

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:) GPA Docket 15-11
)
The Application of the Guam Power Authority to Approve the Procurement of a Performance Management Contract (PMC) for Cabras Units 1&2 and 3&4.) **PUC COUNSEL REPORT**
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INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission [“PUC”] upon the Petition of the Guam Power Authority [“GPA”] for contract review and approval of GPA’s Procurement of a Performance Management Contract (PMC) for Cabras Units 1&2 and 3&4.¹
2. GPA now requests that the PUC: (1) authorize an extension of the existing PMC Agreement with Korea East-West Power Co. (“EWP”) for Cabras 3&4 from July 1, 2015 through September 30, 2015; and (2) authorize GPA to issue a multi-step invitation for bids for a single performance management contract at the Cabras 1&2 and 3&4 Base Load Plants.²

BACKGROUND

3. During the 1990s, GPA, at the urging of the PUC, undertook the hiring of Performance Management Contractors to manage, operate, and maintain the Cabras 1,2,3 & 4 Plants.
4. GPA believes that the Performance Management Contracts at the Cabras Plants have contributed to their increased availability and efficiency.³
5. The five-year Performance Management Contract between GPA and Taiwan Electrical Mechanical Services Inc. (“TEMES”) for Cabras 1&2 expires on September 30, 2015.⁴

¹ GPA Petition to Approve the Procurement of Performance Management Contract (PMC) for Cabras Units 1&2 and 3&4, GPA Docket 15-11, filed April 8, 2015.

² Id at p.2

³ Guam Consolidated Commission on Utilities, Resolution No.2015-15, Authorizing Management of the Guam Power Authority to Issue Bid for a Single Performance Management Contract Cabras 1&2 Steam and Cabras 3&4 Slow Speed Power Plant, adopted February 24, 2015 at p.1.

⁴ Id at p.1

6. The five-year Performance Management Contract between GPA and EWP for Cabras 3&4 expires on June 30, 2015.⁵
7. Instead of having two separate Performance Management Contractors for the Cabras 1&2 and 3&4 Plants, GPA now seeks to procure “a consolidated new Performance Management Contract (PMC) for the operation of all of the Cabras Power Plants.”⁶
8. The Guam Consolidated Commission on Utilities has approved GPA’s request to issue a multi-step invitation for bids for a single Performance Management Contract at the Cabras 1&2 and 3&4 Base Load Plants.⁷

ANALYSIS

9. GPA’s justification for having a single Performance Management Contractor for the Cabras Plants is that the PMC management fees for the plants will be reduced by as much as \$1.5M per year over the next five years.⁸
10. GPA anticipates that, if it continued to retain two Performance Management Contractors for the Cabras Plants, the combined management fees for fiscal year 2015 would exceed \$3.1M.⁹
11. GPA believes that savings will result from only having to pay one PMC for the Cabras Plants. While it is logical that some savings would result, the actual amount savings from the consolidation of the Cabras Plants under one PMC is speculative at the present time.
12. The actual savings that GPA will derive from such consolidation can only be determined after GPA receives bids which include management fees and a PMC is

⁵ Id.

⁶ GPA Petition to Approve the Procurement of Performance Management Contract (PMC) for Cabras Units 1&2 and 3&4, GPA Docket 15-11, filed April 8, 2015, at p.1.

⁷ Guam Consolidated Commission on Utilities Resolution No.2015-15, adopted February 24, 2015, at p.2.

⁸ Id. at p.1.

⁹ Attachment to CCU Resolution No.2015-15: Memorandum from GPA Interim General Manager to the Consolidated Commission on Utilities RE: Performance Management Contract for Cabras 1,2,3 & 4, dated February 11, 2015.

selected through the procurement process. For this reason it is important that PUC review the final contract when GPA and the PMC commit to the negotiated management fees and budget terms in a written contract.

13. There are several assumptions in GPA's Petition and moving documents that the PUC should not accept at the present time. In Resolution No. 2015-15, the CCU states that "GPA's current resource plans and USEPA regulatory compliance measures indicate the deactivation of the Cabras 1&2 units and Cabras 3&4 by 2020...."
14. To date, GPA has made no showing to the PUC that either Cabras 1&2 or Cabras 3&4 should be deactivated by 2020. With the Tanguissan plants, GPA presented a petition and evidence that they should be deactivated. There has been no such showing with regard to any of the Cabras Plants.
15. PUC should not agree to any deactivation of the Cabras Plants until GPA makes a proper case and demonstrates that there is a rationale and justification for the deactivation of those Plants.
16. While Cabras 1&2 may be 41 years old, that fact alone is not a justification for deactivating the Plants. A number of plants in the United States, with proper maintenance and upkeep, have been kept in operation for 50 or 60 years.¹⁰
17. GPA's own documentation for this Invitation for Bids demonstrates that, in recent years, many millions of dollars have been invested into the Cabras 1&2 plants for upkeep and maintenance. It is not immediately clear why the recent and substantial investment by the ratepayers of Guam in those plants should suddenly be discarded and disregarded.
18. Cabras 3&4 are currently only 21 years old.¹¹ In 2020, Cabras 3&4 will be roughly 26 years old. Given the substantial investment of the ratepayers of Guam, which include payments of principal and interest on bonds, it is by no means clear that the deactivation of those plants is justified. There is no evidence in the record at the

¹⁰ PUC Consultant Lummus has expressed this opinion in discussions with PUC Counsel.

¹¹ Id.

present time upon which PUC could concur with GPA's assumption that the Cabras plants should be deactivated, or that there is a date certain for such deactivation.

19. Furthermore, in the Attachment to CCU Resolution No.2015-15, the GPA General Manager states that, as to the Cabras 1&2 plant PMC Contract, "the existing contract is focused on insuring a high reliability level. A new contract could be tailored to achieve an acceptable reliable level at reduced investments". The PUC should have no objection to reduced investment levels if the assumption is that Cabras 1&2 and 3 & 4 will continue to operate at present levels.
20. However, the PUC should not approve any contract which assumes that reliability levels can be reduced on the assumption that Cabras 1&2 or 3&4 are being phased out by 2020. There should be no reduction of investment or reliability that would prevent any of the Cabras plants from operating beyond 2020.
21. In support of its Petition, GPA also submitted additional materials regarding Performance Management Contracts.¹² GPA proposes an "Option for Early Termination or Reduction in scope (i.e. if Cabras 1&2 is retired, etc.)"¹³ Counsel does not believe that the PUC should approve an option for early termination or reduction in scope at the present time.
22. GPA has not offered any justification for an early termination or reduction in scope. The present CONTRACT TERM for the PMCs is for a five year period, commencing on October 1, 2015, and terminating on September 30, 2020. GPA does not suggest that the PMC for Cabras 1&2 or 3&4 be terminated prior to 2020, within the five year term period specified in the contract. Although in its summary GPA provides that there would be an "optional annual extension for up to 5 years", the CONTRACT TERM itself only provides for one additional five-year term after the expiration of the initial five-year contract term.¹⁴

¹² Performance Management Contract for the Guam Power Authority Cabras Steam (Units #1 & #2) and Slow Speed Diesel (Units #3 & #4) Power Plants, Summary of new or updated Technical Functional Requirements (Current vs. Future PMC) April 2015, GPA Docket 15-11, filed April 8, 2015.

¹³ Id. at p.2.

¹⁴ Invitation Multi-Step Bid No.GPA-XXX-15, Performance Management Contract for the Cabras Units #1 & #2 Steam and Cabras Units #3 & #4 Slow Speed Diesel Power Plants, GPA Docket 15-11, filed April 8, 2015[see Performance Management Contract, Section 5-CONTRACT TERM].

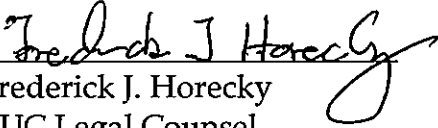
23. Counsel also notes that GPA is proposing to delete certain provisions from the new PMC Contract, including Staff Training and Skills Assessment, Assessment of whether GPA is ready to take over the responsibilities of the PMC, and the elimination of Financing by the PMC. The PUC should consider whether these deletions are desirable and/or appropriate.
24. The PUC should not allow GPA to include contract provisions which reduce the ability of the Cabras 1&2 or 3&4 Plants to properly function. Until such time as the PUC approves any deactivation of the Cabras Plants, it should not authorize GPA to include contract provisions in its PMC which reduce the efficiency or reliability of the Cabras Plants.

RECOMMENDATIONS

25. Counsel recommends that PUC authorize GPA to issue procurement for a single Performance Management Contractor for the Cabras 1-4 Plants.
26. Assuming that any PMC Contract negotiated by GPA will in fact reduce current fixed management fees, and that a single contractor can adequately manage, maintain and operate both a Steam Plant and Slow Speed Diesel Plant, PUC should not object to such proposal.
27. PUC should authorize an extension of the existing PMC Agreement with Korea East-West Power Co. ("EWP") for Cabras 3&4 from July 1, 2015 through September 30, 2015.
28. GPA should be required to submit any proposed Performance Management Contract to the PUC for final review and approval.
29. The PUC Order should preclude GPA from including language in the PMC that assumes deactivation of either the Cabras 1&2 or 3&4 plants in 2020. There should be no provision providing for early termination or reduction in scope. Any such termination or reduction in scope should only be approved after GPA brings proper proceedings before the PUC.
30. GPA should not be allowed to reduce the efficiency or reliability of any of the Cabras Plants such that they cannot continue to operate at present levels.

31. Should GPA seek to achieve “an acceptable reliability level at reduced investments” for the Cabras Plants, it must specify precisely what it means and obtain advance prior approval from the PUC.
32. A Proposed Order is submitted herewith for the consideration of the Commissioners.

Dated this 27th day of April, 2015.


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