

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN RE: REQUEST BY THE GUAM  
WATERWORKS AUTHORITY FOR  
APPROVAL OF BOND PROJECTS  
FUNDED BY GWA'S 2010 SERIES  
BOND PROCEEDS

GWA Docket No. 11-01

ALJ REPORT

RECEIVED  
LAW OFFICES OF  
HORECKY & ASSOCIATES

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INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the "PUC") at the request of Petitioner Guam Waterworks Authority ("GWA") for expedited approval of reprogramming of projects funded by GWA's 2010 Series Bond ("2010 Bond") proceeds, filed with the PUC on March 13, 2013.

DISCUSSION

A. 2010 Bond Reprogramming.

In its Petition, GWA seeks approval to reallocate \$7.57 million of 2010 Bond funds to complete several projects required under the November 10, 2011 Order for Preliminary Relief Re: Deadlines for Outstanding Projects under the Amended Stipulated Order issued by the District Court of Guam in U.S. v. Guam Waterworks Authority, Civil Case No. 02-00035 (hereinafter referred to as the "Amended Stipulated Order"). GWA contends that "[t]here is a compressed time frame for most of the projects that GWA has to complete under the Stipulated Order" and that its failure to meet these deadlines "could result in fines or other sanctions." Petition, p. 2.

The Petition is supported by Resolution No. 17-FY2013, issued by the Consolidated Commission on Utilities ("CCU"), which approved GWA's Capital

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Improvement Plan for 2013-2018 (hereinafter referred to as the “CIP”), and authorized GWA to seek PUC approval for the 2010 Bond fund reallocations.

In addition, the Petition is supported by the CIP, which is attached to GWA’s Petition as “Exhibit A” to CCU Resolution No. 17-FY2013. GWA’s request for reprogramming affects only certain potable water and wastewater projects, as well as an electrical engineering project, and a single miscellaneous project, which are contained in the CIP.

Pursuant to 12 G.C.A. §12004, the PUC is tasked with reviewing and approving all uses of bond proceeds.

**B. Potable Water Projects Requiring Reprogramming.**

GWA’s Petition includes the reprogramming of 2010 Bond funds for the following potable water projects.

**1. Meter Replacement Program**

The Meter Replacement Program for 2013 is intended to continue to replace all mechanical water meters with automatic meter reading (“AMR”) meters, and therefore eliminate old, underperforming, and broken meters. GWA maintains that these AMR meters will provide GWA with the means to electronically collect metering data. GWA submits that “the previous bond reallocation in June of 2012 is insufficient to replace failing meters and as such, GWA needs an additional \$600,000 to meet the requirements” of the Amended Stipulated Order. Petition, p. 3; *See also* CIP, p. 5.

**2. Barrigada Tank Repair/Replacement**

This project involves the design and construction of a tank to replace a 1 million gallon tank that collapsed in 2003. The Amended Stipulated Order requires that

GWA “complete construction of at least one new storage tank with a minimum capacity of two million gallons in the Barrigada area to replace or increase the storage volume of the Barrigada storage tanks.” Amended Stipulated Order, at 36.

Based on GWA’s CIP funding tables, this project will be funded by 2013 bond funds in 2014. GWA has requested a reduction of \$550,000 from the 2010 Bond funds.

**3. Implementation of the Ground Water Rule**

This project involves GWA’s installation of chlorine residual monitors in all GWA deep wells and springs. Pursuant to the U.S. E.P.A.’s Ground Water Rule, GWA must install chlorine residual monitors in all its wells. GWA maintains that an additional \$1.5 million of 2010 Bond funding is required to continue work related to “advanced monitoring” and chlorination of GWA’s deep water wells and springs. Petition, p. 3; CIP p. 5.

**4. Brigade II (Ugum Lift) BPS Upgrade**

Under this project, GWA will construct a new booster pump station at the Brigade II site, which will service the Windward Hills and Pulantat reservoirs. GWA maintains that cost estimates have revealed that more funding is required for the construction of the new booster pump station. CIP, p. 5. Accordingly, GWA requests an additional \$500,000.

**5. Ugum Water Treatment Plant Intake Modifications**

This project involves the modification of the intake structure of the Ugum Water Treatment Plant in an effort to minimize siltation and provide more raw water supply during low river flow conditions. Vehicles, software, equipment, training,

engineering, and operation and maintenance of the treatment plant are also included under this project. Based on GWA's CIP funding tables, funding for this project will be supplemented by 2013 bond funds. GWA has requested a reduction of \$970,000 from the 2010 Bond funds.

6. **Mechanical/Electrical Equipment Replacement**

Under this project, GWA will create an equipment reserve for mechanical and electrical equipment, which includes well pumps, valves, and emergency generators, among others. GWA requests that an additional \$270,000 to fund this project.

7. **Water Reservoir Internal/External Corrosion Assessment Program**

According to GWA, this project involves the development and implementation of an assessment program for all of GWA's steel water reservoirs in order to determine the extent of internal and external corrosion. The assessment program includes the development of an action plan to rehabilitate or replace damaged reservoirs.

GWA maintains that additional funding is required to continue the inspection of its steel water reservoirs, which also includes servicing minor repairs. GWA submits that an additional \$1,731,000 of 2010 Bond funding is required to complete its assessment and planning efforts. Petition, p. 3; CIP, p. 5.

8. **Agana Heights & Chaot Tanks**

This project involves the construction and replacement of the Agana Heights and Chaot steel tanks. The Amended Stipulated Order requires GWA to replace and possibly relocate the Agana Heights and Chaot steel tanks. Amended Stipulated Order, at 33-34.

GWA submits that additional funding is required so that it may fund construction management services related to the project. Accordingly, GWA now maintains that an additional \$600,000 of 2010 Bond funding is required for this project.

**9. Tank Replacement Piti & Hyundai Tanks**

GWA also plans to construct replacement tanks for the Piti and Hyundai steel tanks. Under the Amended Stipulated Order, GWA must repair or replace at least seven storage tanks and reservoirs. Amended Stipulated Order, at 36-37.

In a prior Order, the PUC approved the reprogramming of \$100,000 to fund this project for 2013. GWA now submits that no funding will be allocated to this project in 2013.

**10. Assessment of Malojloj & Yigo Elevated Tanks**

Under this project, GWA will construct replacement tanks for the Malojloj and Yigo elevated steel tanks. Under the Amended Stipulated Order, GWA is required to repair or replace at least seven storage tanks and reservoirs. Amended Stipulated Order, at 36-37. At this time, GWA intends to initiate design services for a new “Booster Pump Station” in Malojloj. CIP, p. 6.

Originally, no funding was allocated for 2013. GWA now submits that \$200,000 must be funded by the 2010 Bond, and therefore 2010 Bond reprogramming is required.

**11. Public Water System GIS & Mapping**

GWA submits that this project will improve GWA’s geographical information system database through improvements made to GWA’s data management

system. GWA maintains that this upgrade is necessary so that GWA can manage its infrastructure more effectively.

Originally, GWA intended to utilize funding under the SRF grant. However, GWA now submits that \$50,000 of the 2010 Bond is necessary to fund this project.

C. **Wastewater Projects Requiring Reprogramming.**

GWA has identified the following wastewater projects that require 2010 Bond reprogramming.

1. **Wastewater Collection System Replacement and Rehabilitation**

Through this project, GWA intends to replace and rehabilitate three-fourths ( $\frac{3}{4}$ ) of the total wastewater collection system per year, which includes manhole repairs and replacement. GWA submits that this replacement and rehabilitation program will upgrade the sewer collection system, as well as act as a proactive measure that should mitigate catastrophic system failure. GWA further submits that this project will require an additional \$750,000 of 2010 Bond funding.

2. **Baza Gardens STP Replacement**

Through this project, GWA will construct new wastewater treatment facilities at the existing treatment plant. GWA contends that the existing facility requires significant repair. However, GWA has requested a reduction of \$2,550,000 from the 2010 Bond funds.

3. **Facilities Plan/Design/Interim for Umatac-Merizo STP Improvements**

This project involves the planning and design of interim improvements to the Umatac-Merizo wastewater treatment plant. GWA maintains that it requires an additional \$150,000 for this project in order to furnish “interim improvements” “as a means of eliminating overflow occurrences and improving performance until the plant is fully upgraded.” Petition, p. 3.

4. **Agat/Santa Rita STP Replacement**

Through this project, GWA will construct new wastewater treatment facilities at the existing treatment plant. GWA submits that the existing facility requires significant repair. Based on GWA’s CIP funding tables, funding for this project will be supplemented by 2013 bond funds. GWA has requested a reduction of \$250,000 from the 2010 Bond funds.

5. **Northern District WWTP Primary Treatment Upgrades**

Under this project, GWA will continue its construction upgrades to the Northern District Wastewater Treatment Plan. GWA submits that the assets at this treatment plant are in poor condition or are inoperable, and therefore consistently fail to meet the treatment standards set forth under the National Pollutant Discharge Elimination System permit program. Based on GWA’s CIP funding tables, this project will be funded by GWA’s system development charge in 2014. GWA has requested a reduction of \$250,000 from the 2010 Bond funds.

**6. Agana WWTP Interim Measures**

Under this project, GWA will continue its upgrades to this facility, as well as other improvements or rehabilitation needed at the Agana Wastewater Treatment Plant. Under item 5 of the Amended Stipulated Order, GWA is required to construct a septage handling facility, construct a grit and “FOG” removal system, and repair its solids handling facilities at the Agana Wastewater Treatment Plan. Amended Stipulated Order, at 14-15.

GWA submits that additional funding is required in this instance so that it can fund construction management services. CIP, p. 6. Accordingly, GWA requests an additional \$500,000 of 2010 Bond funding.

**7. I&I SSES Southern**

This project involves GWA performing infiltration and inflow analyses, as well as sewer system evaluation surveys, on its sanitary sewer system. The work will include minor repairs necessary to decrease infiltration and inflow, including manhole inspection, mapping, and repair. Under the Amended Stipulated Order, GWA is required to perform these assessments in order to limit such infiltration and inflow. Amended Stipulated Order, at 16-19. Based on GWA’s CIP funding tables, funding for this project will be supplemented by the SRF grant. GWA has requested a reduction of \$500,000 from the 2010 Bond funds.

**8. I&I SSES Central**

This project also involves GWA performing infiltration and inflow analyses, as well as sewer system evaluation surveys, on its sanitary sewer system. The work will include minor repairs necessary to decrease infiltration and inflow, including manhole inspection, mapping, and repair. Under the Amended Stipulated Order, GWA is



required to perform these assessments in order to limit such infiltration and inflow. Amended Stipulated Order, at 16-19. Based on GWA's CIP funding tables, funding for this project also will be supplemented by the SRF grant. GWA, however, submits that additional funding is required in order for GWA to initiate the engineering services related to this project. Petition, p. 3; CIP, p. 6.

[P] - funding increase or decrease

9. **I&I SSES Northern**

This project again involves GWA performing infiltration and inflow analyses, as well as sewer system evaluation surveys, on its sanitary sewer system. The work will include minor repairs necessary to decrease infiltration and inflow, including manhole inspection, mapping, and repair. Based on GWA's CIP funding tables, funding for this project will be provided by the SRF grant. GWA has requested a reduction of \$100,000 from the 2010 Bond funds.

D. **Electrical Engineering Projects.**

**SCADA Improvements: Phase 3.** With respect to GWA's electrical engineering projects, GWA has identified one project that requires 2010 Bond reprogramming. Phase 3 of this project involves the expansion of remote control and monitoring through the incorporation of Programmable Logic Controllers. Based on GWA's CIP funding tables, funding for this project will be supplemented by 2013 bond funds. GWA has requested a reduction of \$2,300,000 from the 2010 Bond funds.

E. **Miscellaneous Projects.**

**General Plant Improvements.** Finally, GWA's Petition identified one miscellaneous project that requires 2010 Bond reprogramming. The general plant improvements project involves replacing failing pipelines and refurbishing pressure

reducing valves to improve the water system pressure zones. The work related to the replacement of failing pipes includes replacing fire hydrants, among other equipment. Additional work covered under this project include: leak detection, leak repair, and the mapping and records related to these activities. GWA maintains that it intends to use these funds for general improvements required that are not already captured under the CIP. CIP, p. 6. GWA further maintains that an additional \$300,000 of 2010 Bond funding is required.

### **RECOMMENDATION**

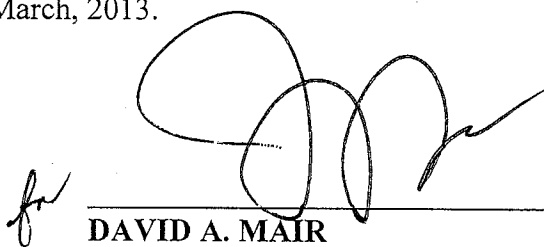
The PUC is tasked with reviewing and approving all uses of bond proceeds pursuant to 12 G.C.A. §12004. Based on the documentation provided by GWA, the ALJ hereby finds that the projects for which GWA seeks approval in its Petition have been: designed to improve Guam's water and wastewater utility infrastructure; to increase their reliability and efficiency; and to comply with the Amended Stipulated Order. Accordingly, the ALJ finds that such projects are reasonable and necessary for the expansion and improvement of Guam's water and wastewater systems; and, therefore, recommends the PUC's approval of the Petition.

However, notwithstanding the ALJ's finding that GWA has justified the reallocations indicated in its Petition, the ALJ recommends that GWA submit to the PUC updates on several of its CIP projects that require additional funding. In particular, with respect to the meter replacement program, the ALJ recommends that the PUC require GWA to report on the status of this program by May 15, 2013. Regarding GWA's Water Reservoir Internal/External Assessment Program, the ALJ recommends that the PUC require GWA to provide the PUC with documentation on the status of this project, as well

as documentation related to cost estimates for this project by June 15, 2013. Finally, with respect to GWA's Wastewater Collection System Replacement and Rehabilitation program, the PUC should require GWA to report on the status of this program by July 15, 2013.

Moreover, on July 30, 2012, the PUC "recommended" that GWA comply with its obligations pursuant to P.L. 30-145. The approval of the current petition for reprogramming should not be interpreted so as to vacate or amend that "recommendation." However, inasmuch as GWA has judicially challenged the PUC's "recommendation," the approval of the current petition should also not be interpreted as a waiver of any of GWA's rights in the pending civil action. GWA has duly preserved its right to challenge the PUC's "recommendation." The ALJ is hopeful that the Guam Legislature and GWA will resolve the dispute relating to P.L. 30-145 in GWA's next bond application. A proposed Order is submitted herewith for the Commissioners' consideration.

Dated this 25<sup>th</sup> day of March, 2013.

  
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**DAVID A. MAIR**  
Administrative Law Judge

P134022.JRA

<b>IN RE: REQUEST BY THE GUAM WATERWORKS AUTHORITY FOR APPROVAL OF BOND PROJECTS FUNDED BY GWA'S 2010 SERIES BOND PROCEEDS</b>	) ) ) ) ) ) ) ) )	<b>GWA Docket No. 11-01</b>          <b>ORDER</b>
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This matter comes before the Guam Public Utilities Commission (the “PUC”) at the request of Petitioner Guam Waterworks Authority (“GWA”) for expedited approval of reprogramming of projects funded by GWA’s 2010 Series Bond (“2010 Bond”) proceeds, filed with the PUC on March 13, 2013.

In its Petition, GWA sought approval to reallocate \$7.57 million of 2010 Bond funds to complete several projects required under the November 10, 2011 Order for Preliminary Relief Re: Deadlines for Outstanding Projects under the Amended Stipulated Order issued by the District Court of Guam in U.S. v. Guam Waterworks Authority, Civil Case No. 02-00035 (hereinafter referred to as the “Amended Stipulated Order”).

GWA set forth such projects requiring 2010 Bond reprogramming in its Petition, its Capital Improvement Plan for 2013-2018 (hereinafter referred to as the “CIP”), as well as Resolution No. 17-FY2013 issued by the Consolidated Commission on Utilities (“CCU”). The capital improvement projects requiring reprogramming include: potable

water and wastewater projects, as well as an electrical engineering project, and a single miscellaneous project.

On March 22, 2013, the Administrative Law Judge of the PUC, David A. Mair (the "ALJ"), issued an ALJ Report regarding GWA's request to reprogram the 2010 Bond proceeds. Upon review, and based on the documentation provided by GWA, the ALJ subsequently found that the projects for which GWA sought approval in its Petition were reasonable and necessary for the expansion and improvement of Guam's water and wastewater systems, as well as for compliance under the Amended Stipulated Order. The ALJ, therefore, recommended approval of GWA's Petition.

The ALJ, however, further recommended that GWA submit to the PUC updates on several of its CIP projects that required additional funding. Specifically, the ALJ recommended that, with respect to the meter replacement program, GWA report on the status of this program by May 15, 2013. The ALJ also recommended that, with respect to GWA's Water Reservoir Internal/External Assessment Program, GWA provide the PUC with documentation on the status of this project, as well as documentation related to cost estimates for this project by June 15, 2013. Finally, the ALJ recommended that, with respect to GWA's Wastewater Collection System Replacement and Rehabilitation program, GWA report on the status of this program by July 15, 2013.

Finally, on July 30, 2012, the PUC "recommended" that GWA comply with its obligations pursuant to P.L. 30-145. The approval of the current petition for reprogramming should not be interpreted so as to vacate or amend that "recommendation." However, inasmuch as GWA has judicially challenged the PUC's "recommendation," the

approval of the current petition should also not be interpreted as a waiver of any of GWA's rights in the pending civil action. GWA has duly preserved its right to challenge the PUC's "recommendation." The PUC is hopeful that the Guam Legislature and GWA will resolve the dispute relating to P.L. 30-145 in GWA's next bond application.

The Commission hereby adopts the findings made in the March 22, 2013 ALJ Report and, therefore, issues the following:

### **ORDERING PROVISIONS**

Upon consideration of the record herein, the March 25, 2013 ALJ Report, and for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS the following:

1. GWA's expedited petition for approval to reallocate \$7.57 million of 2010 Bond funds is hereby GRANTED.
2. With respect to the Meter Replacement Program, GWA shall file a report with the PUC detailing the status of the program by May 15, 2013.
3. With respect to the Water Reservoir Internal/External Assessment Program, GWA shall file a report with the PUC detailing the status of the project, and shall file with the PUC documentation related to cost estimates for the project by June 15, 2013.
4. With respect to the Wastewater Collection System Replacement and Rehabilitation program, GWA shall file a report with the PUC detailing the status of the program by July 15, 2013.
5. GWA is further 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 docket. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.

**SO ORDERED** this 26<sup>th</sup> day of March, 2013.

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**JEFFREY C. JOHNSON**  
Chairman

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**JOSEPH M. MCDONALD**  
Commissioner

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**ROWENA E. PEREZ**  
Commissioner

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**FILOMENA CANTORIA**  
Commissioner

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**MICHAEL A. PANGELINAN**  
Commissioner

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**PETER MONTINOLA**  
Commissioner

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