

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF: ) GPA Docket 16-03
)
The Petition of the Guam Power Authority)
for Approval of Insurance Adjuster Fees. ) PUC COUNSEL REPORT
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)
)

INTRODUCTION

- 1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Petition of Guam Power Authority ["GPA"] for Approval of Insurance Adjuster Fees.<sup>1</sup>

BACKGROUND

- 2. As the result of the explosion at the Cabras Nos. 3 & 4 plants on August 31, 2015, GPA determined that it would seek a professional Insurance Adjuster to assist it in the quantification, documentation and presentation of the loss sustained to GPA's Insurers.<sup>2</sup>
3. On February 29, 2016, GPA issued a purchase order to the Greenspan Co./Adjusters International ["Greenspan"] through GPA-RFP-16-001, provision of Forensic Accounting and Insurance Claim Services to GPA, to assist it in presenting its claim.<sup>3</sup>
4. The original contract with Greenspan included fee compensation based upon hourly charges and other negotiated expenses, with total billings in the initial year of the contract estimated to be approximately two hundred forty thousand dollars (\$240,000).<sup>4</sup> The contract term is for one year, with four additional one year periods. The initial payment of \$240,000 is for nine month in FY 2016.<sup>5</sup>

1 GPA Petition for Approval of Insurance Adjuster Fees, GPA Docket 16-03, filed March 23, 2016.
2 Guam Consolidated Commission on Utilities Resolution No. 2016-17, Relative to Authorizing the Guam Power Authority to Convert the Fee Compensation Structure of the Contract with the Greenspan Co. Adjusters International, issued March 22, 2016, at p.1.
3 Id.
4 Id.; see also Purchase Order issued to Greenspan, No. 22786 OP, dated February 29, 2016.
5 Id.

5. GPA now seeks to change the basis of the fee compensation in the contract with Greenspan from an hourly basis plus negotiated expenses to a layered contingency fee structure plus airfare as negotiated and incurred.<sup>6</sup>
6. Under this “incentive-based layered contingency fee structure”, three percent (3%) will be charged on all money paid on the GPA claim up to one hundred million dollars (\$100,000,000) and five percent (5%) on all money paid over one hundred million dollars (\$100,000,000).<sup>7</sup>
7. Thus, the maximum amount that GPA could pay to Greenspan as a fee would be thirteen million dollars (\$13,000,000). Such payment would be owed if the total amount of three hundred million dollars (\$300,000,000) was paid by the Insurers on the claim.<sup>8</sup>
8. When fee compensation is converted from hourly to contingency, Greenspan will credit, against that fee, any money paid on an hourly plus expenses basis.<sup>9</sup>

#### ANALYSIS

9. Given the magnitude of GPA’s claim, is appropriate for it to retain the services of an experienced company for Forensic Accounting and Insurance Claim Services. GPA’s Insurers will likely have substantial expertise and resources to address GPA’s claims. Retention of an experienced Insurance Adjuster such as Greenspan will hopefully help to “level” the playing field.
10. Greenspan is a very experienced company in providing public insurance adjusting and disaster recovery consulting services. See [www.greenspan-ai.com](http://www.greenspan-ai.com).
11. Greenspan has been in business since 1946, and its principals have a substantial amount of experience and background in negotiating insurance claims. Greenspan has represented power companies with regard to fire and disaster claims, and previously represented Continental Airlines with regard to Typhoon Paka typhoon damage claims.<sup>10</sup>

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<sup>6</sup> Id at p. 2.

<sup>7</sup> Id at p. 1.

<sup>8</sup> Id at pgs. 1-2.

<sup>9</sup> Exhibit “1” to Guam Consolidated Commission on Utilities Resolution No. 2016-17.

<sup>10</sup> Greenspan Co./Adjusters International, Response to RFP No. GPA-RFP-16-001 (January 22, 2016).

12. GPA's purpose in converting the fee compensation of the contract with Greenspan from an hourly basis to a contingency basis is to provide GPA a means for deferring the payment of fees to Greenspan and to set a cap on the amount to be incurred for Greenspan's services.<sup>11</sup>
13. GPA and Greenspan discussed the "Contingency Fee Option." Greenspan's work in representing clients on claims is "front end loaded." Greenspan spends many more hours, as well as incurring costs, at the beginning of a claim as opposed to the later part: "The beginning is labor-intensive. That is why many clients prefer contingency fee arrangement. In this manner we "finance" the work. Our fees are due as GPA is paid by the Insurer(s)."<sup>12</sup>
14. While GPA's Insurance Policy has a "professional fees endorsement", GPA understands that it will be responsible for the appropriate contingency fee payment to Greenspan based upon the revised fee arrangement.<sup>13</sup> There is no assurance that GPA will be able to recover its fees from the Insurers.
15. In addition to allowing GPA to pay Greenspan's fees out of the insurance settlement, rather than up front, another possible advantage to the contingency fee arrangement is that it will more closely align the interests of GPA and Greenspan.
16. Since Greenspan's fees will increase depending upon the amount of GPA's insurance settlement, a contingency fee structure will possibly give Greenspan additional incentive to obtain a larger insurance settlement on behalf of GPA.
17. There will be no rate impact by virtue of this contract, as the source of any fees to Greenspan will be insurance settlement proceeds. GPA management should be authorized to structure this contract with Greenspan in a manner which it believes will result in the best possible settlement.

### RECOMMENDATION

18. Counsel recommends that the PUC authorize GPA to change the basis of the fee compensation in the contract with Greenspan from an hourly basis plus negotiated

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<sup>11</sup> Resolution No. 2016-17, "Issues for Decision", presented to the CCU Commissioners in their Board Packets dated March 22, 2016.

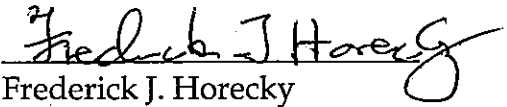
<sup>12</sup> Exhibit "1" to Guam Consolidated Commission on Utilities Resolution No. 2016-17.

<sup>13</sup> Id.

expenses to a layered contingency fee structure plus airfare as negotiated and incurred.

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

Dated this 25th day of March, 2016.

  
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PUC Legal Counsel