



**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

<b>IN RE: PETITION FOR APPROVAL</b>	)	<b>GWA DOCKET 17-11</b>
<b>OF MULTI-YEAR CONTRACT</b>	)	
<b>WITH JMI-EDISON FOR</b>	)	<b>ORDER</b>
<b>DRINKING WATER</b>	)	
<b>MEMBRANE MODULES</b>	)	
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**INTRODUCTION**

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the Petition for Approval of Multi-Year Contract with JMI-Edison for Drinking Water Membrane Modules (the “Petition”), filed on August 25, 2017 by the Guam Waterworks Authority (“GWA”).

**BACKGROUND**

In early 2016, GWA issued Invitation for Bid 2016-04 (the “IFB”) seeking bids for “membrane filtration devices” for its Ugum Water Treatment Plant. According to GWA, these “membrane modules,” or filters, ensure its compliance with Guam’s Safe Drinking Water Act.

While eight (8) bidders registered, only one bidder submitted a bid, namely JMI-Edison. The bid submitted by JMI-Edison indicated a unit price of \$1,420.00 per membrane module. GWA accepted this bid.

On July 16, 2016, the parties entered into a contract related to the purchase of 400 membrane modules, at a cost of \$1,420.00 each, for a total contract price of \$568,000.00. The term of the contract indicates an initial three-year term, with two (2) one-year options to renew.

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

### **DETERMINATIONS**

Pursuant to 12 G.C.A. § 12105,<sup>1</sup> GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. In addition, GWA’s Contract Review Protocol requires that “[a]ll professional service procurements in excess of \$1,000,000” require “prior PUC approval under 12 G.C.A. § 12004, which shall be obtained before the procurement process is begun . . . .”<sup>2</sup>

In its Petition, GWA submitted that the purchase of membrane modules is necessary to ensure that the Ugum Water Treatment Plant continues to meet Surface Water Treatment Rules, as well as the Safe Drinking Water Standards.<sup>3</sup> The IFB underlying the contract sought membrane modules to operate its Ugum Water Treatment Plant, as well as to acquire “adequate stock replenishment.”<sup>4</sup>

GWA contends that the procurement of the filters and the subsequent contract were “fairly and openly procured.”<sup>5</sup> GWA also submitted that the first 400 filters

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<sup>1</sup> Formerly 12 G.C.A. § 12004.

<sup>2</sup> GWA’s Contract Review Protocol (“GWA CRP”), Administrative Docket 00-04, p. 1 (Oct. 27, 2005).

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

<sup>4</sup> Petition, p. 1.

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

were used to replace Ugum Water Treatment Plant's 864 modules. The additional membranes will replace the remaining filters at the plant. According to GWA, these modules have a lifespan of seven years. GWA therefore requested PUC approval for the purchase of 464 additional membrane modules under the subject contract, thereby increasing the total cost of the contract to \$1,226,880.00, and triggering review by the PUC.<sup>6</sup>

The IFB sought "membrane filtration devices" for its Ugum Water Treatment Plant. In particular, GWA sought the submission of bids for "Memcor" brand membrane filters, as these filters are currently utilized by GWA at its Ugum Water Treatment Plant, and have kept GWA in compliance with the Safe Drinking Water Act. The IFB sought pricing for four hundred (400) membrane filtration modules.

The initial term of the contract indicates an initial three-year term, with two (2) one-year options to renew. The subject contract provides for the purchase of membrane module filters, at a cost of \$1,420.00 per filter. The original purchase under this contract is \$568,000.00. GWA intends on purchasing an additional 464 membrane modules at a cost of \$658,880.00, increasing the total cost of the contract to \$1,226,880.00. This contract is funded internally.

The Petition is supported by Resolution No. 50-FY2017 (the "Resolution") issued by the Consolidated Commission on Utilities ("CCU"). In the Resolution, the CCU authorized GWA to purchase an additional 464 membrane modules at a cost of \$658,880.00, thereby increasing the total cost of the contract to \$1,226,880.00.

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



In the September 25, 2017 ALJ Report, the ALJ found that GWA's procurement of the membrane module filters, and the subsequent contract with JMI-Edison, appears properly procured. In addition, the ALJ further found that GWA's purchase of membrane module filters is necessary to ensure that the Ugum Water Treatment Plant continues operate, and that such operations satisfy Surface Water Treatment Rules, as well as Safe Drinking Water Standards. Based on the foregoing, the ALJ recommended that the PUC approve GWA's Petition.

Accordingly, based on the documentation provided by GWA in this docket, and for the other reasons set forth in the ALJ Report, the ALJ recommended that the PUC: ratify the underlying procurement; ratify the subsequent contract between GWA and JMI-Edison for the purchase of the membrane modules; and authorize GWA to proceed with the purchase of the additional 464 membrane modules at a cost of \$658,880.00, for a total cost of \$1,226,880.00.

### **ORDERING PROVISIONS**

Upon careful consideration of the record herein, the September 25, 2017 ALJ Report, and for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS the following:

1. The PUC hereby RATIFIES the underlying procurement and GWA's contract with JMI-Edison for the purchase of the membrane modules; and therefore authorizes GWA to proceed with the purchase of the additional 464 membrane modules at a cost of \$658,880.00, for a total cost of \$1,226,880.00.

2. GWA is ordered to pay the PUC's regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with the instant contract review. 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 28<sup>th</sup> day of September, 2017.



**JEFFREY C. JOHNSON**  
Chairman

**ROWENA E. PEREZ**  
Commissioner



**JOSEPH M. MCDONALD**  
Commissioner



**FILOMENA M. CANTORIA**  
Commissioner



**PETER MONTINOLA**  
Commissioner

**MICHAEL A. PANGELINAN**  
Commissioner



**ANDREW L. NIVEN**  
Commissioner

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