



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

**PETITION TO APPROVE FUNDING
INCREASE TO CONTRACT WITH
JMI-EDISON FOR WASTEWATER
TREATMENT CHEMICALS AND TO
RATIFY EXPENDITURES BY GUAM
WATERWORKS AUTHORITY**

GWA DOCKET 25-05

ALJ REPORT

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the January 4, 2025 Petition to Approve Funding Increase to the JMI-Edison Contract for Wastewater Treatment Chemicals and to Ratify Expenditures, filed by the Guam Waterworks Authority (“GWA”).

BACKGROUND

On July 23, 2019, GWA was authorized to enter into an agreement with JMI-Edison for the purchase of certain wastewater treatment chemicals, specifically cationic polymer and anionic polymer.¹ These chemicals are vital to the operations of, and treatment of wastewater at, GWA’s Northern District Wastewater Treatment Plant, and Hagåtña and Agat-Santa Rita Wastewater Treatment Plants.² Pursuant to that approval, GWA was thereby authorized to expend a total of \$1,170,458.88 for the wastewater chemicals.³ Since November 2024, GWA has purchased roughly 480,000 pounds of

¹ Petition, “Exhibit A”, p. 1 (GWA Resolution No. 13-FY2025).

² See Petition, “Exhibit A”, p. 1.

³ Petition, “Exhibit A”, p. 1.

cationic polymer and 278,000 pounds of anionic polymer, totaling \$1,189,761.36, and thereby exceeding \$1,170,458.88.⁴

DISCUSSION

A. Contract Review Protocol

Pursuant to 12 G.C.A. §12105,⁵ GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC's express approval. In addition, GWA's Contract Review Protocol requires that "[a]ll professional service procurements in excess of \$1,000,000" require "prior PUC approval under 12 G.C.A. §12004, which shall be obtained before the procurement process is begun"⁶

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."⁷

B. GWA's Petition

The instant request concerns the approval of GWA's contract with JMI-Edison for the purchase of the wastewater chemicals, anionic polymer and cationic polymer, since

⁴ Petition, "Exhibit A", p. 1.

⁵ Formerly 12 G.C.A. §12004.

⁶ GWA's Contract Review Protocol ("GWA CRP"), Administrative Docket 00-04, p. 1 (Oct. 27, 2005).

⁷ *Id.*, p. 2.

July 23, 2019.⁸ GWA submits that it initially did not bring this particular contract before the PUC because it believed that because these purchases were mandated under the 2011 federal Stipulated Order, these purchases were therefore exempt from PUC review.⁹ GWA, however, has indicated that moving forward, it will request PUC approval for the purchase of wastewater treatment chemicals unless expressly exempted through a separate PUC order.

As further indicated in the Petition, GWA utilizes these chemicals for its treatment of wastewater, and therefore these chemicals are vital to its operations in several of its wastewater treatment plants, such as the Northern District, Hagåtña, and Agat-Santa Rita wastewater treatment plants.¹⁰ Indeed, in prior PUC dockets, GWA has made reference to the requirement that it must operate its wastewater treatment plants using “Chemically Enhanced Treatment” in order to be in compliance with the November 11, 2011 federal Stipulated Order.

The chemicals that are the subject of the Petition are generally used for wastewater treatment. For instance, anionic polymers aid in filtering wastewater and for dewatering sludge; cationic polymers also aid in the clarification of water.

GWA submits that it recently issued two Invitations for Bids, namely: IFB 2024-08, for the purchase of Wastewater Treatment Chemicals for GWA’s Northern District WWTP, Agat-Santa Rita WWTP and Umatac-Merizo WWTP; and IFB 2024-16, for the purchase of Wastewater Treatment Chemicals for GWA’s Hagåtña WWTP. These

⁸ Petition, p. 1.

⁹ Petition, p. 1 (*citing* PUC GWA Regulatory Matters Order, Item No. 3 (Apr. 11, 2003)).

¹⁰ Petition, p. 1.

procurements are intended to replace the existing chemical contracts GWA currently has in place. Because of time constraints and certain testing of the chemical products, these procurements are not expected to replace the current contract with JMI-Edison until a few more months.¹¹

Presently, GWA purchases anionic chemicals at \$1.23 per pound; and cationic chemicals at \$1.85 per pound.¹² GWA submits that, initially, it was purchasing anionic chemicals at \$1.16 per pound and cationic chemicals at \$1.63 per pound; but that JMI-Edison had increased the price of these chemicals due to a “shortage in raw materials.”¹³ According to GWA, it sought CCU approval for an additional \$400,000 to supplement its current expenditure of \$1,187,761.36.¹⁴ GWA submits that the funding source for the purchase of these chemicals is its revenue funds.

C. CCU Resolution No. 13-FY2025

The instant petition is supported by Resolution No. 13-FY2025 issued by the CCU at its November 26, 2024 meeting. In the Resolution, the CCU found that since that time, GWA has purchased roughly 480,000 pounds of cationic chemicals and 278,000 pounds of anionic chemicals to operate GWA’s Northern District, Hagåtña, and Agat-Santa Rita wastewater treatment plants, at a total cost of \$1,189,761.36.¹⁵ It noted that while its

¹¹ Petition, p. 2.

¹² Petition, p. 2.

¹³ GWA’s Response to ALJ’s Request for Information, p. 2 (Feb. 18, 2025).

¹⁴ Petition, p. 2. GWA further noted that the CCU original authorization was for \$1,170,458.88, but GWA has since exceeded that amount by \$19,302.48.

¹⁵ CCU Resolution No. 13-FY2025, p. 1.

original authorization was for \$1,170,458.88, GWA exceeded this amount by \$19,302.48.¹⁶ The CCU indicated, however, that GWA needs to have the ability to procure additional chemicals when required, the CCU approved the additional \$19,302.48 and further authorized another \$400,000.00 to purchase chemicals from JMI-Edison.¹⁷ The CCU, therefore, has authorized a total of \$1,589,761.36.

CONCLUSION

This Commission has indicated in prior dockets that these chemicals are indispensable and required for GWA's daily operation and maintenance, specifically to operate its Northern District, Hagåtña, and Agat-Santa Rita wastewater treatment plants, and to keep GWA in compliance with federal laws, permits and guidelines.

Further, the PUC regularly reviews GWA's purchase of these wastewater chemicals. These chemicals are indeed indispensable in the treatment of wastewater. For instance, anionic polymers aid in filtering wastewater and for dewatering sludge; cationic polymers also aid in the clarification of water.

In addition, there is nothing in the record that indicates that the JMI-Edison agreement was not properly procured; but that the award was due to JMI-Edison being the lowest responsible bidder.¹⁸ Moreover, GWA has committed to submitting wastewater treatment contracts for the PUC's review.

¹⁶ CCU Resolution No. 13-FY2025, p. 1.

¹⁷ CCU Resolution No. 13-FY2025, p. 3.

¹⁸ CCU Resolution No. 13-FY2025, p. 2 (finding that "[t]here was no indication of bad faith or fraud in any of the procurements by GWA management" and that "[a]ll of the procurement herein are in the best interest of the territory of Guam and Guam Waterworks Authority").

Therefore, the ALJ recommends that the PUC ratify GWA's agreement with JMI-Edison to purchase these chemicals and correspondingly approve the budget of \$1,589,761.36 for the remainder of the contract term.

RECOMMENDATION

Based on this record, and for the other reasons set forth above, the ALJ recommends that the PUC ratify the contract between GWA and JMI-Edison, for a total cost not to exceed \$1,589,761.36 for the remainder of the contract term, subject to the cost contingency provided under the Contract Review Protocol.¹⁹ A proposed Order for the Commission's consideration is attached.

Dated this 25th day of February, 2025.



JOEPHET R. ALCANTARA
Administrative Law Judge

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¹⁹ See Section 9, GWA's Contract Review Protocol, Administrative Docket 00-004, p. 1 (Oct. 27, 2005).