

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:) GPA Docket 14-06
)
 THE APPLICATION OF THE GUAM)
 POWER AUTHORITY FOR APPROVAL) PUC COUNSEL REPORT
 OF A FUEL LETTER OF CREDIT)
 FACILITY.)
 _____)

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Guam Power Authority's ["GPA"] Petition for approval of a Fuel Letter of Credit Facility.¹

BACKGROUND

2. GPA has maintained a Letter of Credit Facility for its fuel supplier for nearly twenty years.² ANZ Bank has been GPA's Letter of Credit provider for the last eleven years.³
3. The letter of credit is designed to give assurance to GPA's fuel supplier that amounts owed for shipments of fuel will be duly paid. GPA believes that it would not be able to attract fuel suppliers to provide fuel to the Authority if it did not have a Letter of Credit Facility in place.⁴
4. GPA's current Letter of Credit Facility with ANZ Bank expires on February 28, 2014.⁵ GPA issued an RFP for a new LC Facility. ANZ Bank was the only bidder. GPA now desires to enter into a new Letter of Credit Facility with ANZ Bank.⁶
5. In accordance with ANZ's bid, the Letter of Credit Facility with ANZ Bank would be in an amount not to exceed \$35M.⁷ The term of the facility is not to exceed sixty (60) days per letter and five (5) years for the initial facility term with three (3) options to extend for an additional one (1) year period.⁸

¹ GPA Petition for Contract Review, GPA Docket 14-06, filed February 17, 2014.

² Guam Consolidated Commission on Utilities Resolution No. 2014-09, adopted February 11, 2014.

³ Letter from GPA General Manager to ALJ Horecky, GPA Docket 14-06, dated February 12, 2014, at p. 2.

⁴ Id. at p. 2.

⁵ CCU Resolution No. 2014-09, adopted February 11, 2014, at p. 2.

⁶ Id.

⁷ ANZ Submission to GPA-RFP-14-005, Revolving Irrevocable Fuel Letter of Credit Facility, dated January 17, 2014, at p. 4.

⁸ CCU Resolution No. 2014-09, adopted February 11, 2014, at p. 2.

6. ANZ has offered a Letter of Credit Issuance Fee of 1.9% per annum plus various additional fees and expenses.⁹ ANZ's original proposal indicated that if GPA failed to pay any amount when due, the overdue amount would carry interest at 4% per annum above the stipulated Libor.¹⁰

ANALYSIS

7. GPA indicates that the presence of Letter of Credit Facility enhances the likelihood of obtaining bids for its fuel and reduces the premium paid for fuel.¹¹
8. While GPA still pays its fuel expense from its operating funds even when the LC is in effect, the presence of the Letter of Credit Facility provides an assurance to its fuel supplier, such as its present supplier Hyundai Corporation, that the supplier will be duly paid for fuel shipments. Furthermore, the existence of the facility is an inducement to the fuel supplier to ship fuel to GPA before payment has been made.
9. It appears that maintenance of the Letter of Credit Facility for fuel will cost GPA roughly \$1M per annum. As Exhibit "A", attached hereto, indicates, for the five year base period of the agreement with ANZ, GPA will pay approximately \$5M as fees.¹²
10. GPA has been successful in reducing the original LC Fee from 2.35% under the fuel facility which terminates this month to 1.9% for the proposed new LC facility.¹³ GPA also indicates that it has negotiated with ANZ to reduce the delinquency fee from LIBOR + 4% to LIBOR + 3%.¹⁴
11. GPA has demonstrated due diligence by negotiating the LC terms with ANZ.

⁹ ANZ's Response to GPA-RFP-14-005, Revolving Irrevocable Fuel Letter of Credit Facility, dated January 17, 2014, at p. 7.

¹⁰ Id.

¹¹ CCU Resolution No. 2014-09, adopted February 11, 2014, at p. 2.

¹² See Exhibit "A" attached hereto, LC Fee Calculations provided by GPA Asst. CFO Cora Montellano to ALJ Horecky on February 19, 2014; See also letter from GM Joaquin Flores to ALJ Horecky, GPA Docket 14-06, dated February 12, 2014, at p. 2 ("We anticipate the value of the contract will exceed \$5 million over the life of the agreement").

¹³ See Exhibit "A", supra.

¹⁴ Email from GPA Asst. CFO Cora Montellano to ALJ Horecky dated February 19, 2014.

12. There is a procedural issue with the procurement for the Letter of Credit Fuel Facility. The GPA Contract Review Protocol requires that GPA obtain approval for procurement "before the procurement process is begun."¹⁵
13. In December, 2013, GPA had prepared a Petition for the PUC seeking approval for its procurement of a provider for the Letter of Credit Fuel Facility. Due to inadvertence, and the fact that key support staff were on leave, GPA did not transmit the Petition for procurement approval to the PUC.¹⁶
14. Counsel believes that the failure of GPA to seek approval for the procurement of its Letter of Credit Facility was inadvertent and unintentional.
15. Despite the fact that the PUC did not approve the procurement for the Letter of Credit Facility, the lack of prior approval does not detract from the demonstrated need by GPA to obtain a new Letter of Credit Facility for fuel. Unless the PUC approves the new Fuel Letter of Credit Facility, the existing facility will expire on February 28, 2014, and GPA would be left without such a needed facility.
16. GPA should ensure future compliance with all requirements of the Contract Review Protocol.

RECOMMENDATION

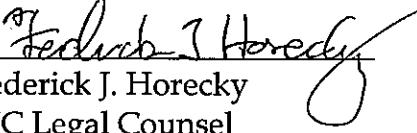
16. Counsel recommends that the PUC approve GPA's application for a new Fuel Letter of Credit Facility with ANZ Bank, in accordance with the terms and conditions negotiated by GPA and ANZ.
17. A Letter of Credit Facility is essential, as GPA's fuel supplier for RFO requires a letter of credit, and the proposed contract is reasonable, prudent and necessary.
18. A Proposed Order is submitted herewith for the consideration of the Commissioners.

¹⁵ Contract Review Protocol for Guam Power Authority, Administrative Docket, adopted February 15, 2008, at p. 1.

¹⁶ Letter from GM Joaquin Flores to ALJ Horecky, GPA Docket 14-06, dated February 12, 2014 at p. 1.

PUC Counsel Report
GPA Petition for
Approval of Fuel
Letter of Credit Facility
GPA Docket 14-06
February 20, 2014

Dated this 20th day of February, 2014.



Frederick J. Horecky
PUC Legal Counsel

GPA

ANZ Bank LC Fees

A	FY 14 Fuel Budget-Hyundai		\$	287,000,000
B	LC Basis Amount (Plus 10% Tolerance)	A*1.1	\$	315,700,000
C	Original LC Fee			2.35%
D	Minimum Days			60
E	Estimated Annual Fees	B*C*D/360	\$	1,236,492
F	Proposed LC Fee			1.9%
G	Estimated Annual Fees	B*F*D/360	\$	999,717
H	Savings	E-G	\$	236,775

ANZ Banking Group

Letter of Credit

No.	Date	Amount	Issuance Fee	Settlement Fee	Swift Charge	Total
LM431068140	8/7/2013	\$ 26,000,000.00	\$ 112,016.67	\$ 3,000.00	\$ 70.00	\$ 115,086.67
LM442528140	9/13/2013	\$ 26,000,000.00	\$ 112,016.67	\$ 3,000.00	\$ 70.00	\$ 115,086.67
LM453478140	10/23/2013	\$ 26,000,000.00	\$ 112,016.67	\$ 3,000.00	\$ 70.00	\$ 115,086.67
LM463248140	11/26/2013	\$ 26,000,000.00	\$ 112,016.67	\$ 3,000.00	\$ 70.00	\$ 115,086.67
LM473068140	12/24/2013	\$ 25,000,000.00	\$ 107,708.33	\$ 3,000.00	\$ 70.00	\$ 110,778.33