

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF: ) GPA Docket 18-09  
)  
The Application of the Guam Power )  
Authority for an increase in the Stanley ) **ORDER**  
Engineering, Procurement and )  
Construction Management (EPCM) )  
Contract.)

**INTRODUCTION**

1. This matter comes before the Guam Public Utilities Commission [“PUC”] upon the Petition of the Guam Power Authority [“GPA”] for an Increase in the Stanley Engineering, Procurement and Construction Management (EPCM) Contract.<sup>1</sup>

**BACKGROUND**

2. In the present Petition, GPA seeks an increase for the Stanley EPCM contract in the amount of \$650,000 for consulting and technical services through September 2018.<sup>2</sup>
3. In GPA Docket 17-05, on October 27, 2016, the PUC authorized GPA to procure a contract for Engineering Procurement, Construction, and Management Services related to the new generation through a separate procurement.<sup>3</sup>
4. On October 27, 2016, in GPA Docket 15-05, the PUC authorized GPA to expend \$750,000 for an EPCM contractor for the proposed new plant, to be paid from the 2014 bond fund allocation for LNG Initial Startup.<sup>4</sup>
5. In March 2017, GPA selected Stanley Consultants through GPA RFP 17-001 as the Engineering, Procurement and Construction Management (EPCM) contractor for the new 180MW power plant.<sup>5</sup>

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<sup>1</sup> GPA Petition for an Increase in the Stanley Engineering Procurement and Construction Management (EPCM) Contract, GPA Docket 18-09, filed March 9, 2018.

<sup>2</sup> Id. at p. 1.

<sup>3</sup> PUC Order, GPA Docket 17-05, dated October 27, 2016, at p. 4.

<sup>4</sup> PUC Order, GPA Docket 15-05, dated October 27, 2016 at p. 9.

<sup>5</sup> GPA Petition for an Increase in the Stanley Engineering Procurement and Construction Management (EPCM) Contract, GPA Docket 18-09, filed March 9, 2018, at p. 1.

6. Initially, a main task of the EPCM Contractor was the development of bid documents for the 180MW plant and the selection of a bidder. This process is now ongoing, and GPA anticipates that the bid documents will be completed in the next month or two.
7. However, the EPCM has recently taken on additional tasks and responsibilities, including assisting GPA in the process of new power plant land acquisition work.
8. Stanley's activities have also included preparing for legislative and other public hearings and responding to issues raised in those forums.<sup>6</sup>
9. In the current Petition, GPA requests that the PUC approve an increase for the Stanley EPCM contract in the amount of \$650,000, for a total of \$1.4M for consulting and technical services, through September 2018.<sup>7</sup>
10. In Resolution No. 2018-05, the Guam Consolidated Commission on Utilities authorized GPA to increase the Stanley EPCM contract by \$650K for a contract total of \$1.4M for consulting and technical services through September 2018; GPA was further authorized to petition the PUC for approval of such increase.<sup>8</sup>
11. The Resolution recognizes that, in addition to the drafting of bid documents and the RFQ/Technical Bid Documents, Stanley was involved with technical discussions concerning the IPP scope and support for current land rezoning efforts.
12. Additional funds were also required to complete the bid documents, including final land details, incorporation of LNG details, addressing of regulatory requirements, and support for procurement activities such as responses to bidder questions.<sup>9</sup>

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<sup>6</sup> GPA Response to PUC Requests for Information, GPA Docket 18-09, dated March 20, 2018, at Responses 2 & 3.

<sup>7</sup> GPA Petition for an Increase in the Stanley Engineering Procurement and Construction Management (EPCM) Contract, GPA Docket 18-09, filed March 9, 2018, at p. 2.

<sup>8</sup> Guam Consolidated Commission on Utilities, Resolution No. 2018-05, Relative to Authorization of Increase for Engineering, Procurement, and Construction Management Contract Amount, adopted February 27, 2018.

<sup>9</sup> Id. at pgs. 1-2.

### DETERMINATIONS

13. In public hearings on the new generation between October 4 and 6, 2016, General Manager Benavente of GPA indicated that the proposed EPCM was “a onetime expense” and that the total cost would be \$750,000, to be funded from 2014 Bond Funds.<sup>10</sup>
14. It now appears that the required funding will exceed the amount originally indicated by GPA.
15. It is understandable that issues concerning the land purchase for the new plant and legislative hearings on such issues have required that EPCM to do additional work. However, it now appears that the tasks associated with this 5-year EPCM contract, will greatly exceed that originally anticipated.
16. The EPCM Contract with Stanley was effective March 2017 for a base period of three years, but also allows for an extension of two additional years, which means that Stanley Consultants will be rendering services for GPA through 2022.
17. As the documentation submitted by GPA provides, Stanley Consultants is working with a large cadre of subconsultants, such as K&M Advisors LLC, Pond & Company, EA Engineering, Science and Technology, PBC, Ruder Integrated Marketing Services, etc. Some of these consultants bill up to \$300 per hour.
18. To date, GPA has not provided a clear answer of what the total projected cost for Stanley Consultants will be under the EPCM contract.
19. GPA indicated that it was requesting such information from Stanley. GPA “has requested this from Stanley”; the response “is presently not available but we anticipate a first submittal within two weeks.”
20. At present, there is insufficient information available as to the scope and total cost of the Stanley contract. PUC cannot determine what ongoing approach it should take with regard to the Stanley Contract without such information.
21. GPA has suggested that, even after the completion of the bid documents and the bidder selection process, Stanley will remain as the EPCM contractor, as Owner’s Representative. According to GPA, Stanley may also receive some percentage of the

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<sup>10</sup> PUC Order, GPA Docket 17-05, dated October 27, 2016, at §17, p. 3.

total bid amount as a fee for owner's representative. This matter is still being reviewed, but, to date, has not been clarified.

22. GPA has provided justification for the additional increase sought of \$650,000. However, many questions remain, and it would not be appropriate for the PUC to approve any additional increases unless the total cost and long-term scope of the EPCM contract is clarified.
23. GPA should do more to limit the scope and cost of this contract. It is not clear why Stanley is needed to "develop a plan for obtaining CCU and PUC approval."
24. If the project is justified, at a reasonable cost, there should be no issue with obtaining such approvals. GPA does not need an internal lobbyist to lobby with the CCU and PUC.
25. Stanley proposes to retain a "community outreach specialist". Stanley's "public relations support team" would be assisting the GPA PAO office "to assist with public relations and outreach initiatives...".
26. No justification is provided for inclusion of public relations tasks within Stanley's scope of work. Some of these tasks are reminiscent of those under the Armstrong contract that was previously addressed by the PUC.
27. GPA could do more to cut the cost and expense of the EPCM contract by limiting its scope to essentials and narrowing or eliminating some of the tasks.
28. The contract documents create an impression that Stanley Consultants may be viewed by GPA as having a role for the duration of a 25-year contract with the Independent Power Producer for the new power plant. If that is the case, the PUC should be advised now of that contemplated role. GPA should clearly spell it out.

### ORDERING PROVISIONS

After careful review and consideration of the above determinations, the Petition of GPA, 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. GPA's request to increase funds for the Stanley EPCM contract is approved.
2. GPA may expend up to the amount of \$600,000 for the purposes requested in

its Petition and in CCU Resolution No. 2018-05. None of the authorized funds shall be expended for marketing, lobbying, community outreach, or public relations, or any similar or related activity. No further increase shall be considered or approved until GPA complies with the requirements of this Order.

3. Within 60 days of the PUC Order in this Docket, GPA shall provide a Report to PUC. The Report shall specify, by line item and in detail, the matters and purposes for which the \$600,000 will be expended, and the amount of expenditure for each item. The Report shall also include a budget setting out the entire scope of the EPCM contract with Stanley Consultants. GPA should indicate the total amounts which it intends to expend on this contract, its duration, and any other tasks for which it intends to retain Stanley (such as Owner's Representative) with a complete description of the tasks.
4. GPA should undertake efforts to limit the scope and cost of the Stanley EPCM contract, and advise the PUC in its Report of what efforts it will undertake.
5. 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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Jeffrey C. Johnson  
Chairman

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Rowena E. Perez  
Commissioner

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Joseph M. McDonald  
Commissioner

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Michael A. Pangelinan  
Commissioner

Order  
GPA Application for an Increase  
in the EPCM Contract  
March 29, 2018

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Peter Montinola  
Commissioner

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Filomena M. Cantoria  
Commissioner

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Andrew L. Niven  
Commissioner