

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF:** )  
**PETITION OF THE GUAM POWER** ) **GPA Docket 11-07**  
**AUTHORITY FOR REVIEW AND** ) **PUC COUNSEL REPORT**  
**APPROVAL OF AMENDMENT 1 TO THE** )  
**CONTRACT FOR SUPPLY OF FUEL OIL** )  
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**INTRODUCTION**

1. This matter comes before the Guam Public Utilities Commission [PUC] upon GPA's Petition for PUC Review and Approval of Amendment 1 to the Contract for Supply of Fuel Oil.

**BACKGROUND**

2. Petrobras Singapore Pte., Ltd. provides fuel oil to GPA.<sup>1</sup>
3. The present contract between GPA and Petrobras Singapore Pte., Ltd. does not expire until February 28, 2013.<sup>2</sup>
4. The Consolidated Commission on Utilities Resolution 2011-35 approved GPA's request for approval of Amendment 1 to the existing Fuel Oil Contract, and authorized it to seek the review and approval of the PUC.<sup>3</sup> A true and correct copy of Amendment 1 is attached to the GPA Petition for Contract Review.<sup>4</sup>
5. A major change proposed by Petrobras is in the calculation of the contract price for fuel oil.<sup>5</sup>

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<sup>1</sup> GPA Petition for Contract Review, GPA Docket No. 11-06 [renumbered to GPA Docket 11-08] filed on June 15, 2011, at p. 1.

<sup>2</sup> Id.

<sup>3</sup> Consolidated Commission on Utilities Resolution No. 2011-35, issued June 2, 2011, at p. 2.

<sup>4</sup> Amendment No. 1 to the Fuel Oil Supply Contract between the Guam Power Authority and Petrobras Singapore Pte., Ltd. attached to the GPA Petition for Contract Review.

<sup>5</sup> CCU Resolution No. 2011-35 at p. 1.

6. At present, GPA obtains the Singapore High Sulfur Fuel Oil Pricing from Platt's and converts price in \$/Metric Tons [MT] to \$/Barrels [bbl]. A constant conversion factor of 6.6bbls per MT is used.<sup>6</sup>
7. However, Petrobras indicates that the current method of calculation has caused it to incur additional and unwarranted expense of \$3,465,503 for the first contract year.<sup>7</sup>
8. Under the current calculation formula, the fixed conversion factor always remains constant at 6.6; however, in fact the conversion factor varies depending upon the "API Gravity" of the fuel.<sup>8</sup>
9. API Gravity is the measure of a fuel's density or weight per volume.<sup>9</sup>
10. The Conversion Factor increases as API increases.<sup>10</sup>
11. Historically, Petrobras has delivered RFO whose APIs are from 14 to 18 (CF=6.47 to 6.69).<sup>11</sup> When Petrobras provides fuel to GPA which has an API of less than 17, then the conversion Factor is less than 6.6.<sup>12</sup>
12. So, for example, for the period of April to November 2010, Petrobras absorbed an additional cost of \$1.987M because the actual conversion factor was 6.51, rather than the 6.6 required under the contract.<sup>13</sup>
13. Petrobras proposes to remedy this pricing problem by using \$/MT for pricing. Although such contract amendment will result in an annual loss of savings to GPA in the amount of \$2.527M, GPA appears to agree that the present pricing structure needs to be corrected ["...the proposal will **correct** the calculation of the contract price..."].<sup>14</sup>

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<sup>6</sup> PSPL Proposal, Analysis of Effects on Pricing, [Current Contract Information].

<sup>7</sup> Exhibit A to Consolidated Commission on Utilities Resolution No. 2011-35.

<sup>8</sup> PSPL Proposal, Analysis of Effects on Pricing [Fuel Characteristics].

<sup>9</sup> Id.

<sup>10</sup> PSPL Proposal, Analysis of Effects on Pricing [Fuel Characteristics].

<sup>11</sup> PSPL Proposal, Analysis of Effects on Pricing [Illustration].

<sup>12</sup> PSPL Proposal, Analysis of Effects on Pricing [Fuel Characteristics].

<sup>13</sup> PSPL Proposal, Analysis of Effects on Pricing [Historical PSPL Deliveries].

<sup>14</sup> Consolidated Commission on Utilities Resolution No. 2011-35, adopted June 7, 2011 at p. 1.

14. GPA has negotiated certain additional benefits in exchange for its concession on pricing. PSPL will provide a \$30M credit line for GPA; there will be potential savings of \$938,000/yr. due to elimination of bank line of credit fees (2.35% of fuel cost).<sup>15</sup>
15. In addition, Petrobras agrees to increase the Minimum Guaranteed Heating Value with specification from 5.90 to 6.10 MBTU/bbl.<sup>16</sup>
16. GPA contends that it will incur certain “theoretical savings” if the Minimum Heating Value is increased to 6.1.<sup>17</sup>
17. GPA suggests that the quality guarantee in the increase of Minimum Heating Value from 5.90 to 6.10 will result in annual savings to GPA in the amount of \$7.8M.<sup>18</sup>
18. As a result of the Amendment, the Parties agree to certain additional fuel testing protocols. If hydrogen sulfide concentration exceeds 70ppm in cargo arrival, Petrobras will be required to “de-gas” to the required concentration and all costs shall be borne by the Contractor.”<sup>19</sup>
19. Smell testing, (“a panel of expert smellers”) shall be required to identify any unusual smell on the fuel before and after the product is loaded in the vessel.<sup>20</sup> Adding this Odor test will address an issue raised by the Environmental Protection Agency.<sup>21</sup>

### ANALYSIS

20. Amendment No. 1 to the Fuel Oil Supply Contract appears to appropriately adopt the provisions agreed to by the parties.

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<sup>15</sup> PSPL Proposal, Analysis of Effects of Pricing [GPA and Acceptance of PSPL Proposal].

<sup>16</sup> Id.

<sup>17</sup> PSPL Proposal, Analysis of Effects on Pricing [Savings from Increase Heating Value].

<sup>18</sup> Exhibit A to Consolidated Commission on Utilities Resolution 2011-35.

<sup>19</sup> Amendment No. 1 to the Fuel Oil Supply Contract, attached to Petition for Contract Review, Note item 18.

<sup>20</sup> Id. at Note Item 20.

<sup>21</sup> Exhibit A to Consolidated Commission on Utilities Resolution No. 2011-35, adopted June 7, 2011.

21. The Fuel Oil Supply Contract was approved by the PUC on February 12, 2010; Section 5.06 of said Contract authorizes the parties thereto to enter amendments mutually agreed to.<sup>22</sup>
22. The analysis provided by GPA indicates that the current conversion factor for converting metric tons of oil to barrels does not fully and adequately compensate Petrobras for the cost of fuel. The parties do have authority, and should have authority under the Contract, to negotiate mutually acceptable arrangements.
23. Although changing the method of calculation of price from barrels to metric tons will result in a certain loss of savings to GPA on a yearly basis, the change in calculation of cost of fuel is fair and reasonable to both parties.
24. The extension by Petrobras to GPA of a line of credit in the amount of \$30M should definitely result in savings to GPA based upon the elimination of LC fees; the current cost of bank LC fees can likely then be removed from the calculation of LEAC.
25. Another amendment agreed to be the parties is the increase in the minimum Guaranteed Heating Value specification from 5.90 to 6.10 MBTU/bbl. GPA claims that this increase, agreed to by Petrobras, will result in annual savings to GPA of \$7.8M.<sup>23</sup>
26. Counsel is not convinced that GPA will actually realize any “theoretical savings”. GPA’s own statistics indicate that the actual heating values achieved by Petrobras for the entire year of 2010 were substantially above 6.2, and often were above 6.3.<sup>24</sup>Raising the minimum heating value from 5.9 to 6.1 should not have any effect upon price when the actual heating values already achieved are substantially above 6.1.
27. Nevertheless, there are significant benefits derived by GPA from agreeing to the changes in the Amendment. As the entity vested with statutory authority to operate and maintain the power system, GPA should be given some leeway in negotiating what it determines to be appropriate contractual amendments.

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<sup>22</sup> PUC Order, Docket No. 94-04, Application of GPA to Approve the Contract for Supply of Fuel Oil to GPA, February 12, 2010.

<sup>23</sup> Exhibit A to Consolidated Commission on Utilities Resolution 2011-35.

<sup>24</sup> PSPL Proposal, Analysis of Effects of Pricing [Historical Heating Values].

**RECOMMENDATION**

28. Counsel recommends that Amendment 1 to the Contract for Supply of Fuel Oil with Petrobras Singapore Private Limited be approved.
29. The Guam Power Authority should be authorized to enter into Amendment No. 1 to the Contract for Supply of Fuel Oil.
30. A Proposed Order is submitted herewith for the consideration of the Commisisoners.

Dated this 5<sup>th</sup> day of July, 2011.

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Frederick J. Horecky  
PUC Legal Counsel