

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:)	GPA DOCKET 13-11
THE APPLICATION OF THE GUAM)	
POWER AUTHORITY TO APPROVE)	
THE CONTRACT WITH TRISTAR)	ORDER
TERMINALS GUAM, INC. FOR THE)	
DOCK FACILITY USER AGREEMENT,)	
PIPELINE AGREEMENT, AND FUEL)	
STORAGE AGREEMENT FOR GPA)	
_____)	

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 the Contract with Tristar Terminals Guam Inc., for the Dock Facility User Agreement, Pipeline Agreement, and Fuel Storage Agreement for GPA.¹

BACKGROUND

2. GPA is requesting that the PUC approve three agreements related to the delivery and storage of fuel: the Dock Facility User Agreement, Pipeline Agreement, and Fuel Storage Agreement.
3. Tristar is the current manager of the Dock Facility, owned by the Port Authority of Guam.²
4. GPA is requesting that the above Agreements be approved for a five-year period from September 1, 2013, to August 31, 2018.³
5. The Dock Facility User Agreement allows GPA to discharge or load fuel from and to GPA’s vessels that the F-1 Dock Facility.⁴

¹ GPA Petition for Review and Approval of Contract with Tristar Terminals Guam, Inc. for the Dock Facility User Agreement, Pipeline Agreement, and Fuel Storage Agreement for GPA, GPA Docket 13-11, filed July 12, 2013.

² Id. at p. 1.

³ Id. at p. 2.

⁴ See Facility User Agreement F-1 Dock, attached to GPA Petition for Review and Approval of the Contract with Tristar Terminals Guam, Inc., GPA Docket 13-11, filed July 12, 2013.

6. Under the Pipeline Agreement, Tristar grants GPA the non-exclusive use of the B Pipeline for fuel resupply from the F-1 Dock to the Navy Valve Pit for further transfer by GPA from the Navy Valve Pit through the GPA controlled pipelines through the GPA storage and power generating facilities at Cabras.⁵
7. Tristar maintains and operates a facility known as the Agat Terminal.⁶
8. GPA resupplies its Piti storage facility using fuel stored at the Agat Terminal. In the Storage Agreement GPA will use storage tanks of Tristar with a total storage capacity of 422,150 barrels for the storage of fuel oil.⁷
9. On June 25, 2013, the Guam Consolidated Commission on Utilities approved Resolution No. 2013-38, which authorizes Management of GPA to petition the PUC to enter into Agreements with Tristar Terminals Guam for fuel delivery and storage through the Dock Facility, Pipeline and Fuel Storage Agreements.⁸
10. According to the CCU, Tristar “is the **sole service provider** of the Dock Facility, Pipeline, and Fuel Storage Services...”⁹
11. The CCU indicates that GPA and Tristar have negotiated a new five-year contract period for the three agreement the new contract cost for which are set forth in exhibits to the Resolution.¹⁰
12. The estimated total expenses for renewal of the three agreements for the five-year period are: \$7,375,440.00 for the Dock Agreement; \$2,252,342.16 for the Pipeline Agreement; and \$9,165,390.88 for the Storage Agreement.¹¹
13. The CCU submits that the three Agreements will serve the best interests of GPA ratepayers by insuring an uninterrupted supply of fuel to GPA through the use of Tristar’s fuel handling facilities.¹²

⁵ Id.

⁶ See Storage Agreement, attached to the GPA Petition for Review and Approval of the Contract with Tristar Terminals Guam, Inc., GPA Docket 13-11, filed July 12, 2013.

⁷ Id.

⁸ CCU Resolution No. 2013-38, adopted on June 25, 2013.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

14. Counsel submitted his Report dated July 24, 2013.¹³

DETERMINATIONS

15. GPA has provided a "CONTRACT FEE COMPARISON", attached as Exhibit "A" to the CCU Resolution, which indicates comparison between the current contract prices (which expire August 31, 2013) and the New Contract prices from September 2013 to August 2018.¹⁴ Attached to the CCU Resolution as Exhibit "B" are the "NEW CONTRACT EXPENSES (ESTIMATED)".¹⁵

16. The Fees for the use of the Dock Facility [i.e. Facility User Agreement F-1 Dock] remain unchanged from the existing contract and are based on hourly rates for the dock operators, excess lay time costs, and imports and exports of RFO on a per barrel basis.¹⁶

17. However, under the Pipeline Agreement, there is a 20% increase in the first year of the new contract (SEP.2013-AUG.2014). Thus, the five-year total for the new Pipeline Agreement is \$2,252,342.16.

18. Tristar justifies the increase on the initial term of the Pipeline Rental Fee upon the following cost drivers:

- a) Port Authority of Guam Increases of Easement Fees at 124% of the original easement rate of which Tristar has not passed on portions of the B line cost to GPA for 40 months.
- b) Pipeline integrity testing by Tristar done every 5 years as part of the routine maintenance cost on this renewal with annual amortization cost of \$30,000.00 per year.
- c) Other operational cost increases on insurances and environmental considerations.¹⁷

¹³PUCCounsel Report, GPA Docket 13-11, dated July 24, 2013,

¹⁴ See Exhibit "A" to CCU Resolution No. 2013-38.

¹⁵ See Exhibit "B" to CCU Resolution No. 2013-38.

¹⁶ CCU Resolution No. 2013-38, adopted June 25, 2013, at p. 1.

¹⁷ Letter from K. Vikraman, General Manager of Tristar, to Joaquin Flores, General Manager GPA, dated May 20, 2013.

19. Under the Storage Agreement, GPA previously leased tanks 1902, 1910, & 1911 at the Agat Terminal. However, under the new Storage Agreement GPA will only lease tank 1902. This results in a reduction in storage capacity of 75,000 barrels from 497,150 barrels to 422,150 barrels.¹⁸
21. Under the prior Storage Agreement, yearly rental for the three tanks was \$1,386,720.00. There is a 20% increase in the first year rental fee under the new Agreement. The lease fee for Tank 1902 for the first year will be \$1,413,023.47, which is more than the previous charge for all three tanks.¹⁹
22. There is also a 4% annual cost of living increase in the Storage Agreement.²⁰
23. With regard to the price escalation for the Storage Agreement, Tristar justifies the increase as follows:

The 20% increase on the initial term is only a portion of the expected tank refurbishment cost for Tank 1902 as per API 653 which is estimated to be about \$0.79 annual contribution to the construction in progress (CIP).

The 4% flat adjustment on the 4 years that follows is a result of allocation on the standard Consumer Price Index Changes and increased operational cost accorded by various regulating agencies.²¹
24. The cost increases for the Pipeline and Storage Agreements are high. Tristar is a “sole source” provider. GPA has sought to negotiate with Tristar; at this point however, Tristar appears unwilling to negotiate further.
25. The Dock Agreement pricing has remained the same; the Facility User Agreement F-1 Dock should be approved.
26. While the increases in the Pipeline Agreement appears high, there has been some justification offered for the increases therein.

¹⁸ CCU Resolution No. 2013-38, adopted June 25, 2013, at p. 2.

¹⁹ See Exhibit “A” attached hereto.

²⁰ See Exhibit “A” attached hereto.

²¹ Letter from General Manager K. Vikraman of Tristar to General Manager of GPA, Joaquin Flores, dated May 20, 2013.

27. A further justification for the price increases in the Pipeline Agreement is attached to the PUC Counsel Report as Exhibit "C".
28. The Pipeline agreement should be approved. However, the Commission does not have sufficient information to justify approval of the Storage Agreement. Justification is required for the 20% increase and the automatic 4% annual increase.

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 and Pipeline Agreements between GPA and Tristar. However, there is not sufficient justification provided at this time for the increase in price of the Storage Agreement. The matter of the Storage Agreement is presently tabled.
2. GPA is authorized to enter into the Pipeline and Storage Agreements for a five-year period, from September 1, 2013 through August 31, 2018. GPA may bring the Storage Agreement back to PUC for further review.
3. GPA is authorized to expend, for the five-year period, amounts up to \$7,375,440.00 for the Dock Agreement and \$2,252,342.16 for the Pipeline Agreement.
4. 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 the PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

Order
GPA Request for Contract Review and
Approval of Agreements with
Tristar Terminals Guam, Inc.
GPA Docket 13-11
July 30, 2013

Dated this 30th day of July, 2013.

Jeffrey C. Johnson
Chairman

Joseph M. McDonald
Commissioner

Rowena E. Perez
Commissioner

Peter Montinola
Commissioner

Michael A. Pangelinan
Commissioner