

**GUAM PUBLIC UTILITIES COMMISSION
REGULAR MEETING
August 31, 2023
GCIC CONFERENCE ROOM, GCIC BUILDING, HAGATNA**



MINUTES

The Guam Public Utilities Commission [PUC] conducted a regular meeting commencing at 6:45 p.m. on August 31, 2023, pursuant to due and lawful notice. **Commissioners Jeffrey C. Johnson, Joseph McDonald, Rowena Perez-Camacho and Pedro Guerrero** were in attendance. The following matters were considered at the meeting under the agenda included as *Attachment "A"* hereto.

1. Approval of Minutes of June 29, 2023.

The Chairperson announced that the first item of business on the agenda was the approval of the minutes of June 29, 2023. Commissioner Perez-Camacho moved to approve the minutes of the June 29, 2023 meeting subject to corrections, which motion was seconded by Commissioner McDonald. The motion passed unanimously.

2. Docomo Pacific Inc.

The Chairperson announced that the next item of business on the agenda was Docomo Pacific Docket 23-01, Petition for Annual USAC Certification, ALJ Report, and USAC Certification.

Chief ALJ Frederick Horecky ("ALJ Horecky") stated that Universal Support Funds are federal funds that allow telecom companies to build out their technology and to improve their systems. To receive those funds, the telecom companies have to annually certify that they are providing nine services which are voice grade access to the public switch network, local usage, dual tone multifrequency or its functional equivalent, single party service or its functional equivalent, access to emergency services such as 911, access to operator services, access to interexchange service, access to directory assistance, and toll limitation for qualifying low-income customers. They must annually certify that all the support funds they receive will be used for those services. They must provide the amounts of funds that were expended for each fiscal year and a detailed buildup plan. ALJ Horecky stated that Docomo made the required certifications and provided a five-year plan to improve its network structure with some of these projects and he recommended that the PUC approve the certification.

Commissioner Perez-Camacho moved to approve the petition which motion was seconded by Commissioner McDonald, and the motion passed unanimously.

3. TeleGuam Holdings LLC

The Chairperson announced that the next items of business on the agenda was GTA Docket 23-01, Petition of GTA for Annual USAC Certification, ALJ Report, and USAC

Certification. ALJ Horecky stated that GTA have met the certification requirements and have filed its five-year plan, that GTA's plan projects the expansion of fiber to the home which is a new technology that will dramatically increase connection speeds available to computer users compared with the technologies now in use. ALJ Horecky recommended that the PUC approve the certification.

A brief discussion ensued between Chairperson, Commissioner Guerrero and ALJ Horecky regarding clarification on whether fiber technology was underground or above ground, to which inquiry was answered by ALJ Horecky as underground. Commissioner Guerrero moved to approve the petition, which motion was seconded by Commissioner Perez-Camacho, and the motion carried unanimously.

- **GTA Docket 23-02**

The Chairperson announced that the next items of business on the agenda was GTA Docket 23-02, Petition of GTA/Pulse Mobile for Annual USAC Certification, ALJ Report, and USAC Certification. ALJ Horecky stated that GTA/Pulse Mobile has met the certification requirements and has filed its five-year plans. ALJ Horecky further stated that Pulse has continued in terms of its five-year plan to provide capital improvements to its wireless networks in Guam, which include the expansion of its fixed wireless regional area network. GTA/Pulse Mobile has completed construction including cell sites and expanded backhaul and fiberoptic backhaul, and capacity. In 2023, it is continuing with the 5G RAN site coverage and capacity expansion end core upgrade. GTA/Pulse Mobile has proceeded with enhanced long-term evolution coverage and capacity and very highspeed internet service deployment. ALJ Horecky stated that these expansion programs will all continue in years 2024 and 2025. He recommended that the PUC approve the certification.

Commissioner McDonald moved to approve the petition, which motion was seconded by Commissioner Perez-Camacho, and the motion carried unanimously.

4. PTI Pacifica Inc.

The Chairperson announced that the next item of business on the agenda was PTI Docket 23-01, Petition of PTI for Annual USAC Certification, ALJ Report, and USAC Certification. ALJ Horecky stated that PTI has met the certification requirements and have filed their five-year plans, which include PTI's added five new builds, site builds, expanding coverage in the north and south. PTI Plan includes adding long-term evolution carriers and 5G upgrades. For 2024, PTI expects to add even more new sites to improve coverage and to provide faster and more reliable home internet services. PTI will add 30 sites and further upgrade the network to support 5G. ALJ Horecky recommended that the PUC approve the certification.

Commissioner Perez-Camacho moved to approve the petition, which motion was seconded by Commissioner McDonald, and the motion carried unanimously.

5. Guam Power Authority

The Chairperson announced that the next item of business on the agenda was Guam Power Authority ("GPA") Docket 23-09, Petition Requesting Approval to Adjust Power Pole Attachment Rate, ALJ Report, and Proposed Order. ALJ Horecky stated that this matter was first before the Commission in GPA Docket 09-04 and at that time, there lacked a consistent rate for the pole attachments, which are wires, cables, antennas, or other equipment usually owned by a private company that is attached to a pole owned by GPA.

In Docket 09-04, GTA had complained that there was no uniform rate and that all kinds of different rates were being charged by GPA. The rate of \$6.00 per year per attachment was approved by the Commission; however, it was recognized that the \$6.00/year was only an interim amount and that the Federal Communications Commission ("FCC") was going to revisit that issue later to establish a permanent rate. The FCC updated the pole attachment rate in 2015, and it established formulas at that time for determining the pole attachment rates for cable and telecommunications attachments. The attachment rate for the telecom formula was \$17.13 per year. Under the cable formula, it was \$14.82 per year per attachment.

ALJ Horecky further reported that a number of conferences with GPA and the telecom companies took place with regard to GPA Docket 23-09, with the most recent conference taking place in August 2023, where GPA CFO John Kim had indicated that GPA selected the less expensive cable formula rather than the telecom formula to apply to attachments to its poles. Initially when GPA filed its petition, GPA was asking that the rates be increased from \$6.00 per year to \$15.00 a year over a three-year period; however, after the discussions with the telecommunication companies and negotiations, all the parties have agreed that the attachment rate would be increased over a period of five years at the rate of \$1.80 per year.

ALJ Horecky concluded that the proposed attachment rate appears to be just and reasonable under 12 GCA, Section 12116(a), which is the provision that requires the Commission to find that any rate is just and reasonable before it is adopted and recommended that the Commission approve the increase on the pole attachment rates by \$1.80 per pole per year over the next five years; that is, from \$6.00 to \$15.00. ALJ Horecky stated it is prudent, just, and reasonable, and within the existing range of rates set by the FCC.

There being no further comments by the Commissioners, GPA or any other party, Commissioner McDonald moved to approve the proposed Order regarding GPA Docket 23-09, which motion was seconded by Commissioner Guerrero. The motion passed unanimously.

- **GPA Docket No. 23-15**

The Chairperson announced that the next item of business on the agenda was Guam Power Authority ("GPA") Docket 23-15, Petition for Approval to Increase the Amount of

Award for GPA's Physical Security Proof of Concept, ALJ Report, and Proposed Order. ALJ Joephet Alcantara ("ALJ Alcantara") stated that the matter before the Commission was filed by GPA to increase the amount of award for its contract with Sheffield Scientific related to GPA's visible security proof of concept. The origins of this contract began back in 2020 when GPA issued an RFP, which specifically sought services of a contractor to provide physical security proof of concept, which relates to the review, design, and buildout, to increase the physical security for certain GPA sites.

ALJ Alcantara continued that after the RFP was issued, Sheffield Scientific was selected at an initial amount of \$996,670.00. At the time, GPA had authorized bond funds for this particular contract. This contractor was to work with five sites that were identified which include GPA's Talofofu plant, Harmon Substation, Umatac Substation, Fadian office, and Piti Substation. GPA seeks PUC review and approval of this contract since the additional buildout costs will increase the total cost of the contract over \$1.5 million dollars.

Upon review of the RFP for the contract, it indicates that the contract concerns design, security designs that restrict access to GPA's facilities for safety and security reasons. The contractor is supposed to provide access card systems, smart locks, the use of security personnel, alarm systems for monitoring entry into the facilities, perimeter alarm systems, surveillance, guards, areas that prohibit entry of vehicles, lighting that provides visibility for optimal CCTV functionality, both roaming and fixed security personnel, security surveys and other risk assessments, just to name a few.

ALJ Alcantara continued that this concept or design was to protect against intruders who intend on damaging and tampering with substations or substation facilities, equipment, and controls; stealing or damaging substation equipment, material, or basically anything that threatens the safety of GPA and GWA personnel and its customers, as well as protect against terroristic acts. With this particular request, GPA is asking for an additional \$350,000 to fund the physical security buildouts, which according to GPA, is nearing completion. According to GPA, the additional \$350,000 is due to supply chain issues caused by the pandemic. The \$350,000 additional request was authorized by the CCU, which in a resolution extended the term of the contract and authorized that additional amount which now totals about \$1.8 million dollars for the entire project with Sheffield Scientific.

Based on this record, ALJ Alcantara found that the request was necessary and reasonable. As indicated by GPA, the physical security of its assets and facilities are critical to its daily operations and an island-wide security issue to protect GPA's facilities in order to protect its power generation facilities from threats of damage, tampering, theft, and even terrorist activities. ALJ Alcantara advised that overlooking this need may risk potentially threatening the public health, welfare, and safety of the island and recommended that the Commission approve the additional \$350,000.00 request by GPA for this contract, which increases the total cost of the contract to \$1.846670 million.

A discussion ensued between GPA GM John Benavente and all Commissioners regarding lifespan and warranties, new materials and installation expectation and projected

completion of concept. Commissioner Guerrero moved to approve the petition, which motion was seconded by Commissioner Perez-Camacho, and the motion carried unanimously.

- **GPA Docket No. 23-19 and GPA Docket No. 23-20**

The Chairperson announced that GPA Dockets 23-19 and 23-20 will be postponed until the September meeting.

- **GPA Docket No. 23-21**

The Chairperson announced that the next item of business on the agenda was Guam Power Authority (“GPA”) Docket 23-21, Petition to Approve the Purchases of Bucket Trucks, ALJ Report, and Proposed Order. ALJ Horecky summarized that GPA has requested approval for the purchase of 10 bucket trucks, ranging from 55 to 65 feet in reach, for up to \$5 million to aid in future typhoon recovery operations. Influenced by its experience with Typhoon Mawar. GPA also requested authorization for procurement, but notes in its petition that the final purchase is unclear. Currently, GPA has 27 bucket trucks, with seven out of service. After Typhoon Mawar, GPA used 20 to 30 bucket trucks, including some on loan from FEMA and the Navy.

The primary reasons that GPA stated for the request are to reduce restoration times, minimize revenue loss, and better prepare for future typhoons. ALJ Horecky advised that the decision is premature because GPA stated it may or may not purchase five FEMA bucket trucks for a lower cost of \$395,000 each, which are already on the island. ALJ Horecky advised that the Commission should wait for bids before approving the requested \$500,000 per truck, as per standard protocol, especially since there is uncertainty about the truck prices, with various figures presented. ALJ Horecky further advised that the Commission defer a decision until GPA makes a final decision about the FEMA trucks, and GPA's justifications for additional trucks should be addressed later. ALJ Horecky presented an Order has been prepared to defer the decision until this determination is made, for the Commissioners’ review and consideration.

GPA GM John Benavente (“GPA GM”) represented that GPA wanted to get a head start in obtaining them due to the urgency caused by potential storms. Although they received sporadic assistance during past storms, it often came late in the restoration process. GPA GM mentioned that GPA now has valuable experience and apprentice graduates. GPA GM also offer two points for consideration: First, that GPA already signed to purchase bucket trucks from FEMA, pending PUC approval. Second, GPA acknowledges the significant expense of procuring all 10 trucks at once and suggests evaluating the situation for the fiscal year 2024 CIP requirements, which GPA traditionally presents to the PUC in October. GPA GM further emphasizes that GPA is only requesting five trucks and noted that the delivery time might be close to two years. In closing, GPA asked for approval for the purchase of the five FEMA bucket trucks and requests consideration for the delivery time.

A discussion ensued between GPA GM, Chairperson, Commissioners Guerrero and Perez-Camacho regarding assistance received from other islands and Washington state, commemoration on the restoration efforts, future considerations regarding powerlines and maintenance, conditions of the seven bucket trucks that are inoperable, and timeline for purchase. Commissioner Guerrero moved to defer the request by GPA for the purchase of the Bucket Trucks, which motion was seconded by Commissioner Perez-Camacho. The motion passed unanimously.

6. Guam Waterworks Authority

The Chairperson announced that the next item of business on the agenda was Guam Waterworks Authority (“GWA”) Docket 23-08, Petition to Create a New Specific Rate Classification for Wastewater Discharge for Leachate, ALJ Report, and Proposed Order. ALJ Alcantara reported that in 2011, the PUC was tasked by the District Court of Guam to set the rate for treating leachate from the landfill in *United States v. Government of Guam*, Civil Case Number 02-00022. The PUC then established a rate based on a survey of commercial wastewater at the time, which was \$14.19 per thousand gallons.

ALJ Alcantara continued that recently, the District Court of Guam revisited the issue and directed the Guam Solid Waste Authority (“GWSA”) and GWA to resolve it. GWA has now requested the PUC's authorization to classify the wastewater disposal rate for leachate separately from the commercial rate. This change is supported by a cost-of-service study from May 15, 2021, which found that leachate has lower total suspended solids than commercial wastewater, impacting infrastructure costs.

ALJ Alcantara reported that according to the study, the proposed leachate disposal rate is \$14.72 per thousand gallons, which is not significantly different from the rate established in 2011. GWA argued that this new rate accurately reflects the cost of providing leachate disposal services and is lower than the current Commercial III rate of \$20.92 per thousand gallons. To support their request, GWA has submitted a stipulation, endorsed by GWSA, the Government of Guam, and the receiver GBB, which authorizes the implementation of the new leachate rate effective no sooner than July 31, 2023, with potential rate adjustments in fiscal year 2025.

ALJ Alcantara found the proposal to be deemed just and reasonable because it aims to capture the true cost of disposing of leachate, which is something the Commercial III rate did not adequately address. ALJ Alcantara recommended the PUC implement the new landfill leachate rate and cease using the Commercial III rate for this service and presented a proposed Order for the Commissioners’ consideration.

A discussion ensued between the Chairperson, Commissioners Guerrero and Perez-Camacho, GWA Miguel Bordallo and Attorney Joyce Tang concerning different leachate rates, and clarification on the effective date pursuant to the stipulation agreement. Commissioner Perez-Camacho moved to approve the order which motion was seconded by Commissioner McDonald, and the motion passed unanimously.

- **GWA Docket No. 23-06**

The Chairperson announced that the next item of business on the agenda was Guam Waterworks Authority ("GWA") Docket 23-06, Petition to Approve the Reallocation of GWA's Series 2020A Bond Proceeds, ALJ Report, and Proposed Order. ALJ Horecky stated that the objective of the bond proceeds reallocation is to secure additional funding for court-ordered repair, rehabilitation, reallocation, and construction projects related to reservoir tanks and the inspection and replacement design of water and sewer utilities crossing bridges to prevent critical failures. ALJ Horecky stated that GWA management is requesting to reallocate \$11,893,376.94 of the 2020A bond proceeds from other projects that can be deferred or funded through alternate sources, which is crucial because failing to complete these court-ordered projects on time could lead to violations and penalties.

ALJ Horecky stated that the total 2020A bond allocation was approximately \$103 million, with a significant portion already allocated to reservoir and tank projects. This reallocation request follows a prior request for \$30,425,000 in GWA Docket 20-09, which was approved by the PUC. If approved, this new reallocation would bring the total allocation for reservoir and tank projects to around \$67,120,381.

ALJ Horecky noted the Guam CCU has already approved GWA's request. The PUC is required to review the use of bond funds, and any reprogramming of projects and associated proceeds of the 2020 bonds must receive prior PUC approval. ALJ Horecky continued that GWA has made progress on these projects but still needs funding to complete 13 remaining reservoirs, including three (3) that are yet to be constructed, and repair 10 existing steel structures. The increased costs of construction projects due to factors like supply shortages and inflation have made additional funding necessary.

To secure additional bond funding, GWA plans to defer some non-court ordered projects, with assurances that this won't harm ratepayers or GWA itself. Additionally, GWA seeks to reallocate funds from various waterline projects to address the inspection and replacement design of water and sewer utilities crossing bridges, preventing critical failures like the Pago Bay Bridge waterline failure.

ALJ Horecky recommended the reallocation of \$10,993,376.94 to the funding for the reservoir tank projects, and also \$900,000 for the rehabilitation and replacement program. A proposed order was presented to the Commissioners for their consideration.

A discussion ensued between the Commissioners and GWA GM regarding tank levels, court-ordered deadlines, tank damages, and total cost for the rehabilitation. There being no further discussions, Commissioner McDonald moved to approve the proposed order, which was seconded by Commissioner Perez-Camacho. The motion carried unanimously.

- **GWA Docket No. 23-11**

The Chairperson announced that GWA Docket No. 23-11 will be postponed to the next PUC meeting. A short break was taken at the request of ALJ Horecky between 8:17 p.m. and 8:20 p.m.

4. Administrative Matters.

The Chairperson announced that the next item of business on the agenda was Administrative matters regarding Resolution 23-03, the Approval of PUC Consultant, ALJ, and Legal Counsel Agreements. ALJ Horecky stated that the resolution marks the conclusion of a procurement process that began in February when the Commission authorized the procurements. The process involved issuing requests for proposals (RFPs), widespread distribution, and evaluation of offers from various contractors. The Commissioners ranked the offerors, followed by contract negotiations, primarily with off-island offerors. The resolution seeks approval for the selected contractors, all of whom were chosen through a thorough procurement process. ALJ Horecky also explained that the resolution approves all consultants who submitted a proposal to give the Commission more choices in selection of consultants for future matters.

A brief discussion ensued between Commissioner Perez-Camacho and McDonald regarding clarification on potential issues involving one the consultants, to which ALJ Horecky stated the inquiry has been made and the PUC is now awaiting a response; and, the clarification on participation from the Commissioners regarding final evaluations. There being no further discussions on this matter, Commissioner Guerrero moved to approve Resolution No. 23-01, which motion was seconded by Commissioner McDonald. The motion carried unanimously.

- **Resolution 23-04**

The Chairperson announced that the next item of business on the agenda was Administrative matters regarding Resolution 23-04, Employment Agreement for PUC Administrator. ALJ Horecky explained that the Resolution seeks authorization from the PUC to hire Administrator Lourdes R. Palomo as an employee for a one-year term, covering FY 2024. The employment agreement specifies a salary of \$66,000 per year, which includes a \$2,000 increase from the previous contract. The base salary is \$60,000, and the additional amount covers health and welfare benefits, as the Commission does not provide these benefits directly. The terms and conditions of the contract remain unchanged from the previous year.

After a review of the Resolution, Commissioner McDonald moved to approve the Resolution, which was seconded by Commissioner Guerrero. The motion passed unanimously.

- **Resolution No. 23-05**

The Chairperson announced that the next item of business on the agenda was Administrative matters regarding Resolution 23-05, Conversion of Part-Time Employment of Administrative Assistant to PUC Administrator to Full-Time Employment, and Employment Agreement for Administrative Assistant to PUC Administrator. ALJ Horecky explained that the resolution aims to convert the Administrative Assistant, Colleen Chlarson, from part-time to full-time status, effective October 1, 2023. As part of this change, her salary will be increased by a performance

raise of \$1,000. Her new hourly rate will be \$21.72, based on 2080 hours per year, resulting in an annual salary of \$45,177.60. Additionally, she will receive a \$50 monthly allowance for gasoline expenses related to administrative and service delivery duties.

A discussion ensued between Commissioner McDonald, Guerrero, and Perez-Camacho regarding increase of gas allowance, employment term and extension options. There being no further discussion, Commissioner Perez-Camacho moved to approve the Resolution with an increase of gas allowance from \$50 per month to \$75 per month, which motion was seconded by Commissioner Guerrero. The motion passed unanimously.

- **Resolution No. 23-06**

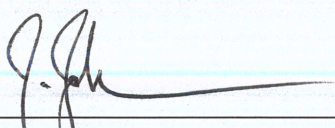
The Chairperson announced that the final item of business on the agenda was Administrative matters regarding Resolution 23-06, Temporary Extension of ALJ Contract. ALJ Horecky stated that he did not reapply for the ALJ (Administrative Law Judge) position, a position he has held for the past 15 years. ALJ Horecky expressed the the decision was fueled by his desire to reduce his workload due to personal reasons and the need to cut down on activities. ALJ Horecky stated he was approached by some Commissioners, who proposed a transition plan. ALJ Horecky stated he is willing to continue handling specific matters, such as the Solid Waste Authority rate case, LNG, LEAC, telecoms, and others, but prefers not to be involved in administrative tasks like agenda preparation, etc.

ALJ Horecky believes there will be a significant workload in the coming year, including the Waterwork's five-year case, the Solid Waste Authority case, and the possibility of a rate increase for GPA, and expressed he is open to staying on in a limited capacity for six months, with the option to discuss further extensions. ALJ Horecky stated the Commission has the authority to retain consultants pursuant to 12 GCA, Section 12103(a), that provides the Commission shall retain on an as-needed basis those professional services required by the Commission. ALJ Horecky concluded that the terms and conditions of his existing contract would still apply during this extension.

Commissioner Perez-Camacho moved to approve the Resolution, which was seconded by Commissioner McDonald. The motion passed unanimously.

A brief discussion ensued between the Commissioners and ALJ Horecky regarding the need for a special meeting to be included in September (2023), to which the Commissioners agreed to hold a special meeting on Tuesday, September 26, 2023, in addition to the regular PUC meeting set for Thursday, September 28, 2023.

There being no further business, the Commissioners moved to adjourn the meeting.



Jeffrey Johnson
Chairperson

ATTACHMENT A
THE GUAM PUBLIC UTILITIES COMMISSION
NOTICE OF PUBLIC MEETING

NOTICE IS HEREBY GIVEN that the Guam Public Utilities Commission [PUC] will conduct a regular business meeting, commencing at 6:30 p.m. on August 31, 2023, Suite 703, GCIC Building, 414 W. Soledad Ave., Hagatna.

The following business will be transacted:

Agenda

- 1. Call to Order**
- 2. Approval of Minutes of June 29, 2023**
- 3. Docomo Pacific Inc.**
 - **Docomo Docket 23-01, Petition for Annual USAC Certification, ALJ Report, and USAC Certification**
- 4. TeleGuam Holdings LLC**
 - **GTA Docket 23-01, Petition of GTA for Annual USAC Certification, ALJ Report, and USAC Certification**
 - **GTA Docket 23-02, Petition of GTA/Pulse Mobile for Annual USAC Certification, ALJ Report, and USAC Certification**
- 5. PTI Pacifica Inc.**
 - **PTI Docket 23-01, Petition for Annual USAC Certification, ALJ Report, and USAC Certification**
- 6. Guam Power Authority**
 - **GPA Docket 23-09, Petition requesting Approval to Adjust the Power Pole Attachment Rate, ALJ Report, and Proposed Order**
 - **GPA Docket 23-15, Petition for Approval to Increase the Amount of Award for GPA's Physical Security Proof of Concept, ALJ Report, and Proposed Order**
 - **GPA Docket 23-19, Petition to Extend the Performance Management Contract for Cabras 1 and 2, PUC Counsel Report, and Proposed Order**
 - **GPA Docket 23-20, Petition to Procure a Hot Section Exchange & Generation Repair for Yigo CT, ALJ Report, and Proposed Order**
 - **GPA Docket 23-21, Petition to Approve the Purchases of Bucket Trucks, ALJ Report, and Proposed Order**
- 7. Guam Waterworks Authority**

- **GWA Docket 23-08, Petition to Create a New and Specific Rate Classification for Wastewater Discharge for Leachate, ALJ Report, and Proposed Order**
 - **GWA Docket 23-06, Petition to Approve the Reallocation of GWA's Series 202A Bond Proceeds, ALJ Report, and Proposed Order**
 - **GWA Docket 23-11, Petition for Approval of the GWA Year 3 Task Order for Professional Services Contract, ALJ Report, and Proposed Order**
- 8. Administrative Matters**
- **Approval of PUC Consultant, ALJ, and Legal Counsel Agreements, PUC Resolution 23-03**
 - **Employment Agreement for PUC Administrator, PUC Resolution 23-04**
 - **Conversion of Part-Time Employment of Administrative Assistant to PUC Administrator to Full-Time Employment, and Employment Agreement for Administrative Assistant to PUC Administrator, PUC Resolution 23-05**
 - **Temporary Extension of ALJ Contract, PUC Resolution 23-06**
- 9. Adjournment**

Further information about the meeting may be obtained from the PUC's Administrator Lou Palomo at 671-472-1907. Those persons who require special accommodations, auxiliary aids, or services to attend the meeting should also contact Ms. Palomo.

This Notice is paid for by the Guam Public Utilities Commission

Guam Public Utilities Commission



**To: Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554**

**Irene M. Flannery
Vice-President – High Cost & Low Income Division
Universal Service Administration Company
2000 L Street, N.W. Suite 200
Washington, DC 20036**

**RE: CC Docket 96-45/WC Docket No. 10-90 – Annual State-Certification of
Support for Eligible Telecommunications Carriers Pursuant to 47 C.F.R.
§54.314**

Pursuant to the requirements of 47 C.F.R §54.314, the Guam Public Utilities Commission hereby certifies to the Federal Communications Commission and the Universal Service Administrative Company that Docomo Pacific, Inc. is eligible to receive federal high-cost support for the program years cited.

On March 31, 2016, the Guam Public Utilities Commission transferred Guam Telecom LLC's Eligible Telecommunications Carrier ["ETC"] Designation and its Certificates of Authority to Docomo Pacific Inc.

The Guam Public Utilities Commission certifies for Docomo Pacific, Inc., that all federal high-cost support provided to such carrier within Guam was used in the preceding calendar year (2022) and will be used in the coming calendar year (2024) only for the provisioning, maintenance and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Communications Act.

I am authorized to make this certification on behalf of the Guam Public Utilities Commission. This certification is for study area 669005 for the Territory of Guam.

Dated this 31st day of August, 2023.



Jeffrey C. Johnson
Chairperson, Guam Public Utilities Commission

Guam Public Utilities Commission



**To: Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554**

**Irene M. Flannery
Vice-President – High Cost & Low-Income Division
Universal Service Administration Company
2000 L Street, N.W. Suite 200
Washington, DC 20036**

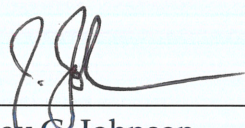
**RE: CC Docket 96-45/WC Docket No. 10-90 –Annual State-Certification of
Support for Eligible Telecommunications Carriers Pursuant to 47 C.F.R.
§54.314**

Pursuant to the requirements of 47 C.F.R §54.314, the Guam Public Utilities Commission hereby certifies to the Federal Communications Commission and the Universal Service Administrative Company that Teleguam Holdings, LLC, is eligible to receive federal high-cost support / broadband loop support/Interstate Carrier Compensation for the program years cited.

The Guam Public Utilities Commission certifies for Teleguam Holdings, LLC, that all federal high-cost support/ broadband loop support/Interstate Carrier Compensation provided to such carrier within Guam was used in the preceding calendar year (2022) and will be used in the coming calendar year (2024) only for the provisioning, maintenance and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Communications Act.

I am authorized to make this certification on behalf of the Guam Public Utilities Commission. This certification is for study area 663800 for the Territory of Guam.

Dated this 31st day of August, 2023.



Jeffrey C. Johnson
Chairman
Guam Public Utilities Commission

Guam Public Utilities Commission



**To: Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554**

**Irene M. Flannery
Vice-President – High Cost & Low Income Division
Universal Service Administration Company
2000 L Street, N.W. Suite 200
Washington, DC 20036**

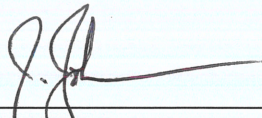
**RE: CC Docket 96-45/WC Docket No. 10-90 – Annual State-Certification of
Support for Eligible Telecommunications Carriers Pursuant to 47 C.F.R.
§54.314**

Pursuant to the requirements of 47 C.F.R §54.314, the Guam Public Utilities Commission hereby certifies to the Federal Communications Commission and the Universal Service Administrative Company that Teleguam Holdings, LLC, f/k/a Pulse Mobile, LLC, is eligible to receive federal high-cost support for the program years cited.

The Guam Public Utilities Commission certifies for Teleguam Holdings, LLC, f/k/a Pulse Mobile, LLC, that all federal high cost support provided to such carrier within Guam was used in the preceding calendar year (2022) and will be used in the coming calendar year (2024) only for the provisioning, maintenance and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Communications Act.

I am authorized to make this certification on behalf of the Guam Public Utilities Commission. This certification is for study area 669003 for the Territory of Guam.

Dated this 31st day of August, 2023.



Jeffrey C. Johnson
Chairman
Guam Public Utilities Commission

Guam Public Utilities Commission



**To: Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554**

**Irene M. Flannery
Vice-President – High Cost & Low-Income Division
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2000 L Street, N.W. Suite 200
Washington, DC 20036**

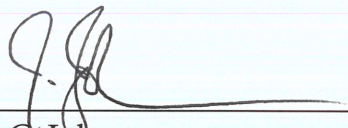
**RE: CC Docket 96-45/WC Docket No. 10-90 – Annual State-Certification of
Support for Eligible Telecommunications Carriers Pursuant to 47 C.F.R.
§54.314**

Pursuant to the requirements of 47 C.F.R §54.314, the Guam Public Utilities Commission hereby certifies to the Federal Communications Commission and the Universal Service Administrative Company that PTI Pacifica Inc. is eligible to receive federal high-cost support for the program years cited.

The Guam Public Utilities Commission certifies for PTI Pacifica Inc. that all federal high-cost support provided to such carrier within Guam was used in the preceding calendar year (2022) and will be used in the coming calendar year (2024) only for the provisioning, maintenance and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Communications Act.

I am authorized to make this certification on behalf of the Guam Public Utilities Commission. This certification is for study area 669004 for the Territory of Guam.

Dated this 31st day of August, 2023.



Jeffrey C. Johnson
Chairperson
Guam Public Utilities Commission

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:) GPA Docket 23-09
)
The Application of the Guam Power)
Authority Requesting Approval to Adjust) **ORDER**
the Power Pole Attachment Rate.)
)
_____)



INTRODUCTION

This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Petition of the Guam Power Authority ["GPA"], and the STIPULATION of the Parties hereto, for an Adjustment to the Power Pole Attachment Rate.¹ The Parties request that Power Pole Attachment Rate be adjusted by \$1.80 per pole per year over the next five years, from \$6.00 to \$15.00. This Docket is a companion docket to GTA Docket 09-04 and resolves issues that were first addressed therein.

JURISDICTION

The PUC is empowered to establish the rates and charges for services for the Guam Power Authority. 12 GCA §12105(e); all rates and charges must be "just and reasonable", and "shall be filed with the Commission." No rate, charge or assessment shall be modified without the "prior approval of the Commission." 12 GCA §12116(a).

¹ GPA Petition to Adjust the Power Pole Attachment Rate, GPA Docket 23-09, dated February 16, 2023; STIPULATION IN SUPPORT OF GPA'S FEBRUARY 6, 2023 PETITION, dated August 15, 2023, and attached hereto as Exhibit "1".

BACKGROUND

1. On October 30, 2009, GTA Teleguam LLC ["GTA"] filed a complaint alleging that GPA was assessing rates or charges for pole attachments without a formal tariff, in violation of 12 GCA §§12109 and 12015(a).² The Complaint also alleged that the rates charged by GTA for pole attachments were discriminatory.
2. "Pole attachments" are "wires, cables, antenna's, or other equipment usually owned by private company that is attached to a pole owned by GPA."³
3. On January 31, 2011, the PUC issued an Order which established an "interim pole attachment rate" to be charged by GPA to all telecommunications companies in the amount of \$6.00 per attachment per year.⁴ The "interim pole attachment rate" was "binding", "until such time is a permanent pole attachment rate is set by the PUC."⁵
4. The PUC kept GTA Docket 09-04 "open" to conduct further proceedings as stipulated to by the parties. Such proceedings were required to be scheduled "upon the FCC's revision of its pole attachment rate..."⁶
5. GPA's Petition in the present docket indicates that the Federal Communications Commission updated the pole attachment rate in 2015.⁷ The FCC established

² GTA Formal Complaint, GTA Docket 09-04, filed October 30, 2009, at p. 1.

³ Id.

⁴ PUC Order, GTA Docket 09-04, dated January 31, 2011, at p. 2.

⁵ Id.

⁶ Id.

⁷ GPA Petition at p. 1.

formulas for determining pole attachment rates for cable and telecommunications attachments. The attachment rate per attachment for the “Telecom Formula” is \$17.13 per year; the “Cable Formula” is \$14.82 per year per attachment.⁸

6. At the PUC conference between GPA and the Telecom companies on August 11, 2023, GPA CFO John Kim indicated that GPA selected the less expensive “cable formula” rather than the “telecom formula” to apply to attachments to its poles.⁹

DETERMINATIONS

7. Since 2011, the Commission, GPA, and the telecom parties have been aware that the FCC would establish permanent pole attachment rates. There was a common understanding that the rate enacted in 2011 was only an “interim” rate.
8. The parties have expended time and effort to negotiate a reasonable charge for permanent pole attachment rates. Although GPA had requested in its Petition that the annual rate for pole attachments be increased from \$6.00 per year to \$15.00 per year over a three-year period, all parties have ultimately agreed that the pole attachment rate per attachment may be increased over a period of five years at the rate of \$1.80 per year.
9. A true and correct copy of the parties’ STIPULATION IN SUPPORT OF GPA’S FEBRUARY 6, 2023 PETITION is attached hereto as Exhibit “1”. The five-year

⁸ UFS (Utility Financial Solutions, LLC), Pole Attachments, Rate Calculations, dated March, 2022 and attached to GPA’s Petition.

⁹ Conferences was conducted by the ALJ with GPA and the telecom companies on June 20, 2023, and August 11, 2023, at the PUC Office.

schedule for the implementation of the \$1.80 per year increases commenced immediately upon execution of the STIPULATION by all parties.

10. A table prepared by USF indicated the number of pole attachments that each telecom company has, and the monthly increase projected for a \$3.00 increase in the first year attached to the ALJ Report as Exhibit "2". The annual increases will now be spread out over five years rather than three years. Over the five-year period, for example, the charge for Docomo Pacific will increase from the current monthly amount of \$12,500.00 to \$31,250.00.
11. Based upon the FCC determinations, the increase to \$15.00 per attachment per year is consistent with the standard that the FCC established for the cable formula rate. The proposed pole attachment rate appears to be "just and reasonable" pursuant to 12 GCA §12116(a).

ORDERING PROVISIONS

After careful review and consideration of the above determinations, the Report and Recommendations of the ALJ, the Stipulation, and the record herein, for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY ORDERS THAT:**

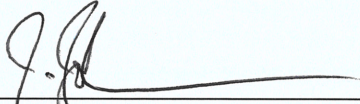
1. The Stipulation of the parties, attached hereto as Exhibit "1", is approved, effective August 24, 2023.
2. The Power Pole Attachment Rate adopted herein shall be adjusted by \$1.80 per pole attachment per year over the next five years, from \$6.00 to \$15.00.

3. The pole attachment rate adopted herein shall be binding upon the parties to the Stipulation and upon all other companies which presently have, or subsequently will have attachments on GPA poles.
4. GPA 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 PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

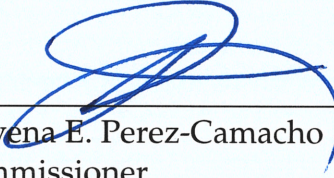
[SIGNATURES TO FOLLOW ON NEXT PAGE]

Order
Approval to Adjust the
Power Pole Attachment Rate
GPA Docket 23-09
August 31, 2023

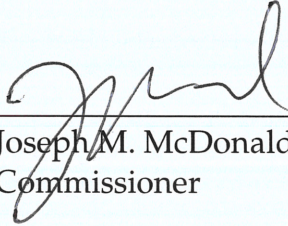
Dated this 31st day of August 2023.



Jeffrey C. Johnson
Chairman



Rowena E. Perez-Camacho
Commissioner

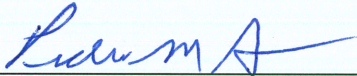


Joseph M. McDonald
Commissioner

Michael A. Pangelinan
Commissioner

Peter Montinola
Commissioner

Doris Flores Brooks
Commissioner



Pedro S.N. Guerrero
Commissioner

BEFORE THE PUBLIC UTILITIES COMMISSION

**IN RE: PETITION FOR APPROVAL)
TO INCREASE THE AMOUNT)
OF AWARD FOR GPA'S)
PHYSICAL SECURITY)
PROOF OF CONCEPT BY)
GUAM POWER AUTHORITY.)**

GPA DOCKET 23-15

ORDER



INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the July 24, 2023 Petition (hereinafter referred to as the “Petition”) for approval to increase the amount of the award for its contract with Sheffield Scientific, LLC (“Sheffield”) related to GPA’s Physical Security Proof of Concept.¹

On August 28, 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

Back in 2020, GPA issued GPA RFP-RFP-20-007², which sought services of a contractor to provide a Physical Security Proof of Concept relating to the review, design and build-out to increase the physical security for certain GPA sites.³ Thereafter, GPA determined that Sheffield, who submitted a bid of \$996,670.00, was the most qualified bidder who met the requirements of

¹ Petition, p. 1.

² GPA-RFP-19-007 was later re-issued as GPA-RFP-20-007. On April 14, 2020, the closing date for the RFP was put on hold due to the COVID-19 pandemic.

³ GPA Resolution No. FY2022-11, issued by the Consolidated Commission on Utilities (“Resolution No. FY2022-11”), p. 1 (Feb. 22, 2022).

the solicitation.⁴ In GPA Resolution No. FY2022-11, the Consolidated Commission on Utilities (hereinafter referred to as the “CCU”) approved the contract award to Sheffield, for an amount of \$996,670.00, and authorized bond funding for the review, design, and project management of the Physical Security build-outs.⁵ Five (5) sites were identified for this project, which included GPA’s Talofoto Plant, Harmon Substation, Umatac Substation, Fadian Office, and Piti Substation.⁶

With regard to the build-outs, in GPA Resolution No. FY2022-11, the CCU approved an additional amount of \$500,000.00, and authorized bond and revenue funds for the Physical Security build-outs, specifically for access controls, communications, video surveillance, electronic locks, fencing, intrusion detection systems, perimeter lighting and other solutions.⁷ Accordingly, the cost of the contract increased to \$1,496,670.00.⁸

According to GPA, as a result of supply chain issues caused by the pandemic, the project experienced some delays that have increased the initial cost estimates and timely delivery of equipment and materials, resulting further in the delay of the build-outs.⁹ In Resolution No. FY2023-15, the CCU authorized GPA to extend the term of the contract, and to expend an additional \$350,000.00, authorizing a total of \$1,846,670.00 for the subject contract.¹⁰

⁴ Resolution No. FY2022-11, p. 1.

⁵ Resolution No. FY2022-11, p. 1.

⁶ Resolution No. FY2022-11, p. 2.

⁷ Resolution No. FY2022-11, p. 2.

⁸ Resolution No. FY2022-11, p. 2.

⁹ GPA Resolution No. FY2023-15, issued by the CCU (“Resolution No. FY2023-15”), p. 2 (Apr. 3, 2023).

¹⁰ Resolution No. FY2023-15, p. 2.

A. GPA's Contract Review Protocol

Pursuant to 12 G.C.A. §12105, GPA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC's express approval. Additionally, pursuant to GPA's current Contract Review Protocol, "[a]ll professional services contracts in excess of \$1,500,000" and "[a]ll externally funded loan obligations and other financial obligations such as . . . bonds . . . and any use of said funds" "shall require prior PUC approval" Contract Review Protocol, PUC Administrative Docket No. ADM 00-04, p. 1 (Feb. 15, 2008). GPA is seeking PUC review and approval of this contract since the additional build-out costs will increase the total cost of the contract over \$1.5 million.

B. Scope of Work, Contract Term, Cost and Funding

Based on the scope of work, the contractor is tasked with designing ways to restrict access to GPA's facilities for safety and security purposes, such as access card systems, smart locks, the use of security personnel; alarm systems for monitoring entry into the facilities; perimeter alarm systems; surveillance; guards; barriers that prohibit entry of vehicles; lighting that provides visibility for optimal CCTV functionality; roving and fixed security personnel; security surveys and other risk assessments, just to name a few. The physical security sought under the contract must protect against intruders who, *inter alia*, intend on damaging or tampering substation or facility equipment and controls; stealing or damaging substation equipment, material, or information; threatening the safety of GPA and GWA personnel or customers; and terrorist acts, as examples.

As indicated above, the cost of the build-outs increased the contract to 1,496,670.00,¹¹ specifically for access controls, communications, video surveillance, electronic locks, fencing, intrusion detection systems, perimeter lighting and other solutions.¹² However, the new cost for equipment, materials, and labor has now increased the contract to \$1,846,670.00.¹³ The CCU has authorized both bond and revenue bonds to cover the cost of this contract.¹⁴

C. GPA's Request and Status of the Build-Out Construction

GPA is requesting PUC approval for its contract with Sheffield since the total price of the contract will increase from \$1,496,670 to \$1,846,670. The additional \$350,000 will continue to fund the physical security build-outs, which is nearing completion. According to GPA, as a result of supply chain issues caused by the pandemic, the project experienced some delays that have increased the initial cost estimates and timely delivery of equipment and materials, resulting further in the delay of the build-outs.¹⁵ In Resolution No. FY2023-15, the CCU authorized GPA to extend the term of the contract, and to expend an additional \$350,000.00, authorizing a total of \$1,846,670.00 for the subject contract.¹⁶

As of last month, the build-outs were ongoing and almost complete. The additional \$350,000.00 requested herein is to cover the added costs to complete the project. Specifically, according to GPA, the majority of the increase in costs is related to project management and

¹¹ Resolution No. FY2022-11, p. 2.

¹² Resolution No. FY2022-11, p. 2.

¹³ Resolution No. FY2023-15, p. 2.

¹⁴ Resolution No. FY2023-15, p. 2.

¹⁵ GPA Resolution No. FY2023-15, issued by the CCU ("Resolution No. FY2023-15"), p. 2 (Apr. 3, 2023).

¹⁶ Resolution No. FY2023-15, p. 2.

increase in labor. The due date for the project was originally set for October of 2022; however, due to the effects of the pandemic and supply chain issues, the cost of the materials increased and the timeline of the project management team was also extended.

Moreover, GPA has made it a priority to better the physical security of its facilities. According to GPA, the subject sites are vulnerable to trespass, with no current capability to monitor these sites.

CONCLUSION AND RECOMMENDATION

Based on the documentation provided, the ALJ found that the subject contract is necessary, and that the costs and terms referred to herein are reasonable and prudent. As indicated by GPA, the physical security of GPA's assets and facilities are critical to its daily operations.¹⁷ Additionally, the ALJ found that it is undoubtedly an island-wide security issue to protect GPA's facilities in order to protect its power-generation facilities from threats of damage, tampering, vandalism, theft, and even terrorist activities, most especially during these times where generation capacity is crucial and limited. Overlooking this need may risk potentially threatening the public health, welfare and safety of the island.

Based on the documentation provided by GPA in this docket, and for the other reasons set forth herein, the ALJ recommended that the PUC approve GPA's contract with Sheffield, at a total cost of \$1,846,670.00.

The Commission hereby adopts the findings in the August 28, 2023 ALJ Report and therefore issues the following.

¹⁷ Petition, p. 1.

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 GPA is authorized to amend its contract with Sheffield Scientific, LLC, to expend a total amount not to exceed \$1,846,670.00.

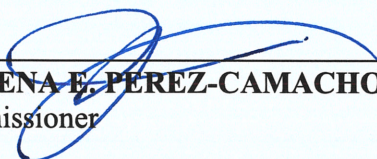
2. GPA is ordered to pay the PUC's regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with this matter. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12103(b) and 12125(b), and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

[SIGNATURES TO FOLLOW ON NEXT PAGE]

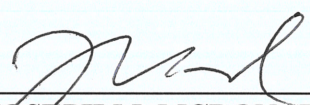
SO ORDERED this 31st day of August, 2023.



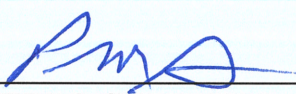
JEFFREY C. JOHNSON
Chairman



ROWENA E. PEREZ-CAMACHO
Commissioner



JOSEPH M. MCDONALD
Commissioner



PEDRO GUERRERO
Commissioner

MICHAEL A. PANGELINAN
Commissioner

PETER MONTINOLA
Commissioner

DORIS FLORES BROOKS
Commissioner

P233020.JRA

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:) GPA Docket 23-21
)
GUAM POWER AUTHORITY BUCKET)
TRUCKS) **ORDER**
)
)
_____)



INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Petition of the Guam Power Authority ["GPA"] for Approval to Purchase Ten (10) Bucket Trucks (six 55-foot and four 65-foot reach trucks) for up to \$5,000,000.00, to Support daily T & D Functions and Future Typhoon/Storm Recovery Operations.¹
2. GPA requests that the PUC approve GPA's purchase of ten bucket trucks for up to \$5M, and then authorize GPA to issue a procurement for the trucks.²

BACKGROUND

3. GPA makes this request for the purchase of additional bucket trucks after its response experience during the post-typhoon Mawar restoration and recovery.
4. GPA claims that the recovery after typhoon Mawar was the "fastest ever" in history, but still contends that it still needs additional bucket trucks to shorten the period for future typhoon restoration and recovery.³

¹ GPA Petition for PUC Approval of the Purchase of Ten Bucket Trucks, GPA Docket 23-21, filed August 18, 2023.

² Id. at p.3.

³ Id. at p.1.

5. At present, GPA has 27 bucket trucks of varying reach, from 35ft. to 120 ft.⁴ Of these bucket trucks, 7 are presently “down”.⁵ GPA has not indicated whether the “down” bucket trucks can be repaired.
6. 16 of the 27 bucket trucks were purchased from 2016 to the present.⁶ During the typhoon Mawar restoration, GPA indicates that it “used 20-30 bucket trucks throughout the recent restoration efforts which included the 9 to 12 additional bucket trucks provided on loan by FEMA and the Navy.”⁷
7. GPA admits that it received substantial support and several bucket trucks provided to it by outside entities during the typhoon recovery. It received support through the local Navy for 100’ and 115’ reach bucket trucks. Navy and its contractor DZSP provided five 55’ reach bucket trucks. GPA also received 5 of 8 bucket trucks requested from FEMA.⁸
8. GPA already has, or will shortly have, two new bucket trucks which are not included in the ten bucket trucks which it now seeks to purchase. By Purchase Order 31399, dated December 19, 2022, and signed by the GPA General Manager on March 16, 2023, GPA already ordered two 45’ bucket trucks from Morrico Equipment LLC. Delivery was expected by July 2023.⁹

⁴ GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No. 1.

⁵ Id.

⁶ Id.

⁷ GPA Petition at p. 2.

⁸ GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No.4.

⁹ Id. at No. 3, Attachment 2.

9. GPA claims that it now requires “6 additional 55-foot reach and four additional 65-foot reach bucket trucks.”¹⁰
10. GPA believes that these “10 trucks will improve equipment availability due to maintenance and unavoidable equipment down time and will be readily available to support imminent and future post storm and disaster recovery.”¹¹
11. GPA provides two basic justifications for the purchase of additional bucket trucks: (1) the availability of additional bucket trucks will further reduce restoration times, reduce GPA’s revenue loss, commercial business disruption, and customer suffering and frustration;¹² and (2) the purchase of additional bucket trucks will enable Guam to better address restoration during future typhoons. On June 29, 2023, the NOAA National Weather Service issued NOAA’s Western North Pacific Tropical Cyclone (TC) Outlook for the remainder of 2023, indicating that “Guam will likely see above-normal tropical cyclone activity based on the shift of El Nino from their prediction studies.”¹³
12. In GPA Resolution No. FY2023-23, the Guam Consolidated Commission on Utilities authorized GPA General Manager to petition the PUC for approval to procure 10 bucket trucks “estimated **up to \$5M...**”.¹⁴

¹⁰ GPA Petition at p. 2.

¹¹ GPA Petition at p. 2.

¹² GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No. 6.

¹³ Id. at No. 10, Attachment 7.

¹⁴ GPA Petition at Exhibit B-01-B-03, GPA Resolution No. FY2023-23, Relative to the Approval to Purchase Bucket Trucks.

13. The Administrative Law Judge ["ALJ"] filed his Report herein dated August 27, 2023.¹⁵ The PUC adopts the recommendations and conclusions in the ALJ Report.

DETERMINATIONS

GPA'S REQUEST FOR APPROVAL OF THE PURCHASE OF TEN BUCKET TRUCKS AND THE ISSUANCE OF A PROCUREMENT IS PREMATURE UNTIL GPA FIRST DETERMINES WHETHER IT WILL PURCHASE THE FIVE FEMA BUCKET TRUCKS.

14. In its Petition, GPA has proposed two different, and procedurally divergent, options for the purchase of bucket trucks. The first is a purchase of the 5 bucket trucks which FEMA loaned to GPA during the typhoon recovery: "GPA is presently discussing with FEMA the purchase option for the 5 bucket trucks that were provided during the typhoon restoration. This is an option for acquisition."¹⁶
15. In accordance with 48 U.S. Code §1469e-Insular government purchases, and 5 GCA §5122, GPA may be able to make the bucket truck purchases from FEMA through the federal General Services Administration. Supplies may be procured from the United States when the cost to the GSA is less by ten percent (10%) than from other contractors.¹⁷
16. As a second option, remaining bucket trucks not purchased through FEMA could be solicited through an Invitation for Bid which would be open to local vendors.¹⁸

¹⁵ ALJ Report, GPA Docket 23-21, dated August 27, 2023.

¹⁶ GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No. 1.

¹⁷ 5 GCA §5122

¹⁸ Id.

17. GPA has referenced the possibility that it would purchase 5 bucket trucks from FEMA, which were used in the Mawar restoration, at a cost of \$395,400.00 each:
“GPA requested FEMA for a purchase option of bucket trucks as they are still in good condition and are readily available.”¹⁹
18. Attachment 4 indicates that the Federal Contracts Corp. has already given GPA a price quote for 5 bucket trucks at a price of \$395,400.00 each. These trucks are on island and would require no delivery time.²⁰
19. GPA is presently unclear as to whether it will be able to purchase these FEMA bucket trucks: “Trucks are presently on island **pending decision on purchase.**”²¹
20. GPA should first determine whether it plans to purchase the bucket trucks from FEMA before it requests PUC to authorize a procurement for 10 additional trucks at an “up to”\$5M cost. If it purchases 5 bucket trucks from FEMA, GPA will not need to procure ten additional trucks through a procurement. Also, the cost for the FEMA bucket trucks will not be \$500,000 each, or up to a \$5M total. For 5 trucks, the cost will be \$395,400.00 each. PUC should not authorize a procurement of ten bucket trucks or \$5M in expenditure, when the number of trucks needed and the cost will potentially be reduced by a purchase of the FEMA trucks.

¹⁹ GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No. 3., Attachment 4.

²⁰ Id.

²¹ Id.

21. If GPA reaches an agreement to purchase the 5 bucket trucks from FEMA, it can then request PUC approval for the purchase of those trucks and further request that PUC approve a procurement if GPA believes that additional bucket trucks are still needed. GPA's request for approval would then properly "limit the purchase of bucket trucks based on quantity or cost."²²
22. PUC should not approve a procurement for bucket trucks until GPA determines how many trucks it will need to procure. It should not approve a cost for the trucks until the cost is vetted through offerors in a procurement process. GPA's requested relief is premature; the PUC should defer consideration of this matter until GPA decides whether it will purchase the FEMA bucket trucks.

**IT WOULD BE INCONSISTENT WITH THE GPA CONTRACT REVIEW
PROTOCOL FOR PUC TO APPROVE A CONTRACT PRICE FOR BUCKET
TRUCKS UNTIL THERE HAS FIRST BEEN A PROCUREMENT AWARD AND
A REQUEST THAT THE PUC APPROVE THE AWARD/PRICE.**

23. GPA is asking the PUC to approve in advance an expenditure of \$5M, at \$500,000 per bucket truck, before any procurement has even been undertaken.
24. Ordinarily, under the Contract Review Protocol, the PUC would not give final approval of the purchase of a specific number of goods or the price until GPA has undertaken a procurement. Once the procurement is issued, GPA will receive competitive prices from offerors. The normal process has been that GPA will initially seek approval from the PUC to issue a procurement for goods or services. It is appropriate for GPA to submit price estimates for the goods when it requests

²² GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No. 12.

authorization to issue a procurement from the PUC.²³ However, the PUC does not issue approval for a specific price until the procurement is completed.

25. After a procurement is completed, GPA would then come back to the PUC for approval of an award for the number of trucks requested and the specific price of the contract/award. The Contract Review Protocol requires PUC approval, after a procurement, of any contract or obligation that requires approval under paragraph 1 of the Review Protocol.²⁴
26. Here GPA is requesting PUC approval of a price for as much as \$5,000,000 before there has been a bid or offer by a company as to the number of bucket trucks to be purchased or the price.
27. The PUC should not give advance approval of a price for the bucket trucks. At present the prices estimated for the bucket trucks vary widely. During the post-Mawar recovery, a 2022 Terex TC 55 Bucket Truck, with working height of 60ft., was quoted by a local company at \$337,440.00²⁵ GPA also indicates that it has received a recent quote from FEMA for 5 bucket trucks that were used by GPA during the restoration at \$395,400.00 each.²⁶ As previously was mentioned, GPA has either received, or should soon receive, two 45ft. reach bucket trucks at a cost of \$487,499 each.²⁷

²³ Contract Review Protocol for Guam Power Authority, Administrative Docket, approved February 15, 2008, at par.7(iv).

²⁴ Id. at par. 8.

²⁵ GPA Petition at Exhibit A-01-A-14.

²⁶ GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No. 3.

²⁷ Id.

28. The purpose of a procurement is to establish a reasonable price for requested goods based upon the lowest price of the most responsive and responsible bidder. PUC should not approve a price for the bucket trucks until GPA makes an award.

**AT THE PRESENT TIME THERE ARE UNRESOLVED ISSUES AS TO
WHETHER GPA HAS JUSTIFIED THE PURCHASE OF ADDITIONAL BUCKET
TRUCKS.**

29. GPA admits that it was “able to perform restoration work with resources on hand.”²⁸ GPA’s presentation does not establish that it had an insufficient number of bucket trucks for the recovery.

30. Part of GPA’s justification for additional bucket trucks is based upon the opinion of NOAA that there will be “above-normal tropical cyclone (TC) activity for the remainder of 2023” for Guam.²⁹ However, even if GPA issues a procurement now, there is no likelihood that there will be an additional bucket trucks available before the end of 2023. For its Bucket Truck Order 31399-OP, GPA indicates that delivery was expected “**27 months after order.**”³⁰ Elsewhere, GPA indicates that past purchases of bucket trucks indicate a delivery time requiring “**over 12 months.**”³¹

31. After PUC issued its Request for Information, GPA prepared a “simple” cost-benefit analysis based upon an average availability of 25 trucks. GPA claims that if it had an additional 10 trucks, the restoration period would have been reduced from 50

²⁸ GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No.6.

²⁹ GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No.10, Attachment 7.

³⁰ GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No.3, Attachment 2.

³¹ GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No.12.

days to 30 days (a reduction of the recovery period by 20 days, at a 2-day reduction in the recovery period for each of the ten additional bucket trucks).³²

32. There is no logical nexus or correlation between the number of bucket trucks available and the period that the recovery takes. There could be a myriad of other factors affecting the period of recovery, including the varying need for utilization of bucket trucks in a particular storm, how many truck operators are available, the character, location, and accessibility of damaged lines, damage to parts of the power system other than lines, such as generation plants, substations, or transformers, the area(s) of the island most affected by a typhoon, and inability to clear lines of vegetation, etc.
33. Without more empirical evidence, the hypothesis that more bucket trucks will automatically shorten recovery time, or by a two-day period per additional truck, is not proven and should not be accepted.
34. In the cost-benefit analysis, GPA also claims that purchase of 10 additional bucket trucks would produce a benefit worth three time the cost.³³ However, for “avoided cost”, GPA has estimated a “value of service”, which is a very subjective estimate of the worth to customers for avoiding outages. For its proof of a cost-benefit, GPA relies upon a study, “FEMA Technical Feasibility, Cost and Benefits of Underground Conversion of Selected Transmission & Distribution Lines-Guam” (ICF Consulting,

³² GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No. 8, Attachment 5.

³³ Id. at Attachment 5.

dated August 14, 2003.”³⁴ It should be noted that the study is somewhat outdated, but also that the true subject of the study’s inquiry is the costs and benefits of the underground conversion of transmission and distribution lines, not the cost-benefit of the purchase of additional bucket trucks.

35. Most of the “avoided cost” assumed by GPA is for outages resulting from a typhoon. However, the study itself indicates: “the Utilities universally found that the longer the outage, the lower the VOS. This makes sense, since customers find ways to adapt to the lack of electricity over time, and many of the damages (e.g., spoiled food, lost productions lines) would happen in the first few hours or day, and not continue to grow on a linear basis. In our study we have reflected this by distinguishing between an outage from a typhoon lasting up to two weeks, and one lasting two weeks or more.” The actual daily revenue loss that would be recovered by the purchase of new bucket trucks is far less than the cost of the bucket trucks.³⁵

ORDERING PROVISIONS

After review of the record herein, including GPA’s Petition for Approval of GPA’s Request to Procure and Purchase Bucket Trucks, and the ALJ Report, 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 defers action on GPA’s Petition for approval of the purchase of, or the price for, ten bucket trucks, and issuance of a procurement on the ground

³⁴ Id. at Attachment 5A (FEMA Technical Feasibility, Cost and Benefits of Underground Conversion of Selected Transmission & Distribution Lines-Guam” (ICF Consulting, dated August 14, 2003, at Appendix 1, Value of Electric Service (VOS).

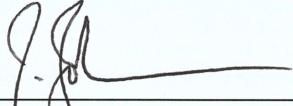
³⁵ Id. at p. 96.

that approval would be premature until GPA first determines whether it will seek to purchase the five FEMA bucket trucks.

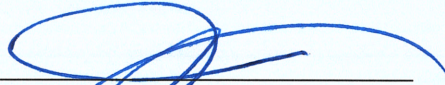
2. If GPA intends to purchase the 5 FEMA bucket trucks, it can further apply to the PUC for approval of such purchase and, if necessary and justified, request a procurement for additional bucket trucks.
3. If GPA cannot purchase the FEMA bucket trucks, it can also then again request that the PUC approve GPA's issuance of a procurement.
4. GPA 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 PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

Dated this 31st day of August 2023.



Jeffrey C. Johnson
Chairman



Rowena E. Perez-Camacho
Commissioner

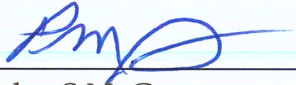


Joseph M. McDonald
Commissioner

Michael A. Pangelinan
Commissioner

Peter Montinola
Commissioner

Doris Flores Brooks
Commissioner



Pedro S.N. Guerrero
Commissioner

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:) GWA Docket 23-06
)
REQUEST BY THE GUAM)
WATERWORKS AUTHORITY FOR) **ORDER**
APPROVAL TO REALLOCATE A)
PORTION OF GWA'S SERIES A BOND)
PROCEEDS)
_____)

INTRODUCTION

This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Petition of the Guam Waterworks Authority ["GWA"] for PUC Approval to reallocate a Portion of GWA's Series 2020A, 2016, and 2013 Bond Proceeds.¹

The objective of the bond proceeds reallocation is to provide additional funding for the District Court Ordered repair, rehabilitation, reallocation, and construction of the reservoir/tank projects, and to perform "newly prioritized inspection and replacement design of water and sewer utilities crossing bridges to prevent critical failures, such as the Pago Bay Bridge water line failure."² GWA's management seeks to reallocate \$11,893,376.94 of the 2020A Bond Proceeds from projects which can be deferred to a later date, or which have alternate funding sources.³

Of the total reallocation, \$10,993, 376.94 would be for the reservoir/tank projects and \$900,000.00 for the water and sewer utilities crossing bridges.⁴

¹ GWA Petition for Approval to Reallocate a Portion of GWA's Series 2020A Bond Proceeds, GWA Docket 23-06, filed August 4, 2023.

² Id. at Exhibit B-02.

³ Id. at p. 3 and Exhibit B-02; see also GWA's Response to PUC Requests for Information, GWA Docket 23-06, filed August 16, 2023, at pgs. 5-6, RFI No. 13 and 14.

⁴ Id. at Exhibit B-05.

BACKGROUND

On March 26, 2020, in GWA Docket 20-03, the PUC approved GWA's petition to issue up to \$134,000,000 in water and wastewater system revenue bonds primarily for the financing of new capital projects.⁵ After certain deductions from the bond proceeds for various bond funds, the net amount of the bonds available for Capital Improvement Projects was \$103,672,000.00.⁶

In GWA Docket 22-09, GWA requested that bond funds be reallocated from certain projects in the amount of \$30,425,000 to "PW09-11 Water System Reservoirs 2005 improvements". This is the same reservoir/tank projects for which GWA seeks to allocate additional funds in the present docket.

When GWA first issued the Series 2020A Bonds, it anticipated that \$25M of the total 2020A Bond proceeds would be allocated to the reservoir/tank projects.⁷ In GWA Docket 22-09, the PUC approved the reallocation of \$30,425,000 to the reservoir/tank projects, which increased the total allocation for the water reservoirs/tanks to \$56,127,005.⁸

In this Docket, if the PUC approves the reallocation of \$10,993,376.94 from the bond proceeds to reservoirs/tanks, the total amount of 2020A bond proceeds allocated to reservoirs/tank projects out of the net available funds of \$103,672,000.00, would be

⁵ Id. at p. 1.

⁶ ALJ Report, GWA Docket 22-09, dated September 24, 2022, at p. 2.

⁷ GWA Petition for Approval to Reallocate a Portion of GWA's Series A Bond Proceeds, GWA Docket 22-09, filed September 16, 2022, at Exhibit A-11.

⁸ Id. at Exhibit "B".

roughly \$67,120,381.00. The present current balance in the PW09-11 Water Reservoir 2005 Improvements CIP account would be \$62,284,417.49.⁹

The overall significance of the reservoirs/tank projects in the scheme of GWA bond financing cannot be underestimated. In 2013, in Public Law No. 32-069, the Guam Legislature authorized the issuance of additional GWA Bonds for Court-Ordered projects in the amount of \$450,000,000.00. Bond issuances were undertaken in 2013, 2016, and 2020. \$153.4M of that amount was authorized for the repair and rebuilding of all GWA water storage tanks island wide.¹⁰ \$130,083,170.00 has been approved for water storage tanks to date.¹¹

The Guam Consolidated Commission on Utilities, in GWA Resolution No. 28-FY2023, adopted and approved May 30, 2023, approved the reallocation of \$11,893,376.94 of 2020A Bond proceeds from various CIP line items to the CIP line items PW 09-11 “Water System Reservoirs 2005 Improvements and MP-PW-Pipe “Rehabilitation and Replacement Program”.¹²

The Administrative Law Judge [“ALJ”] filed his Report in this Docket dated August 21, 2023. The PUC adopts the conclusions and recommendations stated therein.

DETERMINATIONS

A. Review of the Request for Reallocation of Bond Funds

⁹ GWA Petition at Exhibit B-05.

¹⁰ Public Law No. 32-69, Section 1, enacted November 5, 2013.

¹¹ GWA’s Response to PUC Requests for Information, GWA Docket 23-06, filed August 16, 2023, at pgs. 1-2, RFI No. 3.

¹² GWA Petition at Exhibit B-01 through Exhibit B-05.

Pursuant to GWA's Contract Review Protocol, all externally funded loan obligations and other financial obligations, such as lines of credit, bonds, etc., in excess of \$1,000,000.00, **and any use of such funds, must be approved by the PUC.**¹³

In Section 3 of the PUC Order in GWA Docket 20-03, dated March 26, 2020, "any reprogramming of Projects and/or associated proceeds of the 2020 Bonds for other projects shall be subject to prior Commission approval."¹⁴

B. The Bond Reallocation is necessary to enable GWA to complete the substantial amount of remaining work that must still be undertaken on the reservoir/tank projects.

GWA indicates that it has completed a majority of the Court Ordered compliance requirements with respect to the Repair, Rehabilitation, Relocation or Replacement of GWA's water storage reservoirs. However, "notwithstanding these achievements, 13 reservoirs to be constructed, replaced and rehabilitated remain outstanding to date."¹⁵ There are "three remaining concrete reservoirs" for which construction procurements "are near final and repairs for several of the ten existing steel reservoirs are in progress or are pending scheduled inspections."¹⁶

GWA has received bids for the construction of the new tank projects and subsequent finalization of construction contracts for these projects require fund certification.¹⁷ "The remaining tanks requiring rehabilitation and repair are being inspected and assessed to

¹³ Contract Review Protocol for Guam Waterworks Authority, Administrative Docket 00-04, p. 1.

¹⁴ GWA Petition at Exhibit A-03.

¹⁵ Id. at p. 3.

¹⁶ Id.

¹⁷ GWA Petition at Exhibit B-01 [Guam Consolidated Commission on Utilities, GWA Resolution No. 28-FY2023, adopted and approved May 30, 2023].

finalize the scope and cost for repair and rehabilitation projects; the projects will be authorized as required to meet the current Court Order requirements pending fund certification.”¹⁸

C. GWA presently has insufficient funding to complete the Reservoir/Tank projects.

Because the \$25M amount allocated for the reservoir/tank projects in the original 2020 bond issuance was not sufficient to complete the projects, GWA had to request allocation of an additional \$30M in reallocation from the Series 2020A Bond Proceeds in GWA Docket 22-09. To complete the projects, GWA has now been compelled to request an additional nearly \$11M in reallocation of funds.

As was previously determined by the PUC in GWA Docket 22-09, the costs for construction, repair, replacement and rehabilitation of GWA’s remaining reservoir projects have significantly increased in recent years. Over the past few years, the PUC has noted the same trend towards increasing costs regarding Port Authority of Guam and Solid Waste CIP projects. As the PUC has often seen regarding costs for capital improvement projects, escalated costs have resulted primarily from inflation, worldwide increases in fuel and oil, and Guam’s limited construction market supply which has greatly increased construction demand locally. “All of the above have and still require GWA to request approval to reallocate available bond funding away from wastewater and other projects to adequately fund the court-ordered tank projects.”¹⁹

D. GWA will secure additional bond funding for the Reservoir/Tanks projects by deferring several non-Court-Ordered projects in the current CIP plan.

¹⁸ Id.

¹⁹ Id. at pgs. 2-3.

Attached to the ALJ Report as Exhibit “A” is the “Bond Reallocation Schedule” proposed by GWA in Guam Consolidated Commission on Utilities Resolution 28-FY2023.²⁰ The schedule indicates that there are proposed bond fund reductions from several projects, including the 2-inch Pipe Replacement Program, Well Piping and Rehabilitation programs, Water Wells, and PRV Rehab and Replacement.

GWA indicates that funding for these deferred CIP projects will need to be obtained through future capital financing sources.²¹ Therefore, this reallocation will likely cause GWA’s CIP “to need adjustment to reflect the required movement of funding.”²² In addition, not all six of the listed projects from which funds are being reallocated are being deferred, as most have alternate funding sources or work is being done under related projects.²³

GWA does not anticipate that the deferment of CIP projects for the reservoir/tank projects will cause any detriment or harm to GWA or its ratepayers.²⁴

E. GWA also seeks to reallocate bond funding from various water line projects to perform newly prioritized inspection and replacement design of water and sewer utilities crossing bridges, to prevent critical failures, such as the Pago Bay Bridge water line failure.

²⁰ Exhibit A hereto is Exhibit B-05 attached to GWA’s Petition.

²¹ GWA Petition at Exhibit B-02.

²² Id. at Exhibit B-03.

²³ GWA’s Response to PUC Requests for Information, GWA Docket 23-06, filed August 16, 2023, at p. 5, RFI No. 13.

²⁴ Id.

GWA management now seeks to reallocate funding from various water line projects in the amount of \$900,000.00 for “MP-PW-Pipe 12 Rehabilitation and Replacement Program.” The purpose is to inspect and replace water and sewer facilities crossing bridges to prevent critical failures.

In its Response to PUC Requests for Information, GWA has presented a more detailed explanation of the need to inspect and replace water and sewer facilities crossing bridges:

“The recent failure of the pipe suspended underneath the Pago Bay Bridge has highlighted the poor condition of exposed pipes at bridge crossings throughout the island, the challenges faced by GWA crews to safely make timely repairs to these crossings, and criticality of these crossings to be able to provide reliable service to the island proves the project essential. Several of these crossings need immediate attention for design and rehabilitation, and the remaining need corrective and preventative attention before they deteriorate to the point of needing immediate attention.”²⁵

The total estimated cost to fund the water and sewer bridge utility inspections and design is expected to be \$1,232,909.00.²⁶

GWA also does not believe that deferral of CIP projects for the MP-PW-Pipe 12 “Rehabilitation and Replacement Programs” will cause any detriment or harm to GWA or its ratepayers.²⁷

ORDERING PROVISIONS

Upon consideration of the record herein, the Petition of GWA for Approval to Reallocate a Portion of GWA’s Series 2020A, 2016, and 2013 Bond Proceeds, the ALJ

²⁵ Id. at p. 4, RFI No. 10.

²⁶ Id. at p. 5, RFI No. 12.

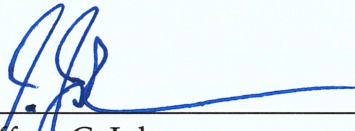
²⁷ Id. at pgs. 5-6, RFI No. 14.

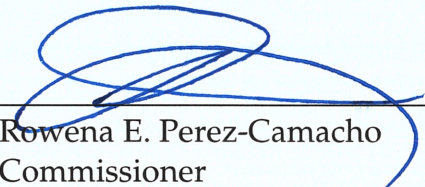
Report, and for good cause shown, on motion duly made, seconded, and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby **ORDERS** that:

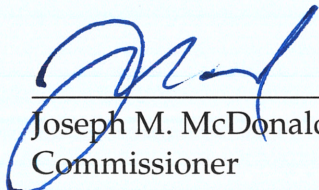
1. The reallocation of \$10,993,376.94 of the GWA's Series 2020A, 2016, and 2013 Bond Proceeds, from various deferred CIP line items identified in Exhibit "A", to increase funding for the CIP line item for PW09-11 "Water System Reservoirs 2005 Improvements", and \$900,000.00 for CIP line item for "MP-PW-Pipe 12" Rehabilitation and Replacement Program", from the deferred line items indicated in Exhibit "A" to the ALJ Report, and as requested in the GWA Petition, is approved.
2. 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 PUC's regulatory fees and expenses are authorized pursuant to 12 GCA §§12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

Dated this 31st day of August 2023.



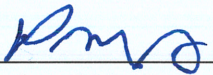
Jeffrey C. Johnson
Chairman

Rowena E. Perez-Camacho
Commissioner

Joseph M. McDonald
Commissioner

Michael A. Pangelinan
Commissioner

Peter Montinola
Commissioner

Doris Flores Brooks
Commissioner

Pedro S.N. Guerrero
Commissioner

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



RE: PETITION TO CREATE A NEW) GWA DOCKET 23-08
AND SPECIFIC RATE)
CLASSIFICATION FOR)
WASTEWATER DISCHARGE) ORDER
FOR LEACHATE)
_____)

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (hereinafter referred to as the “PUC” or the “Commission”) pursuant to the Petition to Create a New and Specific Rate Classification for Wastewater Discharge for Leachate filed by the Guam Waterworks Authority (“GWA”) on July 6, 2023 (the “Petition”).

On August 30, 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

Back in 2011, the PUC was tasked by the District Court of Guam, in U.S. v. Government of Guam, Civil Case No. 02-00022, “to set the rate for the treatment of leachate from the Layon Landfill” Order, U.S. v. Government of Guam, Civil Case No. 02-00022, p. 4 (Dec. 8, 2011). Thereafter, GWA Docket 12-01 was established to specifically allow the Commission to investigate and examine the rate requested by the District Court of Guam. Subsequently, upon the proposal by Guam Solid Waste Authority’s (“GSWA”) receiver, Gershman Brickner & Bratton (“GBB”), and GWA, the

PUC approved an interim rate of \$14.19 per 1,000 gallons (kgal), which corresponded with the wastewater sewer rate for Commercial 3. *See* PUC Order, GWA Docket 12-01, pp. 2-4 (Mar. 26, 2012). In those proceedings, GWA indicated that it would reserve its right to conduct a Cost of Service study with respect to the rate, in order to formulate one that better reflects GWA's cost of treating the leachate. PUC Order, GWA Docket 12-01, p. 2 (Mar. 26, 2012). Since that time, GWA has been applying the wastewater sewer rate for Commercial 3 for handling the leachate.

On May 10, 2023, the District Court of Guam held a Status Hearing in Civil Case No. 02-00022, United States of America v. Government of Guam. There, the District Court raised the issue of GSWA's efforts in obtaining a GWA rate for leachate treatment. The court thereafter directed GBB, to work with GWA to promptly resolve this issue. Order After Hearing, U.S. v. Government of Guam, Civil Case No. 02-00022, p. 2 (May 18, 2023).

A. The PUC's Authority to Regulate Rates

Guam law provides that "[t]he Commission shall have regulatory oversight supervision of rates" as set forth under Guam's Public Utilities Commission and Telecommunications Act of 2004. 12 G.C.A. §12105.

Guam law further provides that "[n]o rate change may be approved by the Commission unless it is affirmatively established, by a preponderance of the evidence, that a rate change is necessary." 12 G.C.A. §12105. In addition, all rates and charges shall be just and reasonable. 12 G.C.A. §§12116, 12118. "[N]o rate change or charge for any

public utility shall become effective without the approval of the Commission.” 12 G.C.A. §12126.

B. GWA’s Request for New Landfill Leachate Rate

In its Petition, GWA requests authorization to reclassify the wastewater disposal rate currently applied to solid waste facilities from a Commercial 3 rate to a specific leachate disposal rate.¹ According to GWA, if approved by the PUC, the new rate will be much lower, specifically \$14.72 per kgal, as compared to the current Commercial 3 rate of \$28.92 per kgal. GWA submits however, that this new rate, while much lower than the current rate, aligns with the cost of providing the service.² In support of its request, GWA has submitted a Stipulation, executed by GWA, GSWA, the Government of Guam, and the federally appointed receiver, GBB, which endorses the application of the new leachate rate.

C. Cost of Service Analysis

Pursuant to the rate proceedings in GWA Docket 19-08, GWA submitted to the PUC a Cost of Service Analytical Study on May 15, 2021 (hereinafter referred to as the “COSA Study”). As part of this study, GWA’s consultants, FG Solutions, a sub-consultant to Brown and Caldwell, performed a wastewater cost of service analysis, which broke down GWA’s wastewater system service components.

According to the COSA Study, “[t]he service characteristics used in the wastewater COSA are related to wastewater flow, biochemical oxygen demand (BOD), total

¹ Petition, p. 5.

² Petition, p. 5.

suspended solids (TSS),³ customer, and administration.”⁴ “BOD and TSS are measured parameters in wastewater that [Wastewater Treatment Plants] are designed to remove. The amount of BOD and TSS in wastewater is one factor that determines the cost to build, operate, and maintain wastewater system infrastructure, particularly at WWTPs.”⁵

In its study, GWA’s consultants determined that a new customer class, “Landfill Leachate,” is more appropriate because while Leachate is currently charged as Commercial, landfill leachate “has lower TSS than commercial wastewater.”⁶ Accordingly, a new stand-alone rate should be applied to this customer class.⁷ And according to the COSA Study, the leachate rates (under Commercial 3) “collect more than the leachate cost of service.”⁸

Based on these findings, along with the directives given by the District Court of Guam in U.S. v. Government of Guam, Civil Case No. 02-00022, GWA has submitted its proposal for a cost-of-service rate for leachate disposal. According to GWA, its leachate disposal rate is determined by dividing the **total cost for the service** by the **wastewater flow**. Based on this analysis, the cost of GWA performing the function of disposing

³ “BOD is the amount of dissolved oxygen needed by aerobic biological organisms to break down organic material present in a water sample at a certain temperature over a specific time period. TSS is a water quality parameter representing the quantity of material suspended in a known volume of water that is trappable in a filter.” COSA Study, p. 2-6.

⁴ COSA Study, p. 2-6.

⁵ COSA Study, p. 2-6.

⁶ COSA Study, p. 3-14.

⁷ “There are two leachate customers, the Ordot Landfill and the Layzon [*sic*] landfill. Both landfills are connected to the collection system via a pipe, where the leachate is transported to a wastewater treatment plant.” COSA Study, p. 3-14.

⁸ COSA Study, p. 3-18.

leachate, which GWA has calculated as \$327,305 for FY2023, divided by a projected wastewater flow of 22,239.5 kgal, is \$14.72 per kgal.⁹ According to GWA, based on its projections for FY2024 under the Commercial 3 rate, the resulting leachate rate assessed would be around \$36.73 per kgal.¹⁰

D. Stipulation

As indicated above, GWA, GSWA, GBB (the receiver), and the Office of the Attorney General (on behalf of the Government of Guam), have entered into a Stipulation, which was filed in this docket. The Stipulation expressly authorizes the following: that GWA implement a new and specific leachate rate for leachate disposal, effective no sooner than July 31, 2023; and that GWA implement and assess the proposed specific leachate disposal rate of \$14.72 per kgal, effective no sooner than July 31, 2023, and allow for any rate relief (beginning FY2025) that may be recommended to the PUC in rate applications or annual true-up reviews.¹¹

In addition, while arguably not required in this instance,¹² the Stipulation further waives the PUC's Ratepayers' Bill of Rights notice requirements, found at 5 G.C.A. §12102.2, indicating that the proposed rate changes solely affect GSWA as the present and

⁹ Petition, pp. 6-8.

¹⁰ Petition, p. 8.

¹¹ Stipulation, p. 1.

¹² The provisions of the Ratepayers' Bill of Rights expressly applies to "rate increases." In 12 G.C.A. §12102.1, the Guam Legislature stated that it shall be "abundantly clear that no Public Utility shall submit a proposal for a **rate increase** without first giving the people of Guam more than ample opportunity to exercise their fundamental rights as ratepayers. Those fundamental rights of the ratepayers include: (1) the right to receive clear and adequate notice of any proposed rate increase; (2) the right to be fully informed about and to fully evaluate any proposed rate increase, as well as the finances of a Public Utility; and (3) the right to give input and participate in any proposed rate increase." 12 G.C.A. §12102.1(b) (emphasis added).

single ratepayer for leachate disposal in GWA's wastewater collection system.¹³ The Stipulation further noted that an issue regarding a potable water leak, which contributed to an increase in leachate, would be investigated and resolved at a later time.¹⁴

E. Proposed Rate Is Just, Reasonable, and Necessary

Based on this record, the new rate and rate classification proposed by GWA, with the consent of GSWA, GBB, and the Government of Guam, is just, reasonable, and necessary because a new, stand-alone Landfill Leachate rate more appropriately and correctly attempts to capture and reflect GWA's cost in performing the function of disposing leachate, which the Commercial 3 rate did not. As identified above, Landfill Leachate "has lower TSS than commercial wastewater."¹⁵ The leachate rate (under Commercial 3) collects "more than the leachate cost of service."¹⁶ The new rate class of Landfill Leachate, along with the proposed rate for GWA's disposal of such landfill leachate at \$14.72 per 1,000 gallons, therefore, should be implemented as petitioned by GWA, and that the Commercial 3 rate should no longer be assessed for this particular service.

CONCLUSION

Upon full consideration of the record herein, especially in light of the Stipulation between GSWA, GBB, the Government of Guam, and GWA, the ALJ found that the new

¹³ Stipulation, p. 1.

¹⁴ Stipulation, p. 1.

¹⁵ COSA Study, p. 3-14.

¹⁶ COSA Study, p. 3-18.

rate class of Landfill Leachate, along with the proposed rate for GWA's disposal of such Landfill Leachate at \$14.72 per 1,000 gallons, is just, reasonable, and necessary.

Accordingly, the ALJ recommended that the PUC approve the new GWA wastewater rate classification and rate fee.

The Commission hereby adopts the findings in the August 28, 2023 ALJ Report and therefore issues the following.

ORDERING PROVISIONS

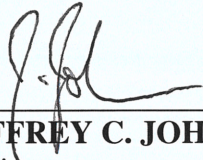
Upon careful consideration of the record herein, and for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS the following:

1. That the instant Petition is hereby APPROVED; and that GWA is authorized to reclassify its current leachate disposal rate from Wastewater "Commercial 3" facility rate, to "Landfill Leachate," which shall be set at \$14.72 per 1,000 gallons, effective August 1, 2023.


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.

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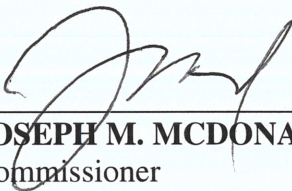
SO ORDERED this 31st day of August, 2023.



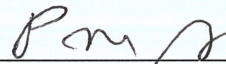
JEFFREY C. JOHNSON
Chairman



ROWENA E. PEREZ-CAMACHO
Commissioner



JOSEPH M. MCDONALD
Commissioner



PEDRO GUERRERO
Commissioner

MICHAEL A. PANGELINAN
Commissioner

PETER MONTINOLA
Commissioner

DORIS FLORES BROOKS
Commissioner

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PUBLIC UTILITIES COMMISSION OF GUAM



Jeffrey C. Johnson
Chairman

Peter B. Montinola
Vice Chairman

Commissioners
Joseph M. McDonald
Michael A. Pangelinan
Rowena E. Perez-Camacho
Doris Flores-Brooks
Pedro Guerrero

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Post Office Box 862
Hagåtña, Guam 96932
Telephone: (671) 472-1907
Fax: (671) 472-1917
Email: info@guampuc.com

Lourdes R. Palomo
Administrator

Colleen Nichole S. Chlarson
Administrator Assistant

Frederick J. Horecky
Chief Administrative Law Judge

Joephet R. Alcantara
Administrative Law Judge

Anthony R. Camacho
Legal Counsel

RESOLUTION NO. 23-03

RELATIVE TO RETENTION OF CONSULTANTS, LEGAL COUNSEL, AND ADMINISTRATIVE LAW JUDGE FOR THE GUAM PUBLIC UTILITIES COMMISSION

WHEREAS, the Guam Public Utilities Commission ("PUC") is an autonomous instrumentality independent of the Executive and Legislative Branches of the Government of Guam;

WHEREAS, the PUC has the authority to retain consultants pursuant to 12 GCA Section 12103 (a), which provides that "[T]he Commission shall retain on an as needed basis those professional services required by the Commission in the performance of its duties.";

WHEREAS, the PUC finds that it is in the public interest to retain consultants through a transparent and fair procurement process;

WHEREAS, the PUC has a need to retain the services of professional consultants to provide it with advice and other consulting services with regard to regulation of utilities, including water (GWA), power (GPA), the Port (PAG), telecommunications companies (GTA and other telecom companies), and solid waste (GSA);

WHEREAS, the PUC also has a need to retain professional consultants such as Administrative Law Judges and Legal Counsel to assist in the processing of its workload;

WHEREAS, the existing consulting agreements of the PUC either have expired or will expire by the end of September, 2023; and

WHEREAS, the PUC has issued RFP Nos. 001-FY2023, 002-FY2023, 003-FY2023, 005-FY2023, and 006-FY2023 to procure the services of Consultants, Legal Counsel, and Administrative Law Judges;

WHEREAS, upon conducting a fair process and upon due and proper evaluation of the offerors and their respective qualifications, the Commissioners have selected, as the most qualified offerors: Daymark Energy Advisors, Concentric Energy Advisors, and Georgetown Consulting Group Inc., and Marianas Consulting Group LLC as Power/Water Consultants; MSW Consultants as Solid Waste Consultant; Aslan Consulting, LLC as Port Authority Consultant; Anthony Camacho as Legal Counsel; and Joephet Alcantara as Administrative Law Judge;


WHEREAS, the PUC has now negotiated contracts with each of the selected Offerors, and the PUC and such Offerors have agreed to contract terms and pricing;

NOW THEREFORE, in due consideration of the above recitals and for good cause shown, the PUC hereby resolves that:

1. The Consulting Services Agreements with Daymark Energy Advisors, Concentric Energy Advisors, Georgetown Consulting Group Inc., and Marianas Consulting Group, LLC. for water/power are hereby approved;
2. The Consulting Services Agreement with MSW Consultants for solid waste is hereby approved;
3. The Consulting Services Agreement with Aslan Consulting LLC. for the Port Authority is hereby approved;
4. The Consulting Services Agreement with Anthony Camacho for Legal Counsel is hereby approved;
5. The Consulting Services Agreement with Joephet Alcantara for Administrative Law Judge is hereby approved;
6. The Chief Administrative Law Judge is further instructed to prepare Notices of Final Award to the selected applicants, which shall be issued by the PUC Administrator.

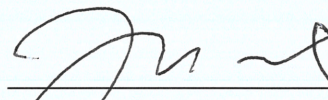
SO ORDERED this 31st day of August, 2023.

Dated: August 31, 2023



JEFFREY C. JOHNSON
Chairman

Dated: August 31, 2023



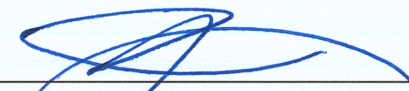
JOSEPH M. MCDONALD
Commissioner

Dated: J August 31, 2023



DORIS FLORES BROOKS
Commissioner

Dated: August 31, 2023



ROWENA E. PEREZ-CAMACHO
Commissioner

Dated: August 31, 2023



MICHAEL A. PANGELINAN
Commissioner

Dated: August 31, 2023



PETER MONTINOLA
Commissioner

Dated: August 31, 2023



PEDRO S.N. GUERRERO
Commissioner

PUBLIC UTILITIES COMMISSION OF GUAM



Jeffrey C. Johnson
Chairman

Peter B. Montinola
Vice Chairman

Commissioners
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Administrator Assistant

Frederick J. Horecky
Chief Administrative Law Judge

Joepheth R. Alcantara
Administrative Law Judge

Anthony R. Camacho
Legal Counsel

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

RESOLUTION NO. 23-04

RE: APPROVAL OF FY2023 EMPLOYMENT AGREEMENT FOR PUC ADMINISTRATOR

Whereas, the Guam Public Utilities Commission ("PUC") is an autonomous instrumentality within the Government of Guam;

Whereas, pursuant to 12 GCA §12103, the PUC has the authority to employ administrative staff personnel for the conduct of Commission business;

Whereas, for a period of twenty (21) years Lourdes R. Palomo has served as Administrator of the Commission;

Whereas, the Commission is satisfied with the services rendered by the Administrator;

Whereas, the Commission previously determined that the PUC Administrator should be hired as an employee pursuant to 12 GCA §12103;

Whereas, the PUC and the Administrator desire that the PUC Administrator be hired under an Employment Agreement, a true and correct copy of which is attached to this Resolution;

Whereas, Ms. Palomo has diligently applied herself to the duties; and has spearheaded the project to scan 34,000 historical records of the Commission (thereby saving the Commission the cost of outsourcing this project), and has successfully set up the program to live broadcast PUC Meetings;

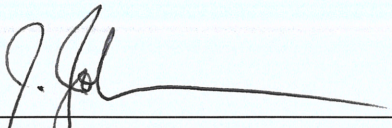
NOW THEREFORE, in due consideration of the above recitals and for good cause shown, the PUC hereby resolves that:

1. The PUC is authorized to hire Lourdes R. Palomo as an employee of the Guam Public Utilities Commission for a term of one year (FY2024);
2. The Employment Agreement attached hereto is approved.
3. The salary of Ms. Palomo as Administrator for the term of the employment Agreement shall be Sixty-Six Thousand Dollars (\$66,000.00).
4. The Administrator's base salary is \$60,000.00. The total salary includes a payment for Health and Welfare Benefits of \$6,000.00. The Guam Federal Wage Determination standards recommends that compensation for Health & Welfare Benefits be included in an employee's salary where such benefits (i.e., health insurance and others) are not provided to the employee. The PUC is unable to provide health insurance or retirement benefits to the Administrator.
5. During the term of the Employment, all terms and conditions of said Agreement between the PUC and Ms. Palomo shall fully remain in effect and shall govern the respective relations of the parties.
5. The Chairman is authorized to sign all documents necessary to effectuate the above referenced agreement.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

DULY AND REGULARLY ADOPTED ON THIS 31st DAY OF AUGUST, 2023.

Dated: August 31, 2023



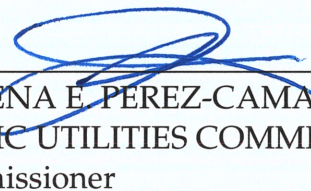
JEFFREY C. JOHNSON
PUBLIC UTILITIES COMMISSION
Chairman

Dated: August 31, 2023



JOSEPH M. MCDONALD
PUBLIC UTILITIES COMMISSION
Commissioner

Dated: August 31, 2023



ROWENA E. PEREZ-CAMACHO
PUBLIC UTILITIES COMMISSION
Commissioner

Dated: August 31, 2023



MICHAEL A. PANGELINAN
PUBLIC UTILITIES COMMISSION
Commissioner

Dated: August 31, 2023



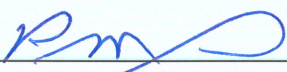
PETER MONTINOLA
PUBLIC UTILITIES COMMISSION
Commissioner

Dated: August 31, 2023



DORIS FLORES BROOKS
PUBLIC UTILITIES COMMISSION
Commissioner

Dated: August 31, 2023



PEDRO S.N. GUERRERO
PUBLIC UTILITIES COMMISSION
Commissioner

EMPLOYMENT AGREEMENT

This Agreement is entered into effective October 1, 2023, by and between between the Guam Public Utilities Commission [Commission], a public corporation and autonomous instrumentality of the government of Guam, and Lourdes R. Palomo [Employee], whose mailing address is P.O. Box 399, Hagatna, Guam 96932.

WITNESSETH:

WHEREAS, 12 GCA § 12103 empowers the Commission to employ administrative staff personnel for the conduct of Commission business; and

WHEREAS, Employee desires to be employed by the Commission as its PUC Administrator; and

WHEREAS, Employee has previously served in the position of PUC Administrator for 21 years (since 2002) in a contractual capacity and for two years in an employment capacity; and

WHEREAS, the Commission has been satisfied with the past services rendered by the Administrator; and

WHEREAS, it is the desire of the parties that Lourdes R. Palomo be employed as PUC Administrator;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the adequacy of which is acknowledged by both parties, the Commission and Employee agree as follows:

1. *Scope of Work.*

The Commission hereby hires Employee to serve as its Administrator. Employee will operate the Commission's office during its office hours [8:00 a.m.-5:00 p.m. Monday through Friday, excluding Government of Guam holidays] and such additional hours as may be required to attend to Commission business. Employee shall undertake her duties with her best efforts and will not accept or engage in any employment outside of the services of the Commission. Employee shall be responsible for the day-to-day operations of the Commission, subject to the supervision and control of the Commission's Chairman and the Commission. Her duties will include, but not be limited to:

- (a) To ensure that the Commission's office is open and operational during its office hours;
- (b) To supervise other employees or administrative staff of the Commission;
- (c) To receive and file all documents submitted to the Commission, and to take appropriate action for the processing of such documents;
- (d) To handle incoming inquiries and requests from all members of the public or representatives of the utilities and to assure that such matters are handled by her or other Commission personnel;
- (e) To undertake any tasks necessary to the operation and maintenance of the Commission office;
- (f) To undertake accounting and bookkeeping, or to ensure that said functions are performed by authorized Commission personnel/contractors;
- (g) To maintain and update the Commission's website, with the assistance of the Commission's webmaster;
- (h) To undertake efforts to scan and digitize Commission files and documents;
- (i) To provide administrative and secretarial service to the Commission;
- (j) To arrange and coordinate Commission meetings and hearings, and to ensure that such meetings are properly broadcasted in accordance with law; and
- (k) To perform such other duties as may be assigned to her by the Commission or its authorized representatives.

2. Compensation.

- (a) Employee shall receive salary in the amount of \$66,000.00 per annum, which shall be paid by the Commission in bi-weekly installments on the 15th and last day of each month.
- (b) All salary paid to Employee shall be less all amounts required by law or authorized in writing by Employee to be withheld or deducted.

3. Employee Benefits.

- (a) The Commission is unable to provide retirement or health insurance benefits; however, Employee's salary includes compensation to Employee for health and welfare benefits.
- (b) Employee shall be entitled to three weeks paid vacation during the term of this Agreement.
- (c) Employee shall be provided with appropriate training.

(d) Employee agrees that her employment is not Government of Guam employment, and that there is no insurance coverage provided by the government, participation in the Government of Guam retirement system, accumulation of vacation leave or sick leave, or other benefits not specifically provided herein.

4. *Term.*

The term of this Agreement shall be for one year, and it may be extended upon the mutual agreement of the parties for additional one-year periods.

5. *Termination.*

Employee shall serve at the Commission's pleasure and may be terminated at will upon thirty (30) days prior written notice.

6. *Employee's Duties on Termination.*

In the event of termination of employment with Employer for any reason, Employee agrees to deliver promptly to Employer all equipment, notebooks, documents, memoranda, reports, files, samples, books correspondence, lists, or other written or graphic records, and the like, relating to the Commission's business, which are or have been in her possession or under her control.

7. *Law Governing Agreement.*

This agreement is to be interpreted and enforced in accordance with the laws of Guam.

8. *Severable Provisions.*

If any provision of this agreement shall be deemed by a court of competent jurisdiction to be invalid, then such provision shall be deemed stricken from the agreement and the agreement shall be enforced according to its valid and subsisting terms and provisions.

9. *Notices.*

Any notices required to be given hereunder by the Commission to the Employee may be affected either by personal delivery in writing or by email to Employee's

email address at the Commission. Any notices required to be given hereunder by the Employee to the Commission may be affected by personal delivery to the Chairman and the ALJ or by email to the Chairman and the ALJ.

10. Attorney's Fees and Costs.

If any action at law or in equity is necessary to enforce or interpret the terms of this agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which she may be entitled.

11. Containment of Entire Agreement Herein.

This agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the employment of the Employee by the Commission and contains all of the covenants and agreements between the parties with respect to such employment in any manner whatsoever. Each party to this agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not contained in this agreement. No statement or promise not contained in this agreement shall be valid or binding. Any modification of this agreement will be effective only if it is in writing signed by the party charged.

12. CERTIFICATE OF EMPLOYEE. THE EMPLOYEE CERTIFIES TO THE COMMISSION THAT SHE HAS READ THE FOREGOING AGREEMENT AND THAT SHE FULLY UNDERSTANDS ITS TERMS AND CONDITIONS, AND FURTHER CERTIFIES THAT THE FOREGOING TERMS AND CONDITIONS CONSTITUTE HER ENTIRE AGREEMENT WITH THE COMMISSION, AND THAT NO PROMISES OR UNDERSTANDINGS OR REPRESENTATIONS HAVE BEEN MADE OTHER THAN THOSE STATED ABOVE. IT IS SPECIFICALLY AGREED BY THE PARTIES HERETO THAT THIS AGREEMENT SHALL BE SUBJECT TO MODIFICATION ONLY BY WRITTEN INSTRUMENT SIGNED BY THE PARTIES.

IN WITNESS WHEREOF, the parties have executed this agreement on the dates indicated by their respective names.

Dated: 9-1-23

EMPLOYEE

Lourdes R. Palomo

Lourdes R. Palomo

Dated: _____

THE COMMISSION

Jeffrey C. Johnson

By: It's Chairman Jeffrey C. Johnson

PUBLIC UTILITIES COMMISSION OF GUAM



Jeffrey C. Johnson
Chairman

Peter B. Montinola
Vice Chairman

Commissioners
Joseph M. McDonald
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Rowena E. Perez-Camacho
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Lourdes R. Palomo
Administrator

Colleen Nichole S. Chlarson
Administrator Assistant

Frederick J. Horecky
Chief Administrative Law Judge

Joephet R. Alcantara
Administrative Law Judge

Anthony R. Camacho
Legal Counsel

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

RESOLUTION NO. 23-05

AUTHORIZING THE CONVERSION OF THE EMPLOYMENT OF THE ADMINISTRATIVE ASSISTANT TO THE PUC ADMINISTRATOR FROM PART-TIME TO FULL TIME

WHEREAS, the Guam Public Utilities Commission ("PUC") is an autonomous instrumentality within the Government of Guam; and

WHEREAS, Commission is empowered, pursuant to 12 GCA §12103, to "employ administrative staff personnel for the conduct of Commission business"; and

WHEREAS, on June 16, 2022, the Commission previously authorized the hiring of Colleen N. Santos Chlarson on a part time basis as the Administrative Assistant to the PUC Administrator; and

WHEREAS, Ms. Chlarson has been employed in the part-time position of Administrative Assistant to the PUC Administrator since June 28, 2022; and

WHEREAS, the PUC is satisfied with the services provided by Ms. Chlarson; and

WHEREAS, Ms. Chlarson has diligently applied herself to learning the administrative tasks of PUC operations; and has performed her duties conscientiously; and

WHEREAS, the salary of Ms. Colleen N. Santos Chlarson is presently \$22,089.60 per year (based upon 1040 hours); with \$75.00 worth of gasoline per month for work related travel; and

NOW, THEREFORE, BE IT

RESOLVED, that the Guam Public Utilities Commission hereby approves the conversion of Ms. Colleen N. Santos Chlarson's position from part time to full-time as Administrative Assistant to the PUC Administrator; and

RESOLVED, that the present salary of Ms. Chlarson is a base salary at a rate of \$16.70 per hour and an add-on to the employee's salary for health and welfare benefits of \$4.54 per hour (using comparable federal wage determinations under Executive Order of the President of the United States 13706), a total of \$21.24 per hour; and

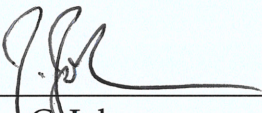
RESOLVED, that Ms. Chlarson should be granted a performance increase in her salary for the full-time position in the amount of \$1,000.00 for her employment services performed over the last year; and

RESOLVED, that the total annual employee salary shall be at a rate of \$21.72 per hour, for 2080 hours, per year, a total of \$45,177.60, and \$75.00 worth of gasoline per month for work related travel; and

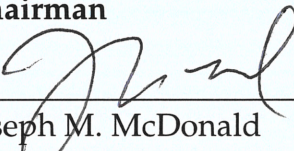
RESOLVED, the position of Administrative Assistant to the PUC Administrator shall become a full-time position effective October 1, 2023.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

DULY AND REGULARLY ADOPTED ON THIS 31st DAY OF AUGUST, 2023.

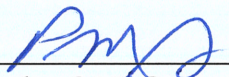


Jeffrey C. Johnson
Chairman

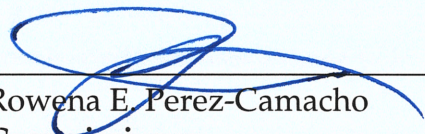


Joseph M. McDonald
Commissioner

Peter Montinola
Commissioner



Pedro S.N. Guerrero
Commissioner



Rowena E. Perez-Camacho
Commissioner

Michael A. Pangelinan
Commissioner

Doris Flores Brooks
Commissioner

EMPLOYMENT AGREEMENT

This Agreement is entered into effective October 1, 2023, by and between the Guam Public Utilities Commission [Commission], a public corporation and autonomous instrumentality of the government of Guam, and Colleen N. Santos Chlarson [Employee], whose mailing address is Post Office Box 7250, Agat, Guam 96928.

WITNESSETH:

WHEREAS, 12 GCA § 12103 empowers the Commission to employ administrative staff personnel for the conduct of Commission business; and

WHEREAS, Employee desires to be employed by the Commission as its Administrative Assistant to the PUC Administrator; and

WHEREAS, Employee has previously served in the part-time position of Administrative Assistant to the PUC Administrator for one year; and

WHEREAS, the Commission has been satisfied with the past services rendered by the Administrative Assistant to the Administrator; and

WHEREAS, it is the desire of the parties that and Colleen N. Santos Chlarson be employed as the full time Administrative Assistant to the PUC Administrator;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the adequacy of which is acknowledged by both parties, the Commission and Employee agree as follows:

1. *Scope of Work.*

The Commission hereby hires Employee to serve as its Administrative Assistant to the PUC Administrator. Employee will perform her duties at the Commission's office during its office hours [8:00 a.m.-5:00 p.m. Monday through Friday, excluding Government of Guam holidays] and such additional hours as may be required to attend to Commission business. Employee shall undertake her duties with her best efforts and will not accept or engage in any employment outside of the services of the Commission. Employee shall be under the direct supervision of the PUC Administrator. The Administrative Assistant shall perform such administrative tasks and duties as are assigned by the PUC Administrator, including but not limited to the following: answering phones, greeting members of the public and utility representatives, and handling and responding to their requests, receipt and filing of documents, typing **and** preparation of documents, filing, bookkeeping, running errands, reviewing incoming correspondence, receiving payments

and making bank deposits, and such other duties as are reasonably related to the operation of the PUC Office.

2. *Compensation.*

- (a) Employee shall receive salary in the amount of \$45,177.60 per annum, which shall be paid by the Commission in bi-weekly installments on the 15th and last day of each month.
- (b) All salary paid to Employee shall be less all amounts required by law or authorized in writing by Employee to be withheld or deducted.

3. *Employee Benefits.*

- (a) The Commission is unable to provide retirement or health insurance benefits; however, Employee's salary includes compensation to Employee for health and welfare benefits.
- (b) Employee shall be entitled to two weeks paid vacation during the term of this Agreement.
- (c) Employee shall be provided with appropriate training.
- (d) Employee shall receive \$75.00 worth of gasoline per month.
- (e) Employee agrees that her employment is not Government of Guam employment, and that there is no insurance coverage provided by the government, participation in the Government of Guam retirement system, accumulation of vacation leave or sick leave, or other benefits not specifically provided herein.

4. *Term.*

The term of this Agreement shall be for one year, and it may be extended upon the mutual agreement of the parties for additional one-year periods.

5. *Termination.*

Employee shall serve at the Commission's pleasure and may be terminated at will upon thirty (30) days prior written notice.

6. *Employee's Duties on Termination.*

In the event of termination of employment with Employer for any reason, Employee agrees to deliver promptly to Employer all equipment, notebooks, documents, memoranda, reports, files, samples, books correspondence, lists, or other written or

graphic records, and the like, relating to the Commission's business, which are or have been in her possession or under her control.

7. *Law Governing Agreement.*

This agreement is to be interpreted and enforced in accordance with the laws of Guam.

8. *Severable Provisions.*

If any provision of this agreement shall be deemed by a court of competent jurisdiction to be invalid, then such provision shall be deemed stricken from the agreement and the agreement shall be enforced according to its valid and subsisting terms and provisions.

9. *Notices.*

Any notices required to be given hereunder by the Commission to the Employee may be affected either by personal delivery in writing or by email to Employee's email address at the Commission. Any notices required to be given hereunder by the Employee to the Commission may be affected by personal delivery to the Chairman and the ALJ or by email to the Chairman and the ALJ.

10. *Attorney's Fees and Costs.*

If any action at law or in equity is necessary to enforce or interpret the terms of this agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which she may be entitled.

11. *Containment of Entire Agreement Herein.*

This agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the employment of the Employee by the Commission and contains all of the covenants and agreements between the parties with respect to such employment in any manner whatsoever. Each party to this agreement acknowledges that no representations, inducements, promises, or

agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not contained in this agreement. No statement, or promise not contained in this agreement shall be valid or binding. Any modification of this agreement will be effective only if it is in writing signed by the party charged.

12. *CERTIFICATE OF EMPLOYEE.* THE EMPLOYEE CERTIFIES TO THE COMMISSION THAT SHE HAS READ THE FOREGOING AGREEMENT AND THAT SHE FULLY UNDERSTANDS ITS TERMS AND CONDITIONS, AND FURTHER CERTIFIES THAT THE FOREGOING TERMS AND CONDITIONS CONSTITUTE HER ENTIRE AGREEMENT WITH THE COMMISSION, AND THAT NO PROMISES OR UNDERSTANDINGS OR REPRESENTATIONS HAVE BEEN MADE OTHER THAN THOSE STATED ABOVE. IT IS SPECIFICALLY AGREED BY THE PARTIES HERETO THAT THIS AGREEMENT SHALL BE SUBJECT TO MODIFICATION ONLY BY WRITTEN INSTRUMENT SIGNED BY THE PARTIES.

IN WITNESS WHEREOF, the parties have executed this agreement on the dates indicated by their respective names.

Dated: 9/1/2023

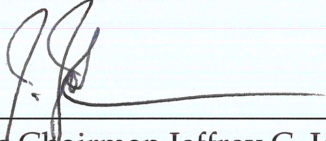
EMPLOYEE



Colleen Nichole S. Chlarson

Dated: _____

THE COMMISSION



By: It's Chairman Jeffrey C. Johnson

PUBLIC UTILITIES COMMISSION OF GUAM



Jeffrey C. Johnson
Chairman

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Vice Chairman

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Frederick J. Horecky
Chief Administrative Law Judge

Joseph R. Alcantara
Administrative Law Judge

Anthony R. Camacho
Legal Counsel

RESOLUTION NO. 23-06

RELATIVE TO EXTENSION OF ADMINISTRATIVE LAW JUDGE SERVICES AGREEMENT WITH THE GUAM PUBLIC UTILITIES COMMISSION

WHEREAS, the Guam Public Utilities Commission ("PUC") is an autonomous instrumentality independent of the Executive and Legislative Branches of the Government of Guam;

WHEREAS, the PUC has the authority to retain consultants pursuant to 12 GCA Section 12103 (a), which provides that "[T]he Commission shall retain **on an as needed basis** those professional services required by the Commission in the performance of its duties".

WHEREAS, Frederick J. Horecky ("Horecky") has served as PUC Counsel, Administrative Law Judge, and Chief Administrative Law Judge for the Commission during the last fifteen year period; and

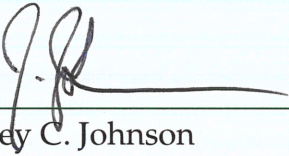
WHEREAS, the Administrative Law Judge Service Agreement with Horecky will terminate on September 31, 2023; and

WHEREAS, the PUC wishes to continue to retain Horecky's services as ALJ during a "transition period", to complete certain matters that he has already undertaken, including the GSWA Rate case, LNG matter involving GPA, LEAC and other matters, and to assure the PUC has adequate ALJ services to handle its workload;

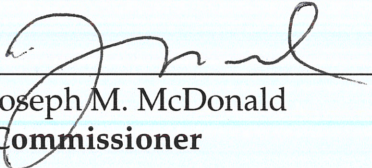
NOW THEREFORE, in due consideration of the above recitals and for good cause shown, the PUC hereby resolves that:

1. The services of current Administrative Law Judge Frederick J. Horecky are extended for a six-month period, commencing on October 1, 2023, and ending on March 31, 2024. Such services may be further extended, subject to mutual agreement of the parties.
2. Horecky's services after October 1, 2023, shall be governed by the same terms and conditions set forth in his existing Administrative Law Judge Services Agreement.
3. Horecky will not be required to undertake administrative duties for the Commission. However, the Commission, through its Commissioners and Staff, may consult Horecky on any matter and may assign him substantive work on rate cases, regulatory dockets, or other regulatory matters.

SO ORDERED this 31st day of August, 2023.

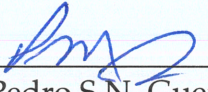


Jeffrey C. Johnson
Chairman

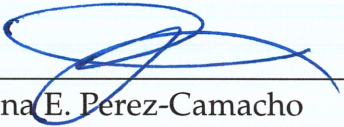


Joseph M. McDonald
Commissioner

Peter Montinola
Commissioner



Pedro S.N. Guerrero
Commissioner



Rowena E. Perez-Camacho
Commissioner

Michael A. Pangelinan
Commissioner

Doris Flores Brooks
Commissioner