

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN RE:	REQUEST BY THE GUAM WATERWORKS AUTHORITY FOR APPROVAL OF ITS CONTRACT FOR INSURANCE WITH AM INSURANCE)))))))))	GWA DOCKET 17-05 ALJ REPORT
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INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the March 31, 2017 Petition to Approve the new Policies Contract to Insure the Guam Waterworks Authority (hereinafter referred to as the “Petition”), filed by the Guam Waterworks Authority (“GWA”). GWA seeks PUC approval of a proposed contract for property insurance.

BACKGROUND

On December 12, 2016, GWA petitioned the PUC for approval of GWA’s invitation for bid for property insurance, as well as other types of insurance indicated in its petition. On December 29, 2016, the PUC authorized GWA to issue a bid for insurance. On February 14, 2017, GWA issued Bid No. GWA 2017-12 (the “IFB”), which sought sealed bids for property insurance, general liability insurance, directors and officers liability insurance, automobile insurance, crime insurance, and cyber insurance.¹

On March 7, 2017, GWA opened the bids.² While seven (7) firms registered for the IFB, only one firm actually submitted a bid, namely AM Insurance (“AM”).³ According to

¹ Petition, p. 1 (Mar. 31, 2017).

² Petition, Exhibit A, p. 1.

³ Petition, Exhibit A, p. 1.

GWA, AM submitted a responsive, responsible, and acceptable bid.⁴ On March 21, 2017, the Consolidated Commission on Utilities (the “CCU”) issued Resolution No. 23-FY2017, which approved GWA’s award to AM.

DISCUSSION

1. GWA’s Petition and Insurance Coverage

In its Petition, GWA requests that the PUC approve GWA’s purchase of property insurance, as well as other types of insurance, itemized in the Petition on the basis that such insurance is required under its revenue bond indentures.⁵ In particular, GWA seeks approval to contract with AM for the following insurance coverage: Property Insurance, General Liability Insurance, Directors and Officer Liability Insurance, Crime Insurance, Cyber Insurance, and Automobile Insurance.⁶ The Petition is supported by the CCU Resolution, which authorizes GWA to award the contract for insurance coverage to AM.

2. Proposed Insurance Premiums

In the Petition, GWA seeks approval of the following *annual premiums* for a term of *five (5) years*: (1) Property Insurance (\$30 million limit) at a premium of \$701,530.00; (2) General Liability Insurance at a premium of \$115,000.00; (3) Directors and Officer Liability Insurance at a premium of \$15,609.00; (4) Crime Insurance at a premium of \$5,245.00; and, (5)

⁴ Petition, Exhibit A, p. 1; Petition, Exhibit B, p. 2 (CCU Resolution No. 23-FY2017, Mar. 21, 2017).

⁵ Petition, p. 1.

⁶ Petition, pp. 1-2.

Cyber Insurance at a premium of \$28,000.00; and, (6) Automobile Insurance at a premium of \$39,701.92. The total cost of coverage for the five-year term offered by AM is \$4,528,804.00.⁷

3. GWA’s Contract Review Protocol

Pursuant to 12 G.C.A. §12105,⁸ GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. Additionally, pursuant to GWA’s current Contract Review Protocol, “[a]ll professional service procurements in excess of \$1,000,000” and “[a]ny contract or obligation not specifically referenced above which exceeds \$1,000,000” “shall require prior PUC approval under 12 G.C.A. Section 12004.”⁹ With regard to multi-year contracts, “the test to determine whether a procurement exceeds the \$1,000,000.00 threshold for PUC review and approval is the total estimated cost of the procurement, including cost incurred in any renewal options.”¹⁰

4. Sections 6.05 and 6.06 of GWA’s Revenue Bond Indentures

This Commission has previously found that, as indicated under Section [6.06] of GWA’s 2005 Series Bond Indenture, GWA must maintain insurance on its system “in such amounts and against such risks (including accident to or destruction of the System) as are usually maintained by prudent operators of systems similar and similarly situated to the System and which it shall deem advisable or necessary to protect its interests and the interests of the Bondowners.”¹¹ Accordingly, this Commission has already concluded that GWA’s 2005 Series

⁷ Petition, p. 2, and which amount includes certain assessment fees.

⁸ Formerly 12 G.C.A. § 12004.

⁹ Contract Review Protocol, GWA Docket 00-04, p. 1 (Oct. 27, 2005).

¹⁰ Contract Review Protocol, GWA Docket 00-04, p. 2 (Oct. 27, 2005).

¹¹ Order, GWA Docket 12-02, pp. 2-3 (Mar. 26, 2012).

Bond Indenture, along with its supplemental indentures, require GWA to maintain insurance on the system in amounts and against risks normally maintained by other water and wastewater authorities.

In addition, this Commission has continually highlighted the importance of maintaining property insurance, having previously found that “[t]he need for GWA to procure property insurance is clear: property insurance is required by GWA’s 2005 Bond Series Indenture” and that “the availability of property insurance will potentially benefit rate payers with regard to the protection of system assets” since “[i]nsurance proceeds can assist recovery efforts after natural disasters such as typhoons or earthquakes.”¹²

5. CCU Approval

The Resolution issued by the CCU approved GWA’s recommendation to award the contract for insurance coverage to AM. The CCU found that AM, “a local insurance brokerage firm, and the sole bidder, submitted a firm and fixed bid”; and that “GWA’s Risk Consultant, GWA’s Chief Financial Officer and GWA’s Procurement Administrator have reviewed the bid and determined that the bid presented by AM Insurance was responsive and responsible”¹³ The CCU further found that “the terms of the bid submitted by AM Insurance is prudent, fair and reasonable under the circumstances” and, therefore, authorized GWA to issue a Notice to Proceed.¹⁴ Additionally, the CCU authorized GWA to petition the

¹² Order, GWA Docket 10-02, p. 2 (Oct. 11, 2010).

¹³ Petition, Exhibit B, p. 2.

¹⁴ Petition, Exhibit B, p. 2.

PUC for approval of the contract, as well as to execute all documents and to undertake all action necessary to secure the insurance policies.¹⁵

RECOMMENDATION

The PUC has previously found that GWA is required to maintain “insurance on the System with responsible insurers in such amounts and against such risks (including accident to or destruction of the System) as are usually maintained by prudent operators of systems similar and similarly situated to the System and which it shall deem advisable or necessary to protect its interests and the interests of the Bondowners” pursuant to provisions of its bond indentures.¹⁶

Further, GWA’s Petition is supported by the findings of the CCU, such that “the bid presented by AM Insurance was responsive and responsible”; and that “the terms of the bid submitted by AM Insurance is prudent, fair and reasonable under the circumstances.”¹⁷

As noted previously, “[t]he need for GWA to procure property insurance is clear: property insurance is required by GWA’s 2005 Bond Series Indenture” and that “the availability of property insurance will potentially benefit rate payers with regard to the protection of system assets” since “[i]nsurance proceeds can assist recovery efforts after natural disasters such as typhoons or earthquakes.”¹⁸

Based on the record, the ALJ therefore recommends that the PUC approve *annual premiums* for a term of *five (5) years* for the following: (1) Property Insurance Property

¹⁵ Petition, Exhibit B, p. 2.

¹⁶ Order, GWA Docket 12-02, pp. 2-3 (Mar. 26, 2012).

¹⁷ Petition, Exhibit B, p. 2.

¹⁸ Order, GWA Docket 10-02, p. 2 (Oct. 11, 2010).

Insurance (\$30 million limit) at a premium of \$701,530.00; (2) General Liability Insurance at a premium of \$115,000.00; (3) Directors and Officer Liability Insurance at a premium of \$15,609.00; (4) Crime Insurance at a premium of \$5,245.00; (5) Cyber Insurance at a premium of \$28,000.00; and, (6) Automobile Insurance at a premium of \$39,701.92. The total cost for coverage for the five-year term offered by AM is \$4,528,804.00.¹⁹

Moreover, according to GWA, the amounts indicated reflect a savings of \$818,696.00 as compared to GWA's current five-year policies, which do not include Cyber Insurance.²⁰ The total cost approved by the Commission for GWA's insurance back in 2012 was \$6,008,980.00.²¹

CONCLUSION

Based on the record established in this docket and for the reasons set forth herein, the ALJ recommends that the PUC approve GWA's contract for insurance with AM for coverage indicated in the Petition, and for the total cost of \$4,528,804.00. A proposed Order is attached herewith for the PUC's consideration.

Dated this 25th day of April, 2017.



JOEPHET R. ALCANTARA
Administrative Law Judge

P173007.JRA

¹⁹ Petition, p. 2, again, which amount includes certain assessment fees.

²⁰ Petition, p. 2.

²¹ Order, GWA Docket 12-02, pp. 3-4 (Mar. 26, 2012).

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN RE:	REQUEST BY THE GUAM)	GWA DOCKET 17-05
	WATERWORKS AUTHORITY)	ORDER
	FOR APPROVAL OF ITS)	
	CONTRACT FOR INSURANCE)	
	WITH AM INSURANCE)	
	_____)	

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the March 31, 2017 Petition to Approve the new Policies Contract to Insure the Guam Waterworks Authority (hereinafter referred to as the “Petition”), filed by the Guam Waterworks Authority (“GWA”). GWA seeks PUC approval of a proposed contract for property insurance.

On April 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 found the following.

DETERMINATIONS

On December 12, 2016, GWA petitioned the PUC for approval of GWA’s invitation for bid for property insurance, as well as other types of insurance indicated in its petition. On December 29, 2016, the PUC authorized GWA to issue a bid for insurance. On February 14, 2017, GWA issued Bid No. GWA 2017-12 (the “IFB”), which sought

sealed bids for property insurance, general liability insurance, directors and officers liability insurance, automobile insurance, crime insurance, and cyber insurance.¹

On March 7, 2017, GWA opened the bids.² While seven (7) firms registered for the IFB, only one firm actually submitted a bid, namely AM Insurance (“AM”).³ According to GWA, AM submitted a responsive, responsible, and acceptable bid.⁴ On March 21, 2017, the Consolidated Commission on Utilities (the “CCU”) issued Resolution No. 23-FY2017, which approved GWA’s award to AM.

1. GWA’s Petition and Insurance Coverage

In its Petition, GWA requested that the PUC approve GWA’s purchase of property insurance, as well as other types of insurance, itemized in the Petition on the basis that such insurance is required under its revenue bond indentures.⁵ In particular, GWA sought approval to contract with AM for the following insurance coverage: Property Insurance, General Liability Insurance, Directors and Officer Liability Insurance, Crime Insurance, Cyber Insurance, and Automobile Insurance.⁶ The Petition is supported by the CCU Resolution, which authorizes GWA to award the contract for insurance coverage to AM.

¹ Petition, p. 1 (Mar. 31, 2017).

² Petition, Exhibit A, p. 1.

³ Petition, Exhibit A, p. 1.

⁴ Petition, Exhibit A, p. 1; Petition, Exhibit B, p. 2 (CCU Resolution No. 23-FY2017, Mar. 21, 2017).

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In the Petition, GWA sought approval of the following *annual premiums* for a term of *five (5) years*: (1) Property Insurance (\$30 million limit) at a premium of \$701,530.00; (2) General Liability Insurance at a premium of \$115,000.00; (3) Directors and Officer Liability Insurance at a premium of \$15,609.00; (4) Crime Insurance at a premium of \$5,245.00; and, (5) Cyber Insurance at a premium of \$28,000.00; and, (6) Automobile Insurance at a premium of \$39,701.92. The total cost of coverage for the five-year term offered by AM is \$4,528,804.00.⁷

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4. Sections 6.05 and 6.06 of GWA's Revenue Bond Indentures

This Commission has previously found that, as indicated under Section [6.06] of GWA's 2005 Series Bond Indenture, GWA must maintain insurance on its system "in such amounts and against such risks (including accident to or destruction of the System) as are usually maintained by prudent operators of systems similar and similarly situated to the System and which it shall deem advisable or necessary to protect its interests and the interests of the Bondowners."¹¹ Accordingly, this Commission has already concluded that GWA's 2005 Series Bond Indenture, along with its supplemental indentures, require GWA to maintain insurance on the system in amounts and against risks normally maintained by other water and wastewater authorities.

In addition, this Commission has continually highlighted the importance of maintaining property insurance, having previously found that "[t]he need for GWA to procure property insurance is clear: property insurance is required by GWA's 2005 Bond Series Indenture" and that "the availability of property insurance will potentially benefit rate payers with regard to the protection of system assets" since "[i]nsurance proceeds can assist recovery efforts after natural disasters such as typhoons or earthquakes."¹²

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¹¹ Order, GWA Docket 12-02, pp. 2-3 (Mar. 26, 2012).

¹² Order, GWA Docket 10-02, p. 2 (Oct. 11, 2010).

“GWA’s Risk Consultant, GWA’s Chief Financial Officer and GWA’s Procurement Administrator have reviewed the bid and determined that the bid presented by AM Insurance was responsive and responsible”¹³ The CCU further found that “the terms of the bid submitted by AM Insurance is prudent, fair and reasonable under the circumstances” and, therefore, authorized GWA to issue a Notice to Proceed.¹⁴ Additionally, the CCU authorized GWA to petition the PUC for approval of the contract, as well as to execute all documents and to undertake all action necessary to secure the insurance policies.¹⁵

The PUC has previously found that GWA is required to maintain “insurance on the System with responsible insurers in such amounts and against such risks (including accident to or destruction of the System) as are usually maintained by prudent operators of systems similar and similarly situated to the System and which it shall deem advisable or necessary to protect its interests and the interests of the Bondowners” pursuant to provisions of its bond indentures.¹⁶

Further, GWA’s Petition is supported by the findings of the CCU, such that “the bid presented by AM Insurance was responsive and responsible”; and that “the terms of the bid submitted by AM Insurance is prudent, fair and reasonable under the circumstances.”¹⁷

¹³ Petition, Exhibit B, p. 2.

¹⁴ Petition, Exhibit B, p. 2.

¹⁵ Petition, Exhibit B, p. 2.

¹⁶ Order, GWA Docket 12-02, pp. 2-3 (Mar. 26, 2012).

¹⁷ Petition, Exhibit B, p. 2.

As noted previously, “[t]he need for GWA to procure property insurance is clear: property insurance is required by GWA’s 2005 Bond Series Indenture” and that “the availability of property insurance will potentially benefit rate payers with regard to the protection of system assets” since “[i]nsurance proceeds can assist recovery efforts after natural disasters such as typhoons or earthquakes.”¹⁸

The ALJ recommended that the PUC approve *annual premiums* for a term of *five (5) years* for the following: (1) Property Insurance Property Insurance (\$30 million limit) at a premium of \$701,530.00; (2) General Liability Insurance at a premium of \$115,000.00; (3) Directors and Officer Liability Insurance at a premium of \$15,609.00; (4) Crime Insurance at a premium of \$5,245.00; (5) Cyber Insurance at a premium of \$28,000.00; and, (6) Automobile Insurance at a premium of \$39,701.92. The total cost for coverage for the five-year term offered by AM is \$4,528,804.00.¹⁹

Moreover, according to GWA, the amounts indicated reflect a savings of \$818,696.00 as compared to GWA’s current five-year policies, which do not include Cyber Insurance.²⁰ The total cost approved by the Commission for GWA’s insurance back in 2012 was \$6,008,980.00.²¹

Based on the record established in this docket and for the reasons set forth therein, the ALJ recommended that the PUC approve GWA’s contract for insurance with AM for coverage indicated in the Petition, and for the total cost of \$4,528,804.00.

¹⁸ Order, GWA Docket 10-02, p. 2 (Oct. 11, 2010).

¹⁹ Petition, p. 2, again, which amount includes certain assessment fees.

²⁰ Petition, p. 2.

²¹ Order, GWA Docket 12-02, pp. 3-4 (Mar. 26, 2012).

The Commission hereby adopts the findings made in the April 25, 2017 ALJ Report and, therefore, issues the following:

ORDERING PROVISIONS

Upon careful consideration of the record herein, the April 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 approves GWA's contract with AM Insurance for a term of 5 years, and for a total cost of \$4,528,804.00.
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 process. 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.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

SO ORDERED this 27th day of April, 2017.

JEFFREY C. JOHNSON
Chairman

ROWENA E. PEREZ
Commissioner

JOSEPH M. MCDONALD
Commissioner

FILOMENA M. CANTORIA
Commissioner

MICHAEL A. PANGELINAN
Commissioner

PETER MONTINOLA
Commissioner

ANDREW L. NIVEN
Commissioner

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