

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



In the Matter of:)
The Petition of Guam Power Authority for Early) GPA Docket 10-04
Review and Approval of the New PMC Contract)
for Cabras 1 & 2)
_____)

PUC COUNSEL REPORT

Background

This matter comes before the Guam Public Utilities Commission [PUC] upon GPA’s Petition for Contract Review, filed September 2, 2010.¹ Therein, GPA asks the PUC for “early review and approval of the Performance Management Contract (PMC) for Cabras 1 & 2 to Taiwan Electrical and Mechanical Engineering Services, Inc. [TEMES].”²

On or about August 13, 2007, the PUC approved GPA’s May 2007 Petition to proceed with the procurement for a PMC for Cabras 1 & 2.³ The GPA/TEMES PMC Contract was originally set to expire on December 31, 2007. GPA issued a multi-step procurement bid for a new PMC Contract for Cabras 1 & 2 prior to the expiration of the original contract. Before the PMC could be awarded, a procurement protest was filed. GPA was ultimately required to reissue a new procurement, with a bid closing date of July 11, 2009.⁴ As a result of various protests, GPA was required to extend the existing PMC with TEMES five times.⁵

After the second RFP was issued, TEMES was selected as the lowest and most responsive bidder. The procurement protest and dispute concerning the second procurement have now been resolved. Therefore, GPA now seeks to award the new PMC Contract for Cabras 1 & 2 to TEMES, to be effective October 1, 2010, coincident with GPA’s new fiscal year.⁶

Review and Analysis

On September 3, 2010, GPA forwarded to the PUC draft copies of its proposed Performance Management Contract with TEMES for Cabras Units 1 & 2, and the Contract Schedules for the

¹ GPA Petition for Early Review and Approval of the New PMC Contract for Cabras 1 & 2.

² Id. at p. 1.

³ Chronology provided by GPA Counsel to PUC Counsel by email dated September 13, 2010.

⁴ PUC Decision and Order, Docket No. 94-04 re: the Extension of the Performance Management Contract (PMC) for Cabras Units 1 & 2, Docket No. 94-04, filed December 29, 2008; See also PUC Order re: Extension of the Performance Management Contract (PMC) for Cabras Units 1 & 2, Docket No. 94-04, filed July 27, 2009.

⁵ Id; however, the fifth extension was approved by the CCU in Resolution 2009-56 up to September 30, 2010 (due to a stay on the Intent to Award resulting from a 2nd procurement protest with OPA). According to the Chronology provided by GPA, this 5th Extension was never filed with the PUC.

⁶ Letter from GPA General Manager to the Guam Public Utilities Commission, dated September 2, 2010, subject: New Cabras 1 & 2 Power Plant PMC Contract with TEMES.

PMC Contract.⁷ The Proposed Performance Management Contract is by now a standard format that has been reviewed and approved by the PUC in many instances, including most recently with regard to the PMC for Cabras 3 & 4.⁸ The contract format is legally adequate and reasonable.

The PUC repeatedly has, over the past few years, issued numerous Orders and Findings to the effect that GPA's retention of Performance Management Contractors for the Cabras Plants has improved the operational efficiency and reliability of such plants, and has saved Guam ratepayers well in excess of \$60 Million over the years.⁹ Here GPA proposes to enter into a Performance Management Contract with TEMES for a five-year period, commencing on or about October 1, 2010 and terminating on September 30, 2015.¹⁰ The Contract is renewable by GPA, at its election, for an additional five-year term.¹¹

Essentially, the Contract gives full responsibility for management operations and maintenance of the Cabras 1 & 2 plants, including repair, to TEMES.¹² There are two aspects of this Contract relative to spending by GPA. The first is the Annual Operation & Maintenance Spending Budgets for the Cabras Plants, which are as follows for the five-year term:

Contract Year 1	Contract Year 2	Contract Year 3	Contract Year 4	Contract Year 5
\$1,000,000.00	\$1,028,000.00	\$1,056,784.00	\$1,086,373.95	\$1,116,792.42

¹³

Under the Contract, TEMES has a number of other responsibilities, including outage and maintenance planning and scheduling, management responsibility for Cabras 1 & 2 Personnel, management of the O&M Budget for Cabras 1 & 2, procurement authority, responsibility for accomplishment of capital and performance improvement projects, (CIP/PIP), plant budgeting and inventory management, regulatory reporting, and environmental compliance).¹⁴ The "fixed management fees" for TEMES for each contract year is as follows:

Contract Year 1	Contract Year 2	Contract Year 3	Contract Year 4	Contract Year 5
\$1,520,000.00	\$1,562,560.00	\$1,606,311.68	\$1,651,288.41	\$1,697,524.48

¹⁵

⁷ Letter from Assistant Chief Financial Officer to PUC Legal Counsel dated September 3, 2010, with PMC Contract and PMC Contract Schedules attached.

⁸ PUC Order, Docket 94-04, the Application of the Guam Power Authority to Approve the Performance Management Contract (PMC) for Cabras 3 & 4, dated April 29, 2010.

⁹ See PUC Order re: The Extension of the Performance Management Contract (PMC) for Cabras Units 1 & 2, Docket No. 94-04, filed December 29, 2008, at p. 2.

¹⁰ Draft PMC Contract for Cabras Unit 1 & 2 at p. 11.

¹¹ Id.

¹² Id. at p. 13.

¹³ Id. at p. 14.

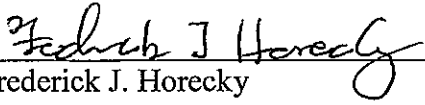
¹⁴ Id. at pgs. 13-20.

¹⁵ Id. at p. 27.

Counsel recommends that the PUC approve the Performance Management Contract (PMC) for Cabras 1 & 2 to TEMES. Both the Fixed Management Fees and the O & M Spending Limits under the new PMC Contract appear to be less than those under the existing Contract.¹⁶ The benefits resulting to ratepayers from the PMC Contracts suggest that this PMC Contract should be approved. Under the Contract, TEMES will undertake a substantial number of new Performance Improvement Projects and Capital Improvement Projects. These include various repairs to the plants designed to improve plant reliability and efficiency.¹⁷

Counsel has submitted herewith a proposed Order which would approve the PMC Contract between GPA and TEMES for Cabras 1 & 2, effective October 1, 2010.

Dated this 13th day of September, 2010.m



Frederick J. Horecky
PUC Legal Counsel

¹⁶ Attachment to email from GPA Counsel to PUC Counsel dated September 13, 2010.

¹⁷ Contract Schedules, pg. 16-20.