

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:) GPA Docket 18-10
)
 The Application of the Guam Power Authority to Approve the Contract Extension with Tristar Terminals Guam, Inc. for the Dock Facility User Agreement, Pipeline Agreement, and Fuel Storage Agreement for GPA) ORDER
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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 the contract review and approval of the Contract Extension with Tristar Terminals Guam Inc., for the Dock Facility User Agreement, Pipeline Agreement, and Fuel Storage Agreement for GPA.¹

BACKGROUND

2. On July 30, 2013, the PUC approved the Dock Facility User and Pipeline agreements between GPA and Tristar Terminals Guam Inc. [hereinafter “Tristar”].²
3. On September 24, 2013, the PUC approved the Storage Agreement between GPA and Tristar.³
4. All three agreements had a contract term for the period of September 1, 2013 through August 31, 2018. Each of the three agreements terminates on August 31, 2018.⁴
5. In its present Petition, GPA seeks to extend the term of the three contracts for four years, from September 1, 2018 to August 31, 2022.
6. The Guam Consolidated Commission on Utilities, in Resolution No. 2017-43 approved the contract extension for Dock Facility User Agreement, Pipeline

¹ GPA Petition for Review and Approval of Contract Extension with Tristar Terminals Guam Inc. for the Dock Facility User Agreement, Pipeline Agreement, and Fuel Storage Agreement for GPA, GPA Docket 18-10, filed March 13, 2018.

² PUC Order, GPA Docket 13-11, dated July 30, 2013, at p. 5.

³ PUC Supplemental Order, GPA Docket 13-11, dated September 24, 2013, at p. 3.

⁴ GPA Petition for Review and Approval of Contract Extension with Tristar Terminals Guam Inc. for the Dock Facility User Agreement, Pipeline Agreement, and Fuel Storage Agreement for GPA, GPA Docket 18-10, filed March 13, 2018, at p. 1.

Agreement, and Fuel Storage Agreement for a 4-year period through August 31, 2022.⁵

7. GPA essentially utilizes the services of Tristar for three different purposes: (1) the Pier facility for the docking of ocean freight vessels delivering fuel to GPA facilities through a Dock Facility User Agreement; (2) Fuel pipeline facilities for the delivery and transport of fuel oil to and from GPA's fuel storage facilities through a Pipeline Agreement; and (3) GPA's additional RFO storage requirements through a RFO Storage Lease Agreement.⁶

DETERMINATIONS

8. The estimated total expense for the three agreements for the 4-year extension period is as follows: \$6,324,564 for the Dock Agreement; \$2,138,024 for the Pipeline Agreement; and \$6,674,891 for the RFO Storage Agreement.⁷
9. For the contract extension period, the fee schedule under the Dock Agreement remains the same as it was under the prior 5-year contract period until March 31, 2019.
10. The fee schedule after March 31, 2019, is dependent upon Tristar's contract renewal with the Port Authority of Guam (PAG) beyond the March 31, 2019 date.
11. The Pipeline Agreement and the RFO Storage Lease Agreement for the 4-year extension period contain the same annual incremental rate of the 4% based on standard Consumer Price Index changes and increased operational cost.⁸
12. As a result of the automatic four (4) percent annual increases during both the prior 5-year contract period and the proposed 4-year contract extension period, GPA's annual costs under the Pipeline Agreement have increased considerably. Under the prior 5-year contract period, the average annual cost for the Pipeline Agreement was

⁵ Guam Consolidated Commission on Utilities, Resolution No. 2017-43, Authorizing the Management of the Guam Power Authority (GPA) to enter into an agreement Extension Term with Tristar Terminals Guam Inc. for the Dock Facility, Pipeline Facilities and RFO Storage, adopted November 22, 2017.

⁶ Issues for Decision on GPA Resolution No. 2017-43, submitted in board packet for CCU Regular Meeting, dated November 22, 2017.

⁷ Issues for Decision on GPA Resolution No. 2017-43, submitted in board packet for CCU Regular Meeting, dated November 22, 2017, at p. 45 of the Board Packet.

⁸ CCU Resolution No. 2017-43, adopted November 22, 2017, at p. 1.

\$450,504.36. For the proposed 4-year extension period, the average annual cost will be \$534,506.02.

13. For the prior 5-year contract period, the average annual cost for storage lease fees was \$1,530,678.18. The average annual cost for the proposed 4-year extension period is \$1,366,322.76.
14. GPA has reduced the extent to which it utilizes the storage facilities of Tristar. For the initial 5-year contract period, GPA leased storage capacity of 422,150 bbls. from Tristar. However, for the proposed 4-year extension period, GPA will only lease 315,500 bbls from Tristar.
15. If one reduces the cost for the prior 5-year contract period based upon a proportionate reduction to 315,500 bbls per year, the annual cost for storage, was \$1,148,008. Thus, the annual cost for the Storage Contract for the same storage capacity has increased by over \$200,000, or over \$800,000 for the entire four-year period.
16. These rapidly increasing contract costs, which are compounded annually as a result of the 4% automatic annual increases, impose burdens upon the ratepayers. The funding source for all of these contracts is the Levelized Energy Adjustment Clause.
17. These contract costs are all added to the LEAC expense as "fuel handling charges." These costs are a factor which increase the fuel charges paid by ratepayers under LEAC.
18. There does not appear to be any evidence demonstrating that 4% automatic annual increases under the Pipeline and the Fuel Storage Agreements are related to actual CPI increases, or to any demonstrable costs incurred by Tristar.
19. An agreement related to CPI would be more understandable if increases (or decreases) in a particular contract year were based upon the actual CPI in the prior year, rather than a pre-set percentage.
20. Between 2009 and 2012, the CPI average annual percent change did not exceed the 4% in any year and was between 1.7% and 3.3%. For 2013, the CPI percentage increase was 0.0%; for 2014, the increase was 0.8%; and for 2015 there was a decrease of 0.9%.⁹

⁹ Guam consumer price index, 1st Quarter 2016, Bureau of Statistics and Plans (Business and Economic Statistics Program, Government of Guam (vol. XLII No. 1).

21. Between the 4th Quarters of 2016 and 2017, the CPI rose 3.2%.¹⁰ The automatic annual increase of the 4% is not based upon actual price increases that have occurred.
22. As the CCU has pointed out, Tristar “is the **sole service provider for the Dock Facility User Agreement, Pipeline Agreement, and RFO Storage Lease Agreement.**”¹¹
23. The PUC has an obligation to ensure that all rates and charges born by the ratepayers are “just and reasonable.” An automatic 4 % charge for CPI in years where there was no increase or a lesser increase is not just or reasonable.
24. There is no rational basis for such an automatic charge which is completely unrelated to any actual CPI increase.
25. GPA needs the services provided by Tristar for “ensuring uninterrupted supply of fuel to GPA through the use of Tristar’s fuel handling facilities...” However, GPA cannot be expected to bear any charge demanded, no matter how unreasonable.

ORDERING PROVISIONS

After careful review and consideration of the above determinations, the Petition of GPA, the Dock Facility User, Pipeline, and Storage Agreements between GPA and Tristar, the Report of PUC Counsel, and the record herein, for good cause shown, on motion duly made, seconded, and carried by the undersigned Commissioners, the Guam Public Utilities Commission hereby **ORDERS** that:

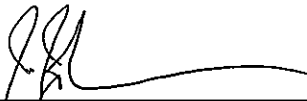
1. The PUC hereby grants GPA’s request for approval of the Dock Facility User Agreement between GPA and Tristar.
2. GPA is authorized to enter into the Dock Facility User Agreement for a four-year period, from September 1, 2018 through August 31, 2022.
3. GPA is authorized to expend, for the four-year period, amounts up to \$6,324,564 for the Dock Agreement.

¹⁰ KUAM News, dated March 5, 2018, citing data from the Bureau of Statistics and Planning.

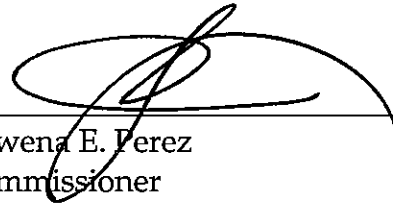
¹¹ CCU Resolution No. 2017-43, adopted November 22, 2017, at p. 1.

4. GPA must seek approval for any increase in the Dock Facility User Fee after March 31, 2019
5. For the Pipeline and Storage Agreements, GPA should renegotiate the automatic 4% annual CPI increases with Tristar.
6. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

Dated this 29th day of March, 2018.



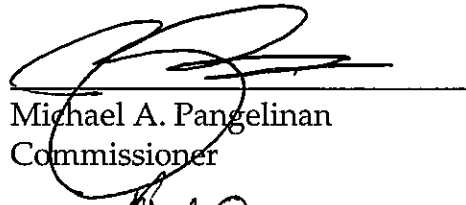
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Rowena E. Perez
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Commissioner



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Commissioner



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Commissioner



Filomena M. Cantoria
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