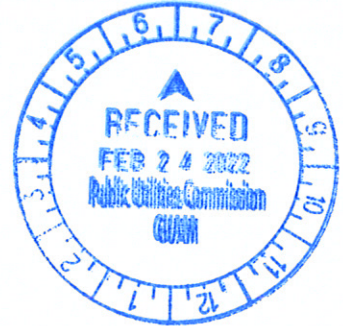


BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

**PETITION TO AUTHORIZE THE
GUAM WATERWORKS AUTHORITY
TO ISSUE AN INVITATION FOR BID
(IFB) TO PROCURE PROPERTY,
GENERAL LIABILITY AND OTHER
INSURANCE SERVICES**

GWA DOCKET 22-06

ORDER



INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the February 11, 2022 Petition to Issue an Invitation for Bid (IFB) to Procure Property, General Liability and Other Insurance Services for the Guam Waterworks Authority (hereinafter referred to as the “Petition”), filed by the Guam Waterworks Authority (“GWA”). GWA seeks PUC approval of its procurement of property, general liability and other forms of insurance coverage.

On February 21, 2022, 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

A. GWA’s Petition to Issue Procurement

In its Petition, GWA requests that the PUC approve GWA’s issuance of an Invitation for Bid for the 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.¹ According to GWA, its current insurance coverage is set to expire on May 1st of this year.

GWA submitted that Section 6.06 of its 2005 Water and Wastewater System Revenue Bonds General Indenture requires GWA to maintain insurance on the system with responsible insurers “in such amounts and against risks as are usually maintained by prudent operators of systems similar and similarly situated.”²

Accordingly, GWA’s draft procurement documents seek sealed bids for property insurance, general liability insurance, directors and officers liability insurance, automobile insurance, cyber liability, and crime insurance to cover GWA’s system, assets, management, and personnel, much like GWA’s current insurance coverage.

B. GWA’s Contract Review Protocol

Pursuant to 12 G.C.A. §12105, GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. Additionally, pursuant to GWA’s Contract Review Protocol, “[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.”³ With regard to multi-year contracts, “the test to determine whether

¹ Petition, p. 1.

² Petition, p. 1.

³ Contract Review Protocol, GWA Docket 00-04, p. 1 (Oct. 27, 2005).

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.”⁴

In this instance, GWA requests PUC review and approval of its procurement of insurance because it anticipates that the contract for insurance will exceed \$1 million per year based on its current insurance premiums.⁵ According to GWA, the premiums for its current contract for insurance is about \$969,000.00 per year.⁶ A three-year contract, therefore, will require PUC review and approval.⁷

C. Section 6.06 of GWA’s Revenue Bond Indenture

Indeed, pursuant to 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 . . . ”⁸

RECOMMENDATION

This Commission 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 protect its interests and the interests of the

⁴ Contract Review Protocol, GWA Docket 00-04, p. 2.

⁵ Petition, p. 2.

⁶ Petition, p. 2.

⁷ Petition, p. 2.

⁸ Order, GWA Docket 12-02, pp. 2-3 (Mar. 26, 2012).

Bondowners” pursuant to provisions of its bond indentures.⁹ Accordingly, this Commission has historically determined 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.

Further, the need for GWA to procure property insurance is clear: while property insurance is required by GWA’s 2005 Bond Series Indenture, “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.”¹⁰ Accordingly, the ALJ therefore recommended that the PUC approve GWA’ procurement of property, general liability and other forms of insurance coverage.

Based on the record established in this docket, and for the reasons set forth herein, the ALJ recommended that the PUC approve GWA’s procurement of a contract for insurance as indicated in GWA’s Petition.

The Commission hereby adopts the findings in the January 24, 2022 ALJ Report and therefore issues the following.

⁹ Order, GWA Docket 12-02, pp. 2-3 (Mar. 26, 2012).

¹⁰ ALJ Report, GWA Docket 12-02, p. 3 (*quoting* PUC Counsel Report, GWA Docket 10-02, p. 2 (Oct. 6, 2010)).

ORDERING PROVISIONS

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

1. That the instant Petition is hereby APPROVED; and that GWA is authorized to procure insurance to cover GWA's system, assets, management and personnel.

2. GWA is ordered to pay the PUC's regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with this matter. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.


[SIGNATURES TO FOLLOW ON NEXT PAGE]

/ /


/ /

/ /

SO ORDERED this 24th day of February, 2022.



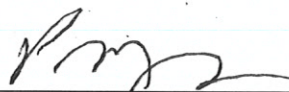
JEFFREY C. JOHNSON
Chairman



ROWENA E. PEREZ-CAMACHO
Commissioner



JOSEPH M. MCDONALD
Commissioner



PEDRO GUERRERO
Commissioner



MICHAEL A. PANGELINAN
Commissioner



PETER MONTINOLA
Commissioner



DORIS FLORES BROOKS
Commissioner

P223011.JRA