



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:

)  
) GWA DOCKET 25-03  
)  
)  
)

) ORDER  
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GUAM WATERWORKS AUTHORITY'S)  
LIQUID CHLORINE CONTRACT )

**INTRODUCTION**

1. This matter comes before the Public Utilities Commission ["PUC"] pursuant to the Guam Waterworks Authority's ["GWA"] Petition to Approve GWA's Liquid Chlorine Supply Contract for Water Production and Treatment Facilities Island-Wide.<sup>1</sup>
2. GWA is requesting the PUC to approve its indefinite quantity contract with Marianas Gas Corp., dba Island Equipment Company ["Island Equipment"], to provide liquid chlorine for island-wide water production and treatment facilities. The contract has a three-year initial term with two one-year options to renew and is estimated to cost \$4,920, 534.60 if it renewed up to its fifth year.<sup>2</sup>

**BACKGROUND**

3. The PUC has previously determined that GWA's need for chlorine is essential and indispensable to its daily operations concerning the purification of Guam's drinking water. The use of chlorine in disinfecting drinking water is common, and a standard and regulated practice. GWA is required to purchase liquid chlorine for the treatment of drinking water to disinfect impurities, and to satisfy both local and federal standards with respect to water quality.<sup>3</sup>
4. The last liquid chlorine supply contract the PUC approved was with Island Equipment and it expired on or about July 28, 2019.<sup>4</sup> The PUC also determined that GWA had awarded the contract to Island equipment in 2014 and despite the

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<sup>1</sup>Petition to Approve GWA's Liquid Chlorine Supply Contract for Water Production and Treatment Facilities Island-Wide, GWA Docket 25-03, dated November 4, 2024 [GWA Petition].

<sup>2</sup> GWA Petition at 2. NOTE: The page numbers in GWA's Petition and its exhibits are not continuous, and the page numbers cited herein refer to the page number of the PDF version of the Petition which is continuous.

<sup>3</sup> Order dated July 28, 2017 in GWA Docket No. 17-09 at 4.

<sup>4</sup> Id..

contract cost being \$2,460,984 between 2014 and 2017 GWA only obtained approvals from the Guam Consolidated Commission on Utilities [“CCU”] and the PUC to issue the solicitation for a liquid chlorine supplier but did not obtain CCU or PUC approval for the contract with Island Equipment.<sup>5</sup> Despite this, the PUC ratified the contract and the existing \$2,460,984 expenditures GWA made under for the contract, and the PUC authorized GWA to exercise the two one-year renewal options and their estimated additional \$1.8 million cost.<sup>6</sup>

6. Prior to the expiration of its liquid chlorine supply contract on July 28, 2019, GWA issued GWA-IFB-2019-05 and awarded a new liquid chlorine supply contract to Island Equipment with a three-year initial term and two one-year options to renew.<sup>7</sup> This contract cost GWA \$4,628,004.30 over its five-year term which expired on or about September 16, 2024 and GWA obtained the CCU’s approval for this contract but did not obtain the PUC’s approval for the solicitation or the award of the contract to Island Equipment.<sup>8</sup>
7. On July 11, 2024, GWA issued GWA-IFB-2024-12 for Indefinite Quantity requirements contract for Liquid Chlorine Cylinders to be used to chemically treat and disinfect water extracted from the Northern Guam Lens Aquifer and the Ugum River at GWA’s water production and treatment facilities.<sup>9</sup>
8. Only Island Equipment submitted a bid for the amount of \$2,952,320.76 for the contract’s initial three-year term and the amount of \$1,968,213.84 for the contract’s two one-year renewal options for a total estimated contract price of \$4,920,533.84.<sup>10</sup>
9. On October 22, 2024, the CCU issued GWA Resolution No. 03-FY2025 which found Island Equipment’s bid offer to be fair and reasonable and which authorized GWA’s management to award the contract to Island Equipment subject to the PUC’s approval.<sup>11</sup>
10. On November 27, 2024, PUC Legal Counsel issued his report recommending that the PUC approve the petition.

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<sup>5</sup> Id., at 4.

<sup>6</sup> Id., at 3 and 5.

<sup>7</sup> GWA Legal Counsel Email dated November 27, 2024 attached as Exhibit A to PUC Legal Counsel Report, GWA Docket No. 25-03 (Exhibit A).

<sup>8</sup> Id.

<sup>9</sup> GWA Petition at 4.

<sup>10</sup> Id., at 5.

<sup>11</sup> Id.,

## DETERMINATIONS

11. GWA was required to obtain the PUC's authorization to issue GWA-IFB-2019-05 and to award that solicitation's contract to Island equipment. The PUC's Contract Review Protocol mandates that GWA obtain PUC approval for solicitations and contracts that exceed the amount of \$1,000,000.<sup>12</sup> GWA states that it did not seek the PUC's authorization for the solicitation or the contract in 2019 because it believed that the PUC's 2003 order exempting GWA solicitations and awards of contracts required by the Stipulated Order in *United States v. Guam Waterworks Authority*, Civil Case No. 02-035 (U.S. District Court of Guam), from the contract review protocol still applied.<sup>13</sup> However, this is not supported by the current contract review protocol, which was established on October 27, 2005 which does not include that older exemption. Additionally, it is not supported by precedent because in 2017 the PUC determined that the current contract review protocol required GWA to obtain the CCU and the PUC's approvals prior to issuing a solicitation for or awarding a contract for GWA's liquid chlorine supply that exceeded GWA's contract review threshold amount of \$1,000,000.<sup>14</sup>
12. GWA must obtain the PUC's authorization to issue GWA-IFB-2024-12 and to enter into the contract to Island Equipment. The PUC's Contract Review Protocol mandates that GWA obtain PUC approval for solicitations and contracts that exceed the amount of \$1,000,000.<sup>15</sup> Here, the contract will cost an estimated \$4,920,533.84 if it is performed up to its fifth year. Therefore, GWA was required to obtain the PUC's prior authorization to issue GWA-IFB-2024-12 and there is no evidence indicating that GWA complied with this requirement. Further, GWA must obtain the PUC's authorization to enter into the contract with Island Equipment.
13. GWA's estimated \$4,920,533.84 cost of the liquid chlorine supply contract with Island Equipment arising from GWA-IFB-2024-12 is reasonable. As stated above, GWA's prior contract with Island Equipment for liquid chlorine cost GWA \$4,628,004.30 and the new contract is \$292,529.54 more than the old contract

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<sup>12</sup> Contract Review Protocol for GWA, Administrative Docket 00-04 dated October 27, 2005 at Par.1(c).

<sup>13</sup> Paragraph 3, Order dated April 11, 2003, GWA Miscellaneous Dockets, and GWA Legal Counsel Email attached as Exhibit A herein.

<sup>14</sup> PUC Order dated July 27, 2017, GWA Docket No. 17-09 at 4.

<sup>15</sup> Contract Review Protocol for GWA, Administrative Docket 00-04 dated October 27, 2005 at Par.1(c).

(\$4,920,533.84 - \$4,628,004.30 = \$292,529.54) resulting in a 6% increase. In contrast, in 2019 GWA had an increase in the cost of its liquid supply contract in that its 2014 contract cost approximately \$4,260,984 and its 2019 contract was \$367,020.30 more than its 2014 contract (\$4,628,004.30 - \$4,260,984 = \$367,020.30) resulting in a 9% increase in price. Hence, although there is an increase in the contract's price from the last contract, it is 3% less than the previous contract's increase which is a positive trend. It must also be considered that there is not much price elasticity to GWA's liquid chlorine supply contracts because there is a lack of competition demonstrated by the many potential bidders who received IFB packets for GWA's three liquid chlorine solicitations over the last decade, with only Island Equipment submitting a bid for each of those solicitations. Additionally, the liquid chlorine gas industry is highly regulated, and the contract's cost reflects this fact. Accordingly, GWA's estimated \$4,920,533.84 contract cost is reasonable.

14. GWA's liquid chlorine supply contract is prudent. As stated above, the use of chlorine in disinfecting drinking water is common, and a standard and regulated practice. Further, Guam Procurement Regulations authorize GWA to procure an indefinite delivery and indefinite quantity contracts which is a contract for an indefinite amount of supplies or services to be furnished as ordered instead of at specified times. 2 G.A.R., Div. 4, §3119(i)(2). Here, this type of contract is appropriate because the amount of liquid chlorine GWA requires is based on drinking water demand which is variable. Additionally, GWA can only use this type of contract twice per fiscal year per supply or service and GWA will not be requiring another liquid chlorine supply contract for at least the next three years. Thus, GWA's solicitation for an indefinite delivery indefinite quantity liquid chlorine supply contract is prudent.
15. GWA's liquid chlorine supply contract is necessary. As stated above, GWA is required to purchase liquid chlorine for the treatment of drinking water to disinfect impurities, and to satisfy both local and federal standards with respect to water quality. Therefore, GWA's liquid chlorine supply contract is necessary to ensure GWA's safe and regulatory compliant operation of GWA's Water Production and Treatment Facilities.
16. Based on the foregoing, GWA's request for the PUC to approve GWA's liquid chlorine supply contract with Island Equipment is reasonable, prudent, and necessary.

**ORDERING PROVISIONS**

After review of the record herein, Petition to Approve GWA’s Liquid Chlorine Supply Contract for Water Production and Treatment Facilities Island-Wide, and the PUC Counsel Report, and for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY ORDERS** that:

1. The PUC hereby ratifies GWA’s issuance of GWA-IFB-2019-05, its award of that solicitation’s \$4,628,004.30 contract to Island Equipment. GWA is hereby **ORDERED** to comply with GWA’s Contract Review Protocol for its liquid chlorine supply contracts and solicitations.
2. GWA’s Petition to approve its Liquid Chlorine Supply Contract for Water Production and Treatment Facilities Island-Wide with Island Equipment is hereby approved.
3. Exercise by GWA of any of the additional two renewal options in its Liquid Chlorine Supply Contract shall be brought to the PUC for prior approval.
4. GWA is ordered to pay the Commission’s regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of the PUC’s regulatory fees and expenses is authorized pursuant to 12 GCA §12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

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Order  
Guam Waterworks Authority  
Liquid Chlorine Contract  
GWA Docket 25-03  
December 2, 2024

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Dated this 2nd day of December, 2024.

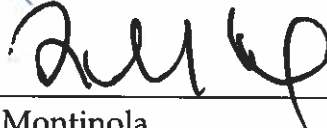
  
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Chairman

  
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Joseph M. McDonald  
Commissioner

  
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