and a determination made as to the continued offering of the NM Rider for new 'net metering' customers."⁷

GPA reached 1,000 net energy metering ("NEM") customers in June 2016.⁸ As of August 2018, GPA's net metering customer total reached 1,764, which GPA calculates results in an approximate annual subsidy of \$3,456,653.00.⁹

At the behest of the Consolidated Commission on Utilities ("CCU"), GPA held several public meetings to: "1) Address net metering stakeholders' concerns and obtain feedback; 2) Evaluate stakeholder feedback; 3) Perform analysis regarding net metering impacts on the GPA especially on non-net metering customers; and 4) Propose recommendations on whether or not changing the current net metering program is in the best interests of customers while insofar as possible alleviating net metering customer concerns."¹⁰

GPA presented its net metering credit recommendation to the CCU on August 28, 2018. GPA recommended "the following Value of Solar (VOS) Policies as a replacement for the existing Net Metering Program including: 1) Grandfathering existing registered NEM customers for a period of 5 years allowing customers who own NEM system to recover their investment while phasing in VOS rates over the extended 5-year period; and filing for PUC approval a process to establish Value of Solar (VOS) rates."¹¹

Per GPA, the Value of Solar ("VOS") rates would be established through the following process: "1) Reassess VOS rates each LEAC for Avoided Energy Value; 2) Reassess VOS rates for other VOS components as applies on a) an annual basis; b) periodic basis over a set number of years; and 3) whenever there are material changes to GPA's generation mix."¹²

⁶ PUC Order, GPA Docket 08-10, dated December 29, 2008, at Exhibit A, Paragraph 1.

⁷ PUC Order, GPA Docket 08-10, dated December 29, 2008, at Exhibit A, Paragraph 3.

⁸ Guam Consolidated Commission on Utilities Resolution No. 2018-17, Authorizing Management of the Guam Power Authority to File Net Metering Program Recommendations Addressing the Guam Public Utilities Commission Order Docket No. 08-10 (December 29, 2008), Exhibit A, Paragraph 3, adopted August 28, 2018, at p. 1.

⁹ GPA Petition for Modification of Current Net Metering Rider, GPA Docket 19-04, filed October 4, 2018, at p. 1.

¹⁰ CCU Resolution No. 2018-17, Authorizing Management of the Guam Power Authority to File Net Metering Program Recommendations Addressing the Guam Public Utilities Commission Order Docket No. 08-10 (December 29, 2008), Exhibit A, Paragraph 3, adopted August 28, 2018, at p. 2.

¹¹ *Id.*

¹² *Id.*

On August 28, 2018, the CCU adopted Resolution No. 2018-17, which authorized GPA to file a petition regarding its Value of Solar Policy Recommendation with the PUC and to conduct an information campaign supporting the recommendations.¹³

After receiving GPA's petition on October 4, 2018, on behalf of the PUC, the Administrative Law Judge ("ALJ") of the PUC retained Daymark Energy Advisors ("Daymark") to conduct an independent review of GPA's application, review net metering tariffs across the United States, and provide a report of findings and recommendations regarding whether GPA's proposed net metering credit change should be approved.

DETERMINATIONS

The Guam Legislature's enacting of GPA's net metering statutory scheme was done "to combine new power-generation technologies with traditional power-generation systems in order to expand and safeguard the island's electric supply, without the need for additional capital investment by the utility company."¹⁴ Additionally, the Legislature unequivocally expressed its intent to "(a) encourage private investment in renewable energy resources; (b) stimulate economic growth; and (c) enhance the continued diversification of the renewable energy resources used on Guam."¹⁵

Regarding distributed solar, Daymark stated in its Report that "Distributed solar is a good resource for the island that adds to its resource diversity and has the potential to provide distribution locational benefits. Discouraging it is not ideal. It is important to properly design a tariff that supports distributed solar while increasing the knowledge of its real and full benefits and costs across the utility service chain (generation, transmission and distribution)."¹⁶

Daymark recommended that the PUC reject GPA's proposal because it will not encourage the growth of renewables at the customer level, as the Legislature had intended, the proposal framework will increase the payback period since most NEM customers are leasing generators and receiving smaller bill reduction benefits, and most states in the U.S. are still crediting NEM customers at the full retail rate.¹⁷

Instead of changing the credit rate, Daymark recommended that the level of penetration be changed from 1000 net metering customers to an aggregate kilowatt

¹³ Id., at pp. 2-3.

¹⁴ Public Law 27-132, at p. 2 (Dec. 30, 2004).

¹⁵ Id.

¹⁶ Daymark Energy Advisors, Net Metering Review: GPA Request to Modify Current Net Metering Rider, March 20, 2019, at p. 1.

¹⁷ Id, at p. 2.

("kW") cap of 10%, based on GPA's system peak demand, 261 megawatts ("MW")¹⁸, from August 1, 2017.¹⁹

Based on the 2017 peak demand and the currently installed kW of customer-generators, 18,894 kW²⁰ or about 19 MW as of October 2018, the level of penetration is about 7% of GPA's system peak demand.²¹

Daymark stated that even though the current penetration level is about 7% of the total GPA system peak demand, customer-generators are not contributing most of their output at the time the GPA's system peaks²², which GPA shows is between 1800 and 1900 hours.²³

While the 10% aggregate cap proposed by Daymark is higher than many of the U.S. states with similar cap limits, Daymark stated that the setting of this cap will enable GPA to conduct a distribution system impact study, which GPA stated would be completed in 2019²⁴, to gain a deeper understanding of locational and overall benefits and costs that customer-generators have on the distribution system.²⁵

As additional support for increasing the level of penetration cap, Daymark stated that Hawaii did not start experiencing circuit level issues until penetration reached 10% and the number of customer-generator installs in Guam have been declining since the end of 2017, even though distributed generation costs have been decreasing.²⁶

The PUC should establish a new level of penetration in the NM Rider upon which the PUC will be required to undertake a review of the net-metering program.

The NM Rider should be amended as follows. In accordance with the Daymark recommendation, the following provision of the Net Metering Rider should be deleted: "However, at that time the number of Customers exceeds one-thousand (1000) customers this issue will be reviewed by the PUC and a determination made as to the continued offering of the NM Rider for new "net metering" customers."

¹⁸ GPA Work Session, at p .6 (Apr. 19, 2018).

¹⁹ Daymark Energy Advisors, Net Metering Review: GPA Request to Modify Current Net Metering Rider, March 20, 2019, at p. 2.

²⁰ GPA's October 2018 Net Metering Report.

²¹ Daymark Energy Advisors, Net Metering Review: GPA Request to Modify Current Net Metering Rider, March 20, 2019, at p. 2.

²² Id.

²³ GPA Petition for Modification of Current Net Metering Rider, Exhibit A, at p .8, GPA Docket 19-04, filed October 4, 2018.

²⁴ Technical Session between the ALJ, Daymark, and GPA (Jan. 17, 2019).

²⁵ Daymark Energy Advisors, Net Metering Review: GPA Request to Modify Current Net Metering Rider, March 20, 2019, at pp. 2-3.

²⁶ Id., at p. 3.

In place of the deleted provision, the following amendment should be added to the NM Rider:

“However, when the capacity of Customer-Generator installations on the GPA system exceeds an aggregate KW cap (10%) of the utility’s system peak demand (261 MW), the PUC will review the net metering program, determine whether the NM Rider should continue to be offered for new “net metering” customers, and consider whether any other adjustments should be made to compensation rates paid by GPA to customer-generators for capacity generation.”

Regarding GPA’s planned distribution system impact study, Daymark recommended that as part of this study GPA should conduct a full, balanced benefit-cost analysis that would analyze all impacts distributed generation has on the distribution system, which will enable GPA to more fully consider avoided costs and benefits that are used in the VOS rate calculation, which should also consider the change in fuel costs due to the renewable generation GPA is bringing online in the next few years.²⁷

This kind of study is an important consideration because GPA’s distribution system has not been designed to include customer-generators.²⁸

Once GPA conducts a full distribution study benefit-cost analysis that analyzes all impacts of locational distributed generation has on the distribution system and the aggregate kW cap is reached, Daymark recommends the NM Rider be re-opened for discussion of program and rate changes.²⁹

Until then and going forward, Daymark recommends that GPA include a rebate program for battery storage in their Demand-Side Management (“DSM”) program and encourage solar providers to include storage with the solar system and explain the benefits to customers.³⁰

The addition of a storage system will allow customer-generators to store net excess generation during the day for use in helping GPA meet and reduce daily peak system demand occurring in the evening, which reduces the need for new resource investment to the benefit of all customers.³¹

To address the lost revenue GPA has calculated, Daymark recommends GPA include it

²⁷ Id., at pp. 3-4.

²⁸ Id., at p. 3.

²⁹ Id., at p. 4.

³⁰ Id., p. 3.

³¹ Id.

in its next base rate case filing.³²

The ALJ conducted his own independent review of the Daymark Report and filed his ALJ Report in this Docket. The ALJ concurs with the findings and recommendations of the Daymark Report. The PUC also adopts the findings and conclusions of the ALJ Report.

ORDERING PROVISIONS

After review of the record herein, GPA's Petition for Review and Approval by the PUC for Modification of Current Net Metering Rider, the Daymark Report, and the ALJ 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 request to modify the current Net Metering Rider from providing retail rate for net metering credits to avoided cost for net metering credits, with a five-year phase-in approach, as set forth in its Petition, is denied.
2. The PUC should establish a new level of penetration in the NM Rider upon the occurrence of which the PUC will be required to undertake a review of the net-metering program.
3. The NM Rider cap is hereby amended to be changed from a customer cap of 1000 net metering customers to an aggregate kW cap set at 10% of GPA's August 1, 2017 system peak demand of 261 MW.
4. The NM Rider should be amended as follows. In accordance with the Daymark recommendation, the following provision of the Net Metering Rider should be deleted: "However, at that time the number of Customers exceeds one-thousand (1000) customers this issue will be reviewed by the PUC and a determination made as to the continued offering of the NM Rider for new net metering customers."
5. In place of the deleted provision, the following amendment should be added to the NM Rider:

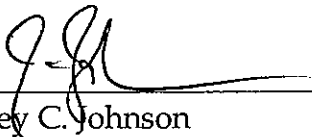
"However, when the capacity of Customer-Generator installations on the GPA system exceeds an aggregate KW cap (10%) of the utility's system peak demand (261 MW), the PUC will review the net metering program, determine whether the NM Rider should continue to be offered for

³² Id.

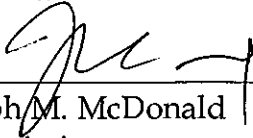
new “net metering” customers, and consider whether any other adjustments should be made to compensation rates paid by GPA to customer-generators for capacity generation.”

6. GPA may petition the PUC for further changes to the NM Rider, including the rate of compensation paid to net metering customers, prior to the time at which the aggregate KW cap (10%) of the utility’s system peak demand is met, but only if it has met all of the following preconditions: (1) the distribution system impact study which GPA has already planned shall be completed; (2) GPA shall have conducted and completed a full, balanced benefit-cost analysis that analyzes all of the impacts distributed generation has on the distribution system, especially specific to the location of the distributed generation on the system; (3) A third-party consultant, undertakes and completes an independent study determining the cost of grid and other services used by NEM customers and which identifies, in detail, the specific value of those services to the NEM customers. The studies referenced in (2) and (3) above shall only be undertaken upon joint approval of the PUC and GPA, and shall be undertaken at the expense of GPA.
7. GPA is ordered to complete the planned distribution system impact study and include in that study a balanced locational and full benefit-cost analysis of how distributed generation impacts the distribution system.
8. GPA is ordered to include a rebate program for battery storage in the DSM program and encourage solar providers to include storage with the solar systems and explain the benefits to customers.
9. If GPA is concerned about lost revenue, it should provide appropriate evidence during its next filed base rate case.


Dated this 30th day of May, 2019.



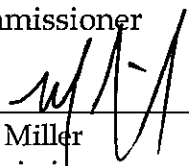
Jeffrey C. Johnson
Chairman



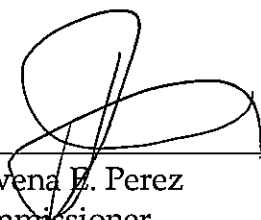
Joseph M. McDonald
Commissioner



Filomena M. Cantoria
Commissioner

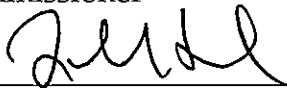


Mark Miller
Commissioner



Rowena E. Perez
Commissioner

Michael A. Pangelinan
Commissioner



Peter Montinola
Commissioner