

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

**PETITION TO INCREASE FUNDING
FOR GWA TAI ROAD/S-13
WATERLINE REPLACEMENT
TO GIANT CONSTRUCTION**

GWA DOCKET NO. 24-04

ORDER



INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the Petition to Increase Funding for GWA Tai Road/S-13 Waterline Replacement (the “Petition”) with Giant Construction, filed by the Guam Waterworks Authority (“GWA”) on November 15, 2023.

On November 29, 2023, 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

In an effort to resolve recurring waterline breaks along Tai Road, S-13, and Canada-Toto Loop/Blas Street, in Barrigada, GWA issued an Invitation for Bid (“IFB”) to obtain a contractor to replace approximately 5,720 [linear feet] of existing two-inch (2”) and six-inch (6”) asbestos cement pipe waterlines with eight-inch (8”) polyvinyl chloride (“PVC”) waterlines and reconnecting these lines, service lines, and other connections along Tai Road.¹ Thereafter, Giant Construction was awarded the contract for the project, which the PUC approved back on April

¹ PUC Order, GWA Docket 21-03, pp. 1-2 (Apr. 29, 2021).

29, 2021.² In an Order issued in GWA Docket 21-03, the PUC authorized GWA to expend up to \$2,140,292.00 for GWA's contract with Giant Construction.³

In GWA Docket 22-04, the PUC authorized an additional \$558,135.00 (subject to a cost contingency of twenty percent (20%)) authorizing GWA to expend up to \$2,520,173.00 for the contract, particularly to account for Change Orders No. 1 and 2.⁴ GWA now seeks additional funding to complete subsequent work orders required to complete the waterline replacement project.⁵ In particular, GWA requested PUC approval to increase the total amount of the contract to \$3,045,770.05 to account for and fund subsequent change orders under the contract.⁶ On October 31, 2023, the Consolidated Commission on Utilities (the "CCU") authorized GWA to increase its funding for the contract for a total amount of \$3,045,770.05.⁷

A. Review of GWA's Giant Construction Contract

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 issued in Administrative Docket 00-04, "[a]ll professional service procurements in excess of \$1,000,000" require "prior PUC

² PUC Order, GWA Docket 21-03, p. 2.

³ PUC Order, GWA Docket 21-03, p. 4.

⁴ PUC Order, GWA Docket 22-04, p. 6 (Dec. 2, 2021).

⁵ Petition, p. 2.

⁶ Petition, p. 3.

⁷ GWA Resolution No. 01-FY2024, pp. 3-4 (Oct. 31, 2023).

approval under 12 G.C.A. §12004, which shall be obtained before the procurement process is begun”⁸

With respect to multi-year contracts, “[t]he term of a contract or obligation (procurement) will be the term stated therein, including all options for extension or renewal”; and that the “test to determine whether a procurement exceeds the \$1,000,000 threshold for the PUC review and approval (the review threshold) is the total estimated cost of the procurement, including cost incurred in any renewal options.”⁹ In this instance, GWA’s contract with Giant Construction is subject to PUC review since the total cost of this multi-year contract exceeds \$1,000,000.00.

B. The Tai Road/S-13 Waterline Replacement Project

In its Petition, GWA requests that the PUC authorize additional funding for its contract with Giant Construction to complete the Tai Road/S-13 and Canada-Toto Loop/Blas Street waterline replacement project. GWA contends that since the PUC’s approval of additional funding back in 2021¹⁰, “unforeseen site conditions” were discovered after the disconnection of the old asbestos cement pipe waterlines.¹¹ For instance, Change Order No. 3 included installation of an additional air relief valve at Blas Street; replacement of a twelve-inch by four-inch (12”x4”) tapping tee with a twelve-inch by six-inch (12”x6”) tapping tee; replacement of additional laterals; installation of blow valves at Tai Road; and archeological monitoring, just to name a few, which added an additional \$178,391.43 to the contract. Change Order No. 4

⁸ GWA’s Contract Review Protocol (“GWA CRP”), Administrative Docket 00-04, p. 1 (Oct. 27, 2005).

⁹ *Id.*, p. 2.

¹⁰ *See, e.g.*, Order, GWA Docket 22-04, p 6 (Dec. 2, 2021).

¹¹ Petition, p. 2.

involved additional repairs to the asphalt on Tai Road; waterline connection revisions on Chapel Road; archeological services; additional work and materials to repair a two-inch (2") waterline on Chalan Sabana; the addition of a waterline connection at the end of S-13, just to name a few, which added an additional \$252,922.89 to the contract.¹²

GWA submitted that the project now requires the connection of a two-inch (2") waterline from Tunel Ramon Ella Road to the newly installed eight-inch (8") waterline on Tai Road, and the connection of a one half-inch (1.5") waterline from an unnamed road to a new twelve-inch (12") waterline on Toto-Canada Loop Road.¹³ According to GWA, these connections were not included in the original plans.¹⁴ GWA requests approval to fund subsequent change orders to complete the work that remains on the project.¹⁵ Specifically, GWA requests that the PUC approval a total of \$3,045,770.05 to finish the waterline replacement project at Tai Road/S-13 and Canada-Toto Loop/Blas Street.¹⁶

CONCLUSION AND RECOMMENDATIONS

The ALJ found that this Commission has recognized that the persistent waterline breaks along Tai Road/S-13 and Canada-Toto Loop/Blas Street pose significant problems for the residents and ratepayers in that community. In efforts to assist GWA in resolving these issues,

¹² Prior to Change Order No. 4, the total contract price was \$2,713,427.32. With the inclusion of Change Order No. 4, at \$252,922.89, the total contract price increased to \$2,966,250.21.

¹³ Petition, p. 2.

¹⁴ Petition, p. 2.

¹⁵ Petition, p. 2.

¹⁶ Petition, p. 3.

the PUC has authorized GWA to enter into a contract with Giant Construction, including certain change orders, to replace the old pipes and laterals along those roads.

The ALJ further found that the PUC has recognized that the frequent water outages in the Canada-Toto Loop neighborhood has been a “serious issue” to the ratepayers in that community and that “expeditious action” was necessary and prudent.¹⁷ The PUC determined that GWA’s contract with Giant Construction to correct these issues was necessary and prudent, and indicated that the issues should be addressed as soon as possible.¹⁸

Additionally, the ALJ found that the PUC has also taken the position that this particular project is consistent with GWA’s waterline replacement program, which endeavors to reduce GWA’s non-revenue water and to improve its service delivery, which has been “below standard.”¹⁹

Based on this record, and for the other reasons set forth herein, the ALJ recommended that the PUC authorize GWA to expend up to \$3,045,770.05 for its contract with Giant Construction to complete the waterline replacement project at Tai Road/S-13 and Canada-Toto Loop/Blas Street.²⁰

The Commission hereby adopts the findings in the November 29, 2023 ALJ Report and therefore issues the following.

¹⁷ See, e.g., Order, GWA Docket 21-03, p 6 (Apr. 29, 2021).

¹⁸ See Order, GWA Docket 21-03, p 6 (Apr. 29, 2021).

¹⁹ See Order, GWA Docket 21-03, p 6 (Apr. 29, 2021).

²⁰ This recommendation will provide GWA with up to \$79,519.84 in additional funds to complete the remaining work required for the waterline replacement in the community.

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 expend \$3,045,770.05 for its contract with Giant Construction to complete the waterline replacement project at Tai Road/S-13 and Canada-Toto Loop/Blas Street, subject to the regular contingency allowable under GWA's Contract Review Protocol.

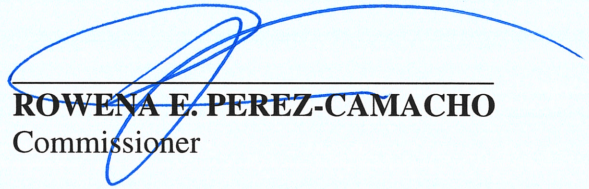
2. GWA is ordered to pay the PUC's regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with this matter. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12103(b) and 12125(b), and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

[SIGNATURES TO FOLLOW ON NEXT PAGE]

SO ORDERED this 30th day of November, 2023.



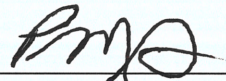
JEFFREY C. JOHNSON
Chairman



ROWENA E. PEREZ-CAMACHO
Commissioner



JOSEPH M. MCDONALD
Commissioner



PEDRO GUERRERO
Commissioner



PETER MONTINOLA
Commissioner



DORIS FLORES BROOKS
Commissioner

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