

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:)	GPA Docket 11-12
)	
Guam Power Authority's Petition for)	
Contract Review of Renewable Energy)	PUC COUNSEL REPORT
Acquisition Pursuant to GPA's Integrated)	
Resource Plan)	
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INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Petition of the Guam Power Authority of ["GPA"] for contract review and approval of Amendments to the Quantum Guam Power, LLC ["Quantum"] Renewable Energy Purchase Agreement.¹

BACKGROUND

2. On December 19, 2011, the PUC approved the Quantum Guam Power and Pacific Green Resources solar/wind projects as renewable energy contracts, subject to the completion of the System Impact Study.²
3. On June 11, 2012, PUC found that the System Impact Study had been completed by GPA's Consultant R.W. Beck, and that Quantum Guam Power had accepted all terms and conditions thereof. The requirements for contract approval as set forth in the December 19, 2011 Order had been satisfied, and the renewable Energy Purchase Agreement between Quantum Guam Power LLC and the Guam Power Authority was given final approval by the PUC.³
4. With its present Petition, GPA has submitted a proposed "FIRST AMENDMENT TO RENEWABLE ENERGY PURCHASE AGREEMENT."⁴ Therein GPA proposes the following amendments: (1) that provisions be added to the contract providing for "Additional Production" by the solar plant, whereby Quantum would be able to produce an additional 4,000 MWh of renewable energy per contract year at an agreed upon price; (2) GPA would be authorized to pay an additional production price to Quantum, and such price would be included in the invoices provided by

¹ GPA Petition for Contract Review and Approval of Amendments to the Quantum Guam Power, LLC Renewable Energy Purchase Agreement, GPA Docket 11-12, filed January 9, 2013.

² PUC Order, GPA Docket 11-12, dated December 19, 2011.

³ PUC Order, GPA Docket 11-12, dated June 11, 2012.

⁴ Attachment to GPA Petition herein, GPA Docket 11-12, filed January 9, 2013.

Quantum to GPA; (3) any of seller Quantum's obligations under the Renewable Energy Purchase Agreement and the Interconnection Agreement could be performed by the Lessor, or any affiliate of Seller. Seller Quantum intends to be the Lessee of the solar power plant and the real property that would function as the site for the facility. Guam Solar Property LLC would develop and construct the facility, and then lease the facility to Seller Quantum so that Seller may sell renewable energy to GPA pursuant to the Power Purchase Agreement⁵; (4) Seller Quantum would not be required to obtain and maintain the insurance prescribed in Section 11.2 of the Power Purchase Agreement until such time as Seller, Lessor, or any affiliate or contractor of Seller is mobilized on the Project site to perform construction work on the Facility.⁶

5. The Guam Consolidated Commission on Utilities approved the amendments to the Quantum Guam Power LLC Renewable Energy Purchase Agreement by resolution dated December 12, 2012.⁷

ANALYSIS

6. The provision for "Additional Production" allows for the production of up to 4,000 MWh of renewable energy to be produced per contract year by the facility in excess of the Minimum Production for that Contract Year. The provision appears to be beneficial to GPA and ratepayers in that it allows GPA to obtain additional renewable energy at a cost which appears to be less than that for the Minimum Production under the contract.⁸
7. Other provisions amend the Purchase Agreement to allow Seller Quantum to provide and invoice such additional production, and for GPA to purchase such Additional Production per contract year from Quantum. These provisions are in the interest of both parties.
8. At a meeting between GPA Officials and Counsel on January 15, 2013, GPA explained that Quantum requested that it be allowed to be the lessee of the plant, and that Seller functions under the Purchase Agreement could be performed by Lessor Guam Solar Power LLC. According to Quantum, bank financiers require

⁵ First Amendment to Renewable Energy Purchase Agreement, attached to the Petition herein, filed January 9, 2013.

⁶ Id. at p. 3.

⁷ CCU Resolution No. 2012-83, issued December 12, 2012.

⁸ Price per MWh for the first contract year under the Renewable Energy Purchase Agreement is \$195.00 per MWh. For "Additional Production" under the First Amendment, the price is \$185.00 per MWh

that the ownership of the plant/property be in an entity separate from the Operator of the plant (which would be Quantum).⁹

9. Various provisions in the Agreements would be changed to allow a party other than Quantum to own the plant and to perform Quantum's obligations under the Purchase Agreement.. GPA's interests would appear to be protected, as "Seller shall remain liable to perform, or to cause to be so performed, all Seller obligations under the agreements and to cure any Seller default thereunder." It is reasonable to allow Seller's Affiliates or Lessor to perform Seller's obligations under the agreements. Seller is required to insure that Lessor or Seller's affiliate, as needed, will relinquish all of its right, title and interest in the Facility in the event that Buyer GPA exercises its right to purchase the Facility pursuant to Section 11.9 of the Power Purchase Agreement.¹⁰

10. The amendment regarding Insurance Requirements merely clarifies the time at which Seller Quantum is required to obtain and maintain insurance as prescribed in Section 11.2 of the Power Purchase Agreement. Such insurance is not required until Seller, Lessor, or any affiliate or contractor of Seller is mobilized on the Project site to perform construction work on the facility.¹¹ It is reasonable to clarify precisely when Seller must obtain insurance, and to only require such insurance when work on the project commences.

RECOMMENDATION

11. Counsel recommends that the PUC approve GPA's proposed amendments to the Quantum Guam Power, LLC Renewable Energy Purchase Agreement.

12. The proposed amendments will facilitate the development and implementation of the Quantum Solar Project and the provision of renewable energy to the consumers of Guam. The amendments are reasonable, prudent, and necessary.

13. A Proposed Order is submitted herewith for the consideration of the Commissioners.

Dated this 22nd day of January, 2013.

⁹ Meeting between Counsel and GPA Officials at GPA on January 15, 2013.

¹⁰ Id. at Section 6(b) of the First Amendment to Renewable Energy Purchase Agreement.

¹¹ Id. at Section 8.

PUC Counsel Report
Amendments to Quantum Guam Power
Renewable Energy Purchase Agreement
GPA Docket 11-12
January 22, 2013

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