

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF:

The Application of the Guam Solid Waste  
Authority for Review and Approval of the  
Purchase of Mini Electric Refuse Trucks  
from Global Enterprise, Inc.

GSWA Docket 23-04

**ORDER**



**INTRODUCTION**

This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Petition of the Guam Solid Waste Authority ["GSWA"] for PUC Review and Approval of the Purchase of Mini Electric Refuse Trucks from Global Enterprise, Inc.<sup>1</sup>

**BACKGROUND**

The ALJ adopts the "BACKGROUND" Section of GSWA's Petition:

GSWA issued three separate Invitation for Bids which included requests for three (3) 8-CuYd mini electric trucks. GSWA did not receive a single bid response to any of the Invitation for Bids for mini electric refuse trucks.<sup>2</sup>

Due to the lack of local bidder response to the IFBs for the mini electric trucks, GSWA sought the assistance of the Guam General Services Agency to procure the trucks through the federal procurement system. 5 GCA §5122 authorizes GSA to procure supplies on behalf of the Government of Guam "when the cost to the General Services Agency is less by ten percent (10%) than from other contractors." Utilizing this

<sup>1</sup> GSWA Petition, GSWA Docket 23-04, filed May 11, 2023.

<sup>2</sup> Id. at p. 2.

authority, GSA solicited price quotes for the electric trucks from federal vendors. One vendor, **GLOBAL ENTERPRISE, INC.**, responded and offered to provide three mini electric refuse trucks at a cost of \$412,559.00 each.<sup>3</sup>

On May 11, 2023, the GSWA Board issued Resolution No. 2023-012 to approve the purchase of the three mini trucks from Global Enterprise from funds made available through the federal American Rescue Plan Act (ARPA).<sup>4</sup> The Board indicated in the Resolution that all funding for this purchase would be made from funds available to Guam through the federal American Rescue Plan. Further, GSWA Management was authorized to petition the PUC to review and approve GSA's Purchase Order to Global Enterprise, Inc.

A copy of the Purchase Order from the General Services Agency is attached to the ALJ Report as Exhibit "A".<sup>5</sup>

This Order is issued by the Chairman of the PUC, on behalf of and with the consent of the PUC, pursuant to 12 GCA Sec. 12105(b). For the reasons set forth in the Administrative Law Judge ["ALJ"] Report herein dated May 18, 2023, the Chairman certifies that approval of the Purchase Order for the three mini electric refuse trucks cannot await Commission action at the next scheduled meeting on June 5, 2023. Delay of PUC consideration until that date would jeopardize and possibly nullify this purchase transaction. The Chairman's Order will be subject to ratification by the Commission at its June 5, 2023 meeting.

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<sup>3</sup> Id. at pgs. 2-3.

<sup>4</sup> Id. at p. 3.

<sup>5</sup> See Exhibit 2 to the GSWA Petition, attached hereto as Exhibit "A".

## DISCUSSION

### 1. GSWA's Contract Review Protocol

GSWA indicates that the total cost of the three mini electric refuse trucks, including one (1) EV Fast Charging Station and the shipping fee, will be \$1,370,324.00.<sup>6</sup> The PUC-GSWA Contract Review Protocol provides that all contract or obligations in excess of \$750,000.00 require prior PUC approval.<sup>7</sup> Presumably, the ARPA funds have been transferred to GSWA and are now its funds. Therefore, the proposed award and purchase order for the purchase of the three mini electric refuse trucks should be reviewed by the PUC. It is also the case, however, that this GSWA expenditure will not have any impact upon GSWA rates, as the funds are provided solely through the federal government and not through GSWA ratepayer funds.

### 2. GSWA has justified the purchase of the three mini electric trucks through GSA from Global Enterprise, Inc.

GSWA's well-drafted Petition presents cogent arguments for the approval of this purchase. It is well established that GSWA has been unable to purchase the mini electric trucks through local vendors. There is no dispute concerning the urgent need of GSWA to purchase additional refuse trucks. As previously determined by the PUC in GSWA Docket 23-03, GSWA does not presently have enough trucks to maintain the

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<sup>6</sup> Id. at p. 4.

<sup>7</sup> 12 GCA §12105 and the Contract Review Protocol for the Guam Solid Waste Authority, GSWA Docket 19-02 & Administrative Docket, Par. 1(f).

current collection program of 21,000 households. **GWSA has an urgent need for new refuse trucks.**<sup>8</sup>

Any further delays in truck equipment replacement will directly affect GWSA's ability to collect household refuse.<sup>9</sup>

3. The Purchase of the Three Mini Electric Trucks through the Guam General Services Administration is authorized by law.

GWSA has further established that the proposed purchase is legally authorized. 48 U.S. Code §1469e-Insular government purchases, authorizes Guam to make purchases through the federal General Services Administration.<sup>10</sup> As previously indicated, 5 GCA §5122 authorizes the Guam General Services Agency to procure supplies from the United States when the cost to the GSA is less by ten percent (10%) than from other contractors. The problem in this situation is that no local bids were received in any of the three separate solicitations issued by GWSA.<sup>11</sup> Thus, there is no local price available to GSA with which to compare against the price offered by federal vendor Global Enterprises.<sup>12</sup>

To account for the 10% differential mandated by 5 GCA §5122, the Chief Procurement Officer of GSA added the 10% to the total offered federal price in order to estimate what the local price reasonably would have been received.<sup>13</sup> On June 16, 2008, the Guam

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<sup>8</sup> PUC Order, GWSA Docket 23-03, pg. 4, dated October 27, 2022

<sup>9</sup> Id. at p. 3.

<sup>10</sup> GWSA Petition at pgs. 3-5.

<sup>11</sup> Id. at p. 4.

<sup>12</sup> Id.

<sup>13</sup> Id.

Office of Attorney General issued an opinion concluding that, under 5 GCA §5113, “the manor of finding the [10%] differential [is] left to the Chief Procurement Officer” who has “every right to adopt a procedure therefor in order to make the statute authorizing procurement through the federal GSA a functional one.”<sup>14</sup>

4. Approval by the PUC of the Purchase of Mini Electric Refuse Trucks is in the best interest of the ratepayers of Guam, and is reasonable, prudent and necessary.

The purchase of the three mini electric refuse trucks is necessary to complete the upgrade and replacement of GSWA’s aging fleet that was originally purchased between 2009 and 2018 by the federal Receiver.<sup>15</sup> The price includes routine maintenance, a 5-year warranty on parts, labor, transmission and body maintenance, and Global Enterprises will send representatives to Guam to train GSWA and its drivers.<sup>16</sup> The mini electric trucks will not require fuel and are environmentally friendly as they do not emit pollutants into Guam’s air like the diesel trucks.<sup>17</sup> A reasonable delivery time of 210 days is offered by the vendor.<sup>18</sup> The PUC should find that the purchase of the mini electric refuse trucks is reasonable, prudent and necessary.

### **ORDERING PROVISIONS**

Pursuant to 12 GCA Sec. 12105(b), the Commission, through its Chairman, upon consideration of the record herein, the Petition of GSWA, the ALJ Report, and for good cause shown, hereby **ORDERS** that:

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<sup>14</sup> Id. at p. 5 (AGOP. No. GSA07-1084) [Exhibit 5 to the GSWA Petition].

<sup>15</sup> Id.

<sup>16</sup> Id.

<sup>17</sup> Id. at p. 6.

<sup>18</sup> Id.

1. The purchase of three mini electric refuse trucks from Global Enterprise, Inc. by the Guam General Services Agency (GSA), on behalf of GSWA, is approved.
2. GSWA is authorized to expend up to the amount of \$1,370,324 for said purchase.
3. This Order is an interim Order and shall remain in effect until further action is taken by the Commission at its next regularly scheduled meeting on June 5, 2023.

Dated this 19th day of May, 2023.



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Jeffery C. Johnson  
Chairman  
Guam Public Utilities Commission