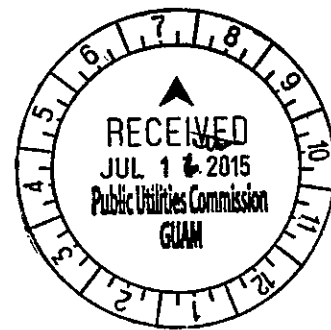


GUAM PUBLIC UTILITIES COMMISSION
REGULAR MEETING
MAY 28, 2015
SUITE 202, GCIC BUILDING, HAGATNA



MINUTES

The Guam Public Utilities Commission [PUC] conducted a regular meeting commencing at 6:43 p.m. on May 28, 2015, pursuant to due and lawful notice. Commissioners Johnson, Perez, McDonald, Cantoria, Pangelinan, Montinola and Niven were in attendance. The following matters were considered at the meeting under the agenda made *Attachment "A"* hereto.

1. Approval of Minutes

The Chairwoman announced that the first item of business on the agenda was approval of the minutes of April 30, 2015. Upon motion duly made, seconded and unanimously carried, the Commission approved the minutes subject to correction.

2. Guam Power Authority

The Chairman announced that the next item of business was GPA Docket 15-05, Petition to Begin Procurement for New Engineering and Technical Consulting Services (including fuel conversion and catalyst retrofit evaluation of Cabras 3 & 4 and MEC 8 & 9), PUC Counsel Report, and Proposed Order. Counsel indicated that GPA was requesting approval of two matters in this docket: (1) Certain consulting services related to its proposed 180 MW Combined Cycle Plant at a cost of \$750,000.00; and (2) Consulting services including a study and an evaluation of the feasibility of converting MEC 8 & 9 and Cabras 3 & 4 for use with Ultra Low-Sulfur Diesel or LNG, and to undertake a catalyst retrofit.

Since MEC operates both MEC 8 & 9, MEC would contract with BWSC to undertake the study. The project is estimated to cost \$300,000. Counsel indicated in his Report that the request for \$750,000 for consulting services related to the proposed Combined Cycle Plant is premature at present; the PUC Consultant Lummus is still engaging in discovery requests with GPA about the plans for the Combined Cycle Plant. Lummus submitted these requests to GPA within the last week. At this point PUC hasn't approved a Combined Cycle Plant; it is unknown at present what the scope of the plants will be, how large, the megawattage, and other aspects concerning the fuel source. Thus, the first request should be deferred at present.

However, the Commission should proceed with the second request up to the amount of \$300,000 for the study of the MEC and Cabras Plants on the fuel source and the catalyst retrofit. The RICE MACT rules adopted by the U.S. EPA potentially require conversion to other fuel sources for the plants, potentially Ultra Low-Sulfur Diesel. GPA should

proceed ahead with the study to determine the feasibility of such fuels. It is only a study at present, as the PUC has not approved the use of either Ultra Low-Sulfur Diesel or LNG. But, a study on the feasibility of converting to such fuel sources is a good idea. It would give the Commission a better understanding of the potential cost of such conversion. Counsel recommends that the Commission approves the request by GPA to undertake the study of the fuel conversion and catalyst retrofit.

However, the supporting documentation of GPA, at present, does not add up to the total of \$300,000. The present documentation from GPA suggests a study from Burmeister-Wain, which would cost \$205,000. Apparently such study was only for one MEC Plant and one of the Cabras Plants. General Manager Benavente felt that all four plants should be included. So therefore, the cost will go up. GPA wishes to expend such funds from the 2014 Bonds, the LNG Initial Startup. The PUC has determined that such funds can be used for issues relating to new generation and fuel conversion. GPA has proposed an appropriate source of funding. In the Proposed Order, the Commission would approve the study and retrofit analysis, but only in the amount of \$205,000 at present. Such amount would come from the 2014 Bond Funds. GPA would be allowed to subsequently submit further information to legal counsel to fund costs up to the amount of \$300,000 for the study.

The Chairman then asked GPA GM Benavente if he had any comments on this matter. Mr. Benavente indicated that he was agreeable to the Order. The purpose of the study would be to determine how the generators could be converted to Ultra Low-Sulfur Diesel, and potentially LNG in the future. The study would be an evaluation of current technology and proper method with which to proceed. Commissioner Niven asked whether another study was being done or planned to look at the retrofit of Cabras 1 & 2 for compliance with the EGU- MATS requirements. GM Benavente indicated that, at present, no such study was being done. With the assumptions that GPA has made, at present, the study would be with regard to the Combined Cycle Plant. If Combined Cycle Plant is not the option, more study and evaluation would have to be done of the Cabras Plants. Those plants are roughly 40-42 years old. A 40 year old piping of the steam plants would also have to be examined and evaluated, including costs. Mr. Benavente believes that the recommendations for the Combined Cycle Plants are still holding.

Commissioner Niven further indicated that he just wanted to understand, in basic terms, why Cabras 1 & 2 compliance with EGU-MATS is not a close question in GPA's Analysis. Commissioner Niven believes that Cabras 3 & 4 regarding the RICE MACT compliance is a closer question. GM Benavente indicated that the Cabras 3 & 4 and MEC 8 & 9 are much more efficient than Cabras 1 & 2. With conversion of the diesel fuel, the primary matter is efficiency. Secondly, the steam plants are not a fit to the renewable plants. There is already one renewable plant, with an additional 40MW of renewables for which the bid was just opened. There is also a possibility of a 45MW Department of Navy-GPA Partnership. Then there will be a hole of 120-150 MW of the

210MW load. The steam plants cannot back down that far. One can get it down to 30MW at minimal, but it's still a very unstable operation.

The slow speeds can be started up and down; they can be turned on when the renewables are not producing energy around 5:00 or really down 4:00 till 6:00pm. The slow speeds can be started up at 7:00 to 8:00pm. There is a huge climb for the down period from 4:00 to 8:00. The slow speeds will be able to work with the renewable system. That's why a Combined Cycle allows GPA to move up and down. If the Cabras 1 & 2 continue to be utilized, substantial analysis will need to be made as to the cost. Upon motion duly made, seconded and unanimously carried, the Commissioners approved expenditure by GPA in an amount of \$205,000 for a Fuel Conversion and Catalyst Retrofit Evaluation of Cabras 3 & 4 and MEC 8 & 9. The Commission adopted Order made *Attachment "B"* hereto.

The Chairman then thanked GM Benavente for all his efforts post-typhoon. The recovery went well overall, it was only unfortunate that one employee had an issue, but sounds as if he is recovering now. GM Benavente indicated that total damages from the typhoon were around \$1.2M. Revenue loss was another three quarters of a million dollars. GPA recovered 95% of power within three days and 99% within 5 days. The Cabras 1 plant did trip the main transformer. GPA is examining whether it can repair the transformer or whether there will be a need to replace it.

3. Guam Waterworks Authority

The Chairman announced that the next item on the agenda was GWA Docket 15-03, Request to Waive Pre-procurement Review of Refinancing of Bank of Guam Loan, ALJ Report, and Proposed Order. Counsel indicated that the nature of GWA's request has changed. Initially GWA requested a waiver of certain pre-procurement review requirements of the PUC. GWA has a loan with Bank of Guam for \$30M. The Commission approved that loan in 2010. Under the original loan agreements, the loan was due by June 15, 2015. At a CCU Board meeting, some of the CCU Commissioners expressed concerns about the interest rate which was charged, 7.75%. They felt that perhaps the financing for this loan should go to bid, rather than simply renewing the loan with Bank of Guam. The problem is that the loan balance was due by June 15. GWA was trying to expedite the procurement process by asking the PUC to waive the normal review required for procurements under the contract review protocol. However, subsequently, GWA entered into negotiations with Bank of Guam and was able to reach more agreeable terms on the loan.

GWA originally had two promissory notes with the Bank of Guam, one for \$5M and the other for \$25M. The \$5M note has been paid off by GWA or will be paid off by June 15. On the \$25M loan, there is still an outstanding debt of \$15M. There has been a new agreement between GWA and the Bank of Guam that would extend the loan for another five years. The loan would need to be repaid by GWA by June 15, 2020. The beneficial element is that GWA negotiated a reduction in the interest rate from 7.75%

down to 5.25%. The Bank of Guam agreed to this reduced interest rate and a revised agreement has been prepared. GWA must secure the PUC's approval as any obligation involving loans is subject to PUC review and approval. Essentially now, instead of requesting a waiver on the procurement requirements, GWA has filed an emergency petition requesting expedited approval of the extension of this loan for the next five years.

The ALJ Report indicates that GWA obtained an economically favorable interest rate of 5.25%. Had this extension not been agreed to with Bank of Guam on June 15 there would have been a balloon payment due of \$15M from GWA. The extension also saves the additional cost of issuance to renew financing, which GWA estimates to be \$300,000. The monthly payments under the revision agreement will be roughly \$293,550.00 per month. The ALJ finds that the revision agreement is reasonable. The ALJ recommends that the request of GWA be approved.

Commissioner Cantoria indicated that, according to PUC Counsel's presentation, the balance of the loan was \$15M. She asked why GWA was seeking an extension of \$22M. GWA Counsel Taylor indicated that there were originally two loans, one for \$5M and one for \$25M. The loan is being extended on the \$25M (\$22M was in error). \$15M is the balance on that note. Commissioner Cantoria further asked whether the correct amount of the monthly amortization was \$293,000. Counsel Taylor indicated that was correct. GWA CFO Cruz indicated that the monthly amortization was actually lower, the amount of \$285,000 per month. Commissioner Montinola asked whether the Order would have to be revised, as the monthly interest was \$285,000. The Chairman indicated that it would. Commissioner Perez indicated whether there would be savings on refinancing fees. CFO Cruz indicated that there were no refinancing fees at all, and no loan repayment penalties. Commissioner Montinola asked whether the \$300,000 was an insurance fee. Counsel Taylor indicated that \$300,000 was what GWA would incur if it had to go out for refinancing. GWA is saving the \$300,000 by not refinancing.

Commissioner Perez asked what GWA's monthly payment was now on the \$25M. CFO Cruz indicated that it was about \$300,000 a month. Commissioner Montinola established through questions to Mr. Cruz that there would be savings of approximately \$100,000 on payments for the \$5M loan (which was paid off). This would result in savings of over a million plus annually. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the revision agreement between GWA and Bank of Guam for extension of the \$25M loan. The Commission adopted the Order made *Attachment "C"* hereto.

GWA Counsel Taylor then introduced the new interim General Manager of GWA, Mark Miller, to the PUC Commissioners. The Chairman also thanked GWA for its good job post-typhoon. Many people did not lose water, like in the old days. The Chairman looks forward to further system improvements over time.

4. Port Authority of Guam

The Chairman indicated that the next item of business was PAG Docket 15-01, Review of Contract for Legal Services, ALJ Report, and Proposed Order. Counsel indicated that this matter has been prepared by ALJ Alcantara. About one year ago, the PUC previously reviewed the Legal Service Contract for the Port Authority. The Port was required to go out to bid on the contract, and it conducted the bid process in April 2015. There was only one bidder, one law firm that submitted a bid for the Port Legal Contract: the Phillips & Bordallo Firm. The PAG Board analyzed the proposal and found that Phillips & Bordallo was the best qualified bidder (as the only offeror). PAG issued a notice of intent to award the contract to Phillips & Bordallo. The Board of Directors of the Port approved the award.

This Contract comes before the PUC under the contract review protocol, which requires review of professional services contracts in excess of \$1M. In this case, the \$1M applies over the life of the contract. Contract will be for four years overall, but renewable annually. It is clear that the \$1M threshold has been reached. The ALJ finds that the terms and conditions of the contract are commercially reasonable. The Phillips & Bordallo firm will function as a general counsel for the Port Authority. It is performing all of the services that a law firm would normally perform, including review of procurement matters, drafting of contracts, handling of litigation, etc. It is a broad scope of a general counsel contract where full services are provided. It appears that the Port needs these legal services in many cases; it is reasonable that the Port has gone out to bid to hire a legal counsel. The ALJ also found that the contract, with its cost terms and conditions, is reasonable, prudent and necessary for PAG to successfully operate. The ALJ recommends approval of the contract. An Order has been prepared by which the Commission would approve the contract as recommended by the ALJ.

Commissioner Montinola asked whether the contract was for legal services for 2015. Ms. Javier of the Port indicated that the contract would be for 2015-2016, starting in June. Mr. Montinola asked whether there would be any services that would go over \$700,000 for this year. Mr. Pangelinan of Port indicated that it would not. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the Legal Services Contract between the Port Authority of Guam and the Law Firm of Phillips & Bordallo. The Commission adopted the Order made *Attachment "D"* hereto.

The Chairman announced that the next item on the agenda was PAG Docket 15-02, Review of Contract for Implementation and Integration Services for Terminal Operating System, ALJ Report and Proposed Order. Counsel indicated that the Port was seeking a Contractor to provide a Terminal Operating System, including software and a hardware system, to link various parts of the Port Community together: the users, shippers, and other elements of the Port Community. Phase 1 of the project was to find out what proposals there would be. Phase 1 resulted in a study as to how the Terminal Operating System could be implemented. The cost of the study was in excess of

\$100,000. Phase 2 involves implementing the terminal operating services and developing the hardware and software system. This further involves system development, testing and training, and implementation of system transition.

There is a transition from an older software systems to a newer software system. There will be many steps necessary to provide implementing the new hardware and software. The project is extensive and it is very technical in terms of describing the terminal operating system. The cost will be in excess of \$4.1M at this stage. The contractor selected for Phase 2 is G4S. It is working with a subcontractor to implement the program. The Navis Terminal Operating System License is involved. The cost includes the license itself, program training, customization, configuring, commissioning and testing.

The five year license costs about \$61,000.00 and \$1,568,902.65 for labor, materials and equipment. The funding currently requested is for Task Order No.2; there would likely be additional task orders. This is not the end of the cost for the project. For now the funding sources are indicated as follows: \$500,000 from the CIP account for FY2015, \$1M funded from the \$10M SLE loan, and \$2.6M-plus to be funded from the CIP in 2016 & 2017. Proper funding sources have been indicated. The ALJ finds that the Terminal Operating System is critical to the Port's operations. It will upgrade the current operating procedures, and implement a modern automated system with direct interaction and work protocols with external stake holders such as the shipping lines, truckers, and Customs. The ALJ recommends that the current contract with G4S be ratified and that the Commission approve Task Order No.2 at a cost of \$4,135,112.36.

GM Brown from PAG indicated that the Port Terminal System will modernize the Port, comparable to more modern ports in the world. The ability to track cargo from the vessel from the time it is unloaded to the time it's located in the yard. The other financial advantage is that PAG would be able to track its cargo. A small component of the system will address the gate operating system. The Port can be expanded so that when cargo goes in and out, it will have manual gates. PAG will be able to electronically track the cargo coming in and coming out of the Port without actually having the trucker get out. PAG will be able to track the cargo on the vessels once they are unloaded at the Port. A manifest will list where the cargo is. This will be tracked by computer. Carriers will be hooked into the Navis System including Matson. Matson would also be able to track where a specific container is located, when it comes in, when it departs. Most modern ports have that capability; PAG will become a more modern Port.

Commissioner Cantoria asked whether there was a renewal provision in the five year contract. Ms. Javier of the Port indicated there was no renewal provision; the full term of the contract was just for five years. Ms. Javier indicates that the license agreement extends for five years; in the fourth year, the agreement would probably be renewed for the fifth year license agreement. When it expires, PAG will then continue on an annual

basis. It is likely that the license fee will be less than \$100,000.00 a year. Commissioner Perez asked whether the negotiating team of PAG brought the cost down by \$2.6M. Ms. Javier indicated that was correct. Mr. John Santos of PAG indicated that the original offer was \$6.7M. Ms. Javier stated that the Port negotiations lasted for almost a year. The Chairman asked whether the Port sustained any significant damage during the typhoon. GM Joann Brown indicated that, fortunately, the damage was relatively minor. The shipping containers impacted the security fencing. Except for a few hours of power outage, the Port was operational. The Port prepared in advance and secured its equipment and yard prior to the storm. Commissioner Perez asked whether the PAG team would be manually inputting the data of the old system. Ms. Javier indicated that was the case. Commissioner Perez asked whether information would be migrated.

Ms. Javier stated it would be migrated because at present PAG is semi-automated and it is integrated with the PAG Financial Management System. When the program is implemented, the contractor would probably back up and transfer data. Commissioner Perez thought there was a concern about data integrity. PAG stated that it prefers not to migrate any existing records for both systems due to data integrity. So, she did not know whether PAG was just going to key in from scratch. That would be considerable work. Mr. Santos, the Operations Manager, stated that automation by PAG would be migrated over. Everything will be punched in. All new numbers are dedicated. The old data would be saved on another computer.

Commissioner McDonald asked whether technical support would be on island and whether the staff was on island. Ms. Javier stated that G4S has subcontracted Navis and is bringing its technical and professional employees. There's a 24 hour support line. There will be someone here for five years. Commissioner McDonald asked whether there will be technical support on island. Ms. Javier stated that PAG would have to make sure of that. Commissioner Pangelinan asked whether PAG anticipated additional task orders over the next five year period. Ms. Javier stated it did. PAG had negotiated the contract down to 180,000 TEUs; if PAG exceeds 180,000 TEUs in one year, there is an additional cost for licensing. PAG can decide in a subsequent task order whether it desires a full-blown gate operating system. Commissioner Pangelinan asked what the cost would be for that. Ms. Javier stated that PAG would have to negotiate with the contractor. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the Contract for Implementation and Integration Services for the Terminal Operating System in the amount \$4,135,112.36. The Commission adopted the Order made *Attachment "E"* hereto.

The Chairman indicated that the next item on the agenda was PAG Docket 15-03, Review of \$2M USDA Direct Loan, ALJ Report, and Proposed Order. Counsel indicated that the specific matter for which PAG requests approval is a \$2M USDA (United States Department of Agriculture Rural Development) Community Facility Direct Line for the purchase of several pieces of critical cargo handling and maintenance

equipment. Included are eight terminal yard tractors, a telescopic boom lift, a compact articulated boom lift, an industrial street sweeper, two portable tool operating welding machines, and four 5-ton forklifts. This money became available resulting from a 2006 USDA loan to PAG for \$14M (for the purchase of Gantry Cranes). The Cranes were purchased for \$12M, so that left a balance of \$2M. PAG then requested that USDA authorize it to use the additional funds for the purchase of the equipment indicated. There were negotiations between PAG and USDA, and various amendments were made to the loan agreement. The \$2M loan was approved by the PAG Board of Directors.

The promissory note from PAG to USDA is in the principal amount of \$2M at an interest rate of 3.5% per annum. There will be monthly payments by PAG in the amount of \$26,880.00 for a term of seven years. USDA will have a lien on all equipment purchased with the loan funds. The Port will sign a security interest to USDA for its income and assessments related to its operations. The ALJ has reviewed the documentation involved in the loan and recommends that the PUC authorize PAG to enter into this USDA Direct Loan Agreement. The conditions of the documents are commercially reasonable and not unduly burdensome. The repayment terms are reasonable. Purchase of the cargo handling and maintenance equipment is essential to the Port's operations. The Proposed Order would approve the Port's entering into this loan agreement. Upon motion duly made, seconded and unanimously carried, the Commissioners authorized PAG to enter into a \$2M USDA Direct Loan in accordance with its terms and conditions. The Commission adopted the Order made *Attachment "F"* hereto.

5. Administrative Matters

The Chairman announced that the next item in Administrative Matters was E911 Fiscal 2014 Surcharge Summary, GTA Docket 15-01. Counsel indicated that the report was still a draft; overall the Report shows a steady increase in the E911 surcharge funds. The Report has been somewhat delayed. It is normally supposed to be submitted within 60 days of the end of the fiscal year which would have been by the end of last November. We are now working with the Consultant to finalize the Report. The Report is recommending that the PUC undertake certain actions. When the Report is finalized, it will be submitted to the Office of the Governor, the Public Auditor, and the Speaker.

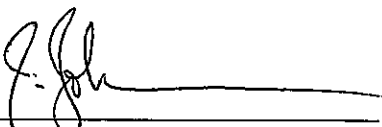
The Chairman asked whether the surcharge now is producing over \$2M a year for E911. Counsel indicated that was correct. The Chairman noted that 10 years ago it started at \$172,000. Commissioner Niven asked why the Report was titled Docket 14-00, when Counsel indicated the Docket was GTA 15-01. Counsel agreed that the Report had been misnamed. Counsel has already discussed with the Consultant that it should change the Docket No. The Report is basically in order; it tracks the reports from prior years. The content of the Report has been reduced over the years. Commissioner Niven asked

what were the two or three most important items that the Commissioner should look for. Counsel indicated that it was the total amount collected; there were also some discrepancies in how each of the collection agents handles items such as prepaid accounts. Also, there have been problems with agents submitting receipts from the Department of Administration for surcharge tariffs paid. There may be a need to standardize withholdings for collection agent administrative costs.

Commissioner Niven asked what has happened over the past two or three years when PUC submits the E911 Report. Has it been reviewed, or have there been questions or reactions? Counsel indicated that he had not had any questions. The Office of Public Auditor had undertaken some investigation on these issues. PUC Chairman clarified that the Commission does not have much responsibility beyond issuing the Report. Counsel indicated that was correct. Years ago the PUC had a larger roll, even with the budget of E911. But the Legislature subsequently removed the PUC from the budget process and replaced it with Legislature. Now the Legislature is responsible for the budget; the PUC does not have a role. This task is an odd one for the PUC. And it is basically an accounting task to go through and determine the receipts of E911 surcharges. The Commission however is not technically an accounting body. With regard to the surcharge itself, it does make sense for the Commission to determine what the amount of the surcharge is, which has been \$1.00 per line basically from the beginning. It is somewhat odd that the accounting function for the receipts is vested in the PUC. The PUC then has no choice but to hire an accountant to perform that function. PUC has complied; this is the law and the statutory duty.

Administrator Palomo had nothing further to report. The Commissioners then determined that the next meeting would be on July 16, 2015. It would be special meeting, since it falls outside the regular meeting day of the PUC. There would be no June meeting. Upon motion duly made, seconded and unanimously carried, the Commissioners approved the holding of a Special Meeting on July 16, 2015.

There being no further business, the Commissioners moved to adjourn the meeting.



Jeffrey C. Johnson
Chairman

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION
REGULAR MEETING
SUITE 202, GCIC BUILDING
414 W. SOLEDAD AVE. HAGATNA, GUAM
6:30 p.m., May 28, 2015**

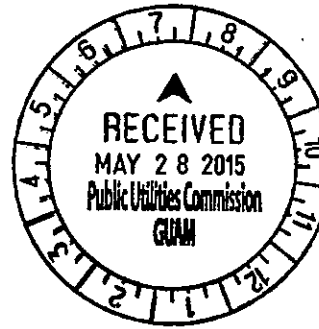
Agenda

- 1. Approval of Minutes of April 30, 2015**
- 2. Guam Power Authority**
 - GPA Docket 15-05, Petition to Begin Procurement for New Engineering and Technical Consulting Services (including fuel conversion and catalyst retrofit evaluation of Cabras 3&4 and MEC 8&9), PUC Counsel Report, and Proposed Order
- 3. Guam Waterworks Authority**
 - GWA Docket 15-03, Request to Waive Pre-Procurement Review of Refinance of Bank of Guam Loan, ALJ Report, Proposed Order
- 4. Port Authority of Guam**
 - PAG Docket 15-01, Review of Contract for Legal Services, ALJ Report, Proposed Order
 - PAG Docket 15-02, Review of Contract for Implementation and Integration Services for Terminal Operating System, ALJ Report, Proposed Order
 - PAG Docket 15-03, Review of \$2M USDA Direct Loan, ALJ Report, Proposed Order
- 5. Administrative Matters**
 - E-911 Fiscal 2014 Surcharge Summary for the Guam Public Utilities Commission, GTA Docket 15-01
- 6. Other Business**

ATTACHMENT A

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:) GPA Docket 15-05
)
The Petition of the Guam Power Authority)
for Approval of Procurement of New) **ORDER**
Generation Combined Cycle Units and to)
Proceed with Implementation of the)
Integrated Resource Plan (RIP).)



INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission (PUC) upon Guam Power Authority's Petition to Procure New Engineering and Technical Consulting Services (to include procurement, contracting, construction and commissioning support for up to 180 MW Combined Cycle Power Plant), and to Contract with MEC to Perform a Fuel Conversion and Catalyst Retrofit Evaluation of Cabras 3 & 4 and MEC 8 & 9, and to use 2014 Bond Funds.¹
2. There are two aspects of GPA's Petition: first, it requests authority to hire consulting services relative to its proposed 180 MW Combined Cycle Power Plant; second it requests that, through MEC, a study be performed to determine the feasibility of converting MEC 8 & 9 and Cabras 3 & 4 for use with Ultra Low Sulphur Diesel or LNG, and to undertake a Catalyst Retrofit.²

BACKGROUND

3. The PUC has not yet made any final determination as to whether GPA will be authorized to construct new generation facilities, including the proposed 180 MW Combined Cycle Power Plant.
4. In its Decision dated January 29, 2015, PUC indicated that GPA had not provided sufficient justification to proceed ahead with the procurement of New Combined Cycle Generation. GPA's Petition for adding New Combined Cycle Generation was rejected. Further consideration was deferred pending GPA provision of more specific and complete information to the PUC as requested in its Orders.³

¹ GPA Petition to Procure New Engineering and Technical Consulting Services (to include procurement, contracting, construction and commissioning support for up to 180 MW Combined Cycle Power Plant), and to Contract with MEC to Perform a Fuel Conversion and Catalyst Retrofit Evaluation of Cabras 3 & 4 and MEC 8 & 9, and to use 2014 Bond Funds, GPA Docket 15-05, filed April 6, 2015.

² Id. at p.1.

³ PUC Order GPA Docket 15-05, dated January 29, 2015.

ATTACHMENT B

5. Since the date of the PUC Order, GPA and the PUC Consultant, Lummus, have engaged in a detailed and ongoing exchange of information and discussion. Most recently, on May 21, 2015, Lummus Consultants issued additional information requests to GPA concerning the runs provided by the GPA's Strategist and Financial Model.⁴
6. In this Petition, GPA has requested the use of 2014 Bond Funds to pay for a Task Order in the amount of \$750,000 for procurement of engineering and technical consulting services relative to the 180 MW Combined Cycle Power Plant.⁵
7. For the fuel conversion and catalyst retrofit evaluation of Cabras 3 & 4 and MEC 8 & 9, GPA requests that it be authorized to expend \$300,000 from the 2014 Bond Funds to pay for the Task Order related thereto.⁶
8. On May 27, 2015, PUC Counsel submitted his Report herein. The Commission adopts the findings therein.

DETERMINATIONS

9. GPA's request for \$750,000 for engineering and technical consulting services relative to the proposed 180 MW Combined Cycle Power Plant is not yet ready for decision by the PUC. Lummus Consultants is continuing to issue information requests to GPA on such matter.
10. The PUC cannot determine what consulting services are necessary for the proposed 180 MW Combined Cycle Power Plant until it first determines whether GPA should be authorized to proceed with the construction of the Plant.
11. This particular request is "premature" and not "ripe for review". A decision by the PUC on the request for \$750,000 should be deferred until the PUC addresses the Petition for Approval of New Generation in this Docket.

⁴ Email from Kathy Kelly, Lummus Consultants, to various GPA Officials, GPA Docket 15-05, dated May 21, 2015.

⁵ GPA Petition to Procure New engineering and Technical Consulting Services (to include procurement, contracting, construction and commissioning support for up to 180 MW Combined Cycle Power Plant), and to Contract with MEC to Perform a Fuel Conversion and Catalyst Retrofit Evaluation of Cabras 3 & 4 and MEC 8 & 9, and to use 2014 Bond Funds, GPA Docket 15-05, filed April 6, 2015, at p.2.

⁶ Id.

12. PUC should approve GPA's request to contract with MEC to perform a fuel conversion and catalyst retrofit evaluation of Cabras 3 & 4 and MEC 8 & 9.
13. On May 25, 2015, GPA provided to PUC a proposal from BWSC (Burmeister & Wain Scandinavian Contractor A/S) for performing a fuel conversion and catalyst retrofit survey for the plants.⁷
14. Based upon on the new RICE MACT regulations of the United States Environmental Protection Agency, it is conceivable that GPA will be required to convert the fuel source for those plants to Ultra Low Sulfur Diesel (ULSD). It is prudent for GPA to explore the feasibility of converting such plants to ULSD.
15. Such conversion to ULSD may be necessary for GPA to comply with the applicable USEPA regulations.
16. It is not entirely clear as to why GPA needs to consider conversion to LNG for those plants at the present time. GPA's current plans do not contemplate any possible conversion to LNG until 2020. PUC has not approved a conversion to LNG. However, there is no harm in allowing GPA to proceed with a study of this issue. A study of fuel conversion to ULSD or LNG, and catalyst retrofits, should provide a better understanding of the potential costs of such actions.
17. Approval by PUC of authorization for GPA to undertake a study of the foregoing matters does not in any manner imply or constitute approval by PUC of GPA's plans to convert the MEC/Cabras plants to USLD or LNG at the present time.
18. GPA has requested \$300,000 for the study/evaluation. However, the documents submitted by GPA in support of this request, to date, have only justified the cost of \$205,000.00 (the original cost for the survey by BWSC was indicated as \$205,000).
19. There will likely be additional costs for GPA's Environmental Consultant, TRC. GPA has, to date, not been unable to supply the PUC with an estimate of the additional funds needed for the survey due to the current absence of an employee from GPA.⁸

⁷ BWSC Proposal for Lifetime Extension Survey at Guam Piti 8/9 and Cabras 3 & 4 Diesel Power Plants, October 3, 2014 (attached to email from GPA Counsel to PUC Counsel dated May 25, 2015, GPA Docket 15-05). The GPA General Manager determined that the study did not go far enough in that it did not include all four plants, but only two.

⁸ Email from GPA Counsel Graham Botha to PUC Counsel Fred Horecky, GPA Docket 15-05 dated May 27, 2015 [Comments of John J. Cruz Jr.).

20. Thus, GPA has, at present, justified authorization for an expenditure of \$205,000, with the likelihood that there would be additional costs for the TRC work on the project.
21. GPA's request that the fuel conversion and catalyst retrofit evaluation be funded from the 2014 Bond Funds is appropriate. As the PUC recently held in GPA Docket 13-14, it is appropriate to fund projects that relate to GPA's new generation facilities and fuel conversion from the LNG Initial Startup Budget.⁹
22. Upon submission by GPA of additional cost documentation to PUC, and certification by Counsel that such documentation justifies additional expense for the survey, GPA may expend up to \$300,000 for such survey/evaluation.

ORDERING PROVISIONS

After review of the record herein, GPA's Petition for Approval to Procure New Engineering and Technical Consulting Services, and the PUC Counsel Report, for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY ORDERS** that:

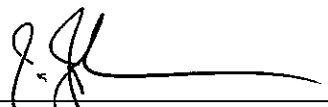
1. GPA's request to contract with MEC to perform a fuel conversion and catalyst retrofit evaluation of Cabras 3 & 4 and MEC 8 & 9 is approved.
2. At present GPA is authorized to expend up to \$205,000.00 for such study/evaluation. Upon submission by GPA of additional cost documentation to PUC, and certification by Counsel that such documentation justifies additional expense for the survey, GPA may expend up to \$300,000 for such survey/evaluation.
3. GPA may expend authorized funds for the survey/evaluation from the 2014 Bond Funds, Initial LNG Start Up.
4. Until such time as the Commission addresses the issue of GPA's proposed 180 MW Combined Cycle Power Plant, consideration of GPA's petition to begin procurement for new engineering and technical consulting services relating to the Combined Cycle Power Plant, up to the amount of \$750,000, is deferred.
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

⁹ PUC Order GPA Docket 13-14, dated April 30, 2015.


Order
Consulting/Technical Services for
New Generation
GPA Docket 15-05
May 28, 2015

conducting the hearing proceedings. Assessment of 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.


Dated this 28th day of May, 2015.




Jeffrey C. Johnson
Chairman




Rowena E. Perez
Commissioner




Michael A. Pangelinan
Commissioner



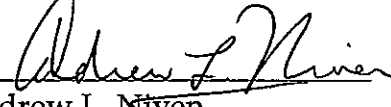
Filomena M. Cantoria
Commissioner



Joseph M. McDonald
Commissioner



Peter Montinola
Commissioner



Andrew L. Niven
Commissioner



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

RE: REQUEST TO WAIVE PRE-PROCUREMENT REVIEW FOR REFINANCING OF BANK OF GUAM LOAN)	GWA DOCKET 15-03
)	
)	ORDER
)	
)	
)	

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the "PUC") pursuant to the April 23, 2015 Request to Waive Pre-Procurement Review for Refinancing of Bank of Guam Loan, filed by the Guam Waterworks Authority ("GWA"). In its request, GWA sought PUC approval to waive the PUC's pre-procurement review for the refinancing of its \$30 million short-term loan previously approved by the PUC in GWA Docket 10-01.

However, on May 27, 2015, GWA filed an Expedited Petition for Approval of the Extension of the \$22 Million Dollar Loan with the Bank of Guam to Fund Reserves Required under the Bond Indenture and for Other Authorized Purposes ("Expedited Petition"). In the Expedited Petition, GWA now seeks PUC approval to amend the loan agreement in order to extend payment of the remaining principal and interest on the \$30 million loan for another five (5) year term.

DETERMINATIONS

On April 23, 2015, GWA filed its Request to Waive Pre-Procurement Review for Refinancing of the Bank of Guam Loan. The loan referenced in the request concerned the \$30 million short-term loan approved by the PUC in GWA Docket 10-01. In its May 27, 2010 Order, the PUC approved the subject loan, and authorized GWA to

ATTACHMENT C

enter into the loan agreement.¹ However, the PUC's approval was for a five-year term with an interest rate of 7.75% per annum.² Thereafter, GWA entered into a loan agreement that was comprised of two promissory notes: one for the amount of \$5 million; the other for the amount of \$25 million.³ According to GWA, the \$5 million note will be fully paid on June 15, 2015.

In its April 23, 2015 request, GWA sought PUC approval to waive the PUC's pre-procurement review, as required under its Contract Review Protocol, for the refinancing of the remaining balance on the loan. GWA indicated that pursuant to the terms of the loan agreement, it will be required to "make a balloon payment of approximately \$15M on or before June 15, 2015" and therefore it faced "serious time constraints" which necessitated the need to issue bids to refinance the balance on the loan "as soon as possible."⁴

However, on May 22, 2015, GWA's legal counsel informed the Administrative Law Judge of the PUC (the "ALJ") that GWA was not seeking procurement for refinancing any longer, but rather was now seeking an extension of the current loan. GWA's legal counsel thereafter provided the ALJ with a draft copy of the CCU resolution authorizing the extension, as well as a copy of the Revision Agreement, which amends the terms of the existing loan agreement.

On May 26, 2015, the Consolidated Commission on Utilities (the "CCU") issued Resolution No. 26-FY2015, which authorized GWA to petition the PUC for

¹ GWA Docket 10-01, PUC Order, pp. 4-5 (May 25, 2010).

² GWA Docket 10-01, PUC Order, p. 5 (May 25, 2010).

³ Expedited Petition, Exhibit B, Loan Agreement, p. 1 (May 27, 2015).

⁴ GWA's Request to Waive Pre-Procurement Review by PUC Relative to Refinancing Outstanding Balance of GWA's \$30M Short-Term Loan with the Bank of Guam, GWA Docket 15-03, p. 1 (Apr. 22, 2015)

approval of extending the life of the loan, as well as to enter into the Revision Agreement upon the PUC's approval.⁵ On May 27, 2015, GWA filed its Expedited Petition in GWA Docket 10-01. This petition presumably superseded the April 23, 2015 petition filed by GWA. On May 28, 2015, the ALJ filed an ALJ Report regarding the PUC's review of the Expedited Petition. Based on the record provided by GWA, the ALJ found the following.

Pursuant to 12 G.C.A. §12004,⁶ GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC's express approval. In addition, GWA's Contract Review Protocol mandates that "[a]ll externally funded loan obligations and other financial obligations such as lines of credit, bonds, etc. in the excess of \$1,000,000" shall require "prior PUC approval under 12 G.C.A. §12004"⁷

In its petition, GWA submitted that with respect to this loan extension, "GWA has obtained an economically favorable 5.25% interest rate"; and that this interest rate "is quite favorable considering the fact that GWA's average coupon rate for its 2013 bonds was 5.44%"⁸ In addition, GWA further submitted that without this extension, GWA "would be subject to an immediate balloon payment of the unpaid balance" of about \$15 million.⁹ Further, in the event GWA "defaults on making the balloon payment in a timely manner, the default would almost certainly have a negative impact on GWA's credit rating," which would trickle down to the ratepayers, according to GWA.¹⁰ Lastly, GWA

⁵ CCU Resolution No. 26-FY2015, pp. 2-3 (May 26, 2015).

⁶ Renumbered as 12 G.C.A. § 12105.

⁷ GWA's Contract Review Protocol ("GWA CRP"), Administrative Docket 00-04, p. 1 (Oct. 27, 2005).

⁸ Expedited Petition, p. 3.

⁹ Expedited Petition, p. 3.

¹⁰ Expedited Petition, p. 3.

submitted that this extension is “prudent” since it “avoids the cost of issuance that would be associated with refinancing.”¹¹ GWA explained that cost of issuance is “usually about 2% of the total value of the loan—i.e., Three Hundred Thousand Dollars (\$300,000.00).”¹²

According to GWA, the remaining principal balance on the loan is about \$15 million. Based on the Revision Agreement to the subject loan the interest rate is set at 5.25% per annum; with a monthly payment of \$285,000.00.¹³ Finally, the Revision Agreement provided a term of five (5) years for the remaining principal and interest, which shall terminate on June 15, 2020.¹⁴ All other terms and conditions of the loan remain unchanged.¹⁵

In Resolution No. 26-FY2015, the CCU approved the terms set forth in the Revision Agreement, so long as the following conditions were met: (1) that the extension did not interfere with GWA’s ability to issue bonds or secure other financing during the term of the extension; (2) that the final maturity of the loan will be no later than June 15, 2020; (3) that the interest rate will be reduced from the current fixed rate of 7.75% to 5.25% per annum, and shall remain fixed for the term of the extension; (4) that the terms and conditions of the extension do not conflict with the original loan, except as stated therein; (5) that the terms and conditions of the loan do not conflict with Guam law; and (6) that the PUC approve the terms and conditions of the extension.¹⁶ Accordingly, the

¹¹ Expedited Petition, p. 3.

¹² Expedited Petition, p. 3.

¹³ Revision Agreement, p. 1.

¹⁴ Revision Agreement, p. 1.

¹⁵ Revision Agreement, p. 1.

¹⁶ CCU Resolution No. 26-FY2015, p. 2 (May 26, 2015).

CCU authorized GWA to petition the PUC for approval of extending the life of the loan, as well as to enter into the Revision Agreement upon the PUC's approval.¹⁷

Based on the record, the ALJ found that GWA's effort to extend its \$25 million loan appeared reasonable under the circumstances which remaining balance is approximately \$15 million. The subject loan, along with the specific purposes for the use of the funds, has previously been approved by the Commission in an Order issued in GWA Docket 10-01. In light of the circumstances indicated on the record, the lower interest rate appeared favorable to GWA, and lessened GWA's risk of defaulting on the loan. In addition, GWA avoided the costs associated with refinancing, which it indicates would be about \$300,000.00. The ALJ recommended that the PUC approve the extension to the subject loan agreement, and authorize GWA to execute the Revision Agreement.

The Commission hereby adopts the findings made in the May 28, 2015 ALJ Report and, therefore, issues the following:

ORDERING PROVISIONS

Upon careful consideration of the record herein, and for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS the following:


1. That the extension to the loan agreement is hereby APPROVED.
2. That the maturity of the loan from the date of issuance which shall be extended by a period of five years, the interest rate of the loan at 5.25% per annum, the amount of the debt, and repayment structure are hereby APPROVED.

¹⁷ CCU Resolution No. 26-FY2015, pp. 2-3 (May 26, 2015).

3. That GWA is hereby AUTHORIZED to execute the Revision Agreement.

4. GWA is ordered to pay the PUC's regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with this docket. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12002(b) and 12024(b) (renumbered as 12 G.C.A. §§ 12103(b) and 12125(b)), and Rule 40 of the Rules of Practice and Procedure before the PUC.

SO ORDERED this 28th day of May, 2015.



JEFFREY C. JOHNSON
Chairman




ROWENA E. PEREZ
Commissioner



JOSEPH M. MCDONALD
Commissioner



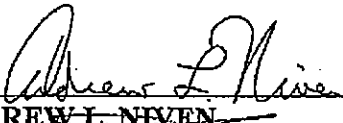
FILOMENA M. CANTORIA
Commissioner



MICHAEL A. FANGELINAN
Commissioner



PETER MONTINOLA
Commissioner



ANDREW L. NIVEN
Commissioner



BEFORE THE PUBLIC UTILITIES COMMISSION

IN RE:

**REVIEW OF CONTRACT
FOR LEGAL SERVICES**

PAG DOCKET 15-01

ORDER

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the Petition filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG” or the “Port”) on May 5, 2015, whereby PAG requested review and approval of its contract for legal services with the Law Offices of Phillips & Bordallo, P.C. (hereinafter referred to as either “Phillips & Bordallo”).

DETERMINATIONS

On April 8, 2015, PAG began the solicitation process for professional legal services through publication of RFP No. PAG-015-004 Legal Services.¹ The RFP sought professional legal services for representation in litigation matters, legal opinions, legal research, among other services and duties.² The selected firm would act as legal counsel to the Port, review contracts, lease agreements, bid invitations, along with other tasks requested by PAG and its Board of Directors.³ The RFP provided that the contract would be for a term of one year, with three one-year options for renewal.⁴

¹ Evaluation Analysis and Recommendation (“Evaluation Analysis”), RFP No. PAG-015-004 Legal Services, p. 1 (Apr. 22, 2015).

² RFP No. PAG-015-004 Legal Services (“RFP”), “Attachment 1,” p. 1 (Apr. 2015).

³ RFP, “Attachment 1,” p. 1.

⁴ RFP, p. 2.

On April 13, 2015, PAG held a Pre-Proposal Conference.⁵ Proposals were accepted through April 17, 2015.⁶ Thereafter, PAG's Evaluation Committee met and reviewed the proposals submitted pursuant to the RFP.⁷ Only one law firm submitted a proposal.⁸ The Evaluation Committee ultimately selected Phillips & Bordallo pursuant to the members' evaluation of the proposal.⁹

On April 22, 2015, PAG Procurement and Supply Manager, Alma Javier, provided the General Manager with the Evaluation Analysis and Recommendation related to the legal services procurement. Ms. Javier indicated that Phillips & Bordallo ranked the highest and was the best qualified, responsive, and responsible offerer; and, therefore, recommended that Phillips & Bordallo be afforded the opportunity to negotiate a cost for its services.¹⁰ On April 22, 2015, PAG issued a Notice of Intent to Award to Phillips & Bordallo and requested the law firm to submit a detailed cost proposal.¹¹

On May 13, 2015, PAG's Board of Directors approved the contract award to Phillips & Bordallo and further authorized PAG Management to petition the PUC for review and approval of the subject contract for legal services.¹² On May 22, 2015, the Administrative Law Judge of the PUC, filed an ALJ Report regarding the PUC's review of the Professional Service Agreement. Upon review and based on the record provided by PAG, the ALJ found the following.

⁵ Evaluation Analysis, p. 1.

⁶ Evaluation Analysis, p. 1.

⁷ Evaluation Analysis, p. 1.

⁸ Evaluation Analysis, p. 1.

⁹ Evaluation Analysis, p. 1.

¹⁰ Evaluation Analysis, p. 2.

¹¹ Notice of Intent to Award, RFP No. PAG-015-004 Legal Services, p. 1 (Apr. 22, 2015).

¹² PAG Board of Directors' Resolution No. 2015-04, p. 1 (May 13, 2015).

Under 12 G.C.A. §12004, the PUC must expressly approve any contractual agreements or obligations which could increase PAG's rates and charges. In addition, under PAG's Contract Review Protocol, "[a]ll professional service contracts in excess of \$1,000,000" "shall require prior PUC approval"¹³

In its Petition, PAG requested that the PUC review and approve the proposed Professional Service Agreement between Phillips & Bordallo and PAG. The Professional Service Agreement indicated that Phillips & Bordallo shall provide the services required and identified pursuant to the RFP. These services included acting as General Counsel to PAG; preparing legal opinions, resolutions, and reports to PAG's Board of Directors or the General Manager; providing representation in litigated matters; providing representation before the Guam Legislature, Boards, and other agencies; review contracts, lease agreements, bid invitations, and other legal assistance and advice, along with other tasks requested by PAG and its Board of Directors.¹⁴

As required under the RFP, the initial contract term is for one calendar year, with three one-year options for renewal. The agreement further provided that monthly billings shall not exceed the sum of \$70,000.00 per month without the prior written approval or subsequent ratification by PAG's Board of Directors.¹⁵ Based on the record of negotiations between PAG and Phillips & Bordallo, it appeared that PAG expended about \$774,803.00 during Fiscal Year 2014 for legal services, and about \$923,563.00 for Fiscal

¹³ Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).

¹⁴ RFP, "Attachment 1," p. 1.

¹⁵ "Exhibit A," [Proposed] Professional Service Agreement between Jose D. Leon Guerrero Commercial Port and Phillips and Bordallo, P.C. ("Legal Service Agreement"), p. 2.

Year 2013. Accordingly, it appeared that PAG expends an average of \$70,000.00 per month for legal services.

Pursuant to the negotiations between PAG and Phillips & Bordallo, the cost of services is as follows: \$200.00 per hour for "Shareholders"; \$175.00 per hour for Associates; and \$100.00 per hour for Paralegals, Law Clerks, and Special Assistants. PAG has indicated that the funding source for the Legal Services Agreement is its Operating and Maintenance fund.


The Commission hereby adopts the findings made in the May 22, 2015 ALJ Report and, therefore, issues the following:

ORDERING PROVISIONS

Upon careful consideration of the record herein, and for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS the following:

1. That the proposed Professional Service Agreement between PAG and Phillips & Bordallo is hereby APPROVED.
2. PAG is ordered to pay the PUC's regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with this docket. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12002(b) and 12024(b) (renumbered as 12 G.C.A. §§ 12103(b) and 12125(b)), and Rule 40 of the Rules of Practice and Procedure before the PUC.

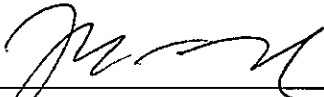
SO ORDERED this 28th day of May, 2015.



JEFFREY C. JOHNSON
Chairman



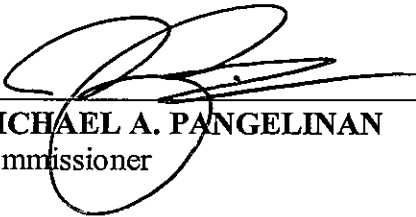
ROWENA E. PEREZ
Commissioner



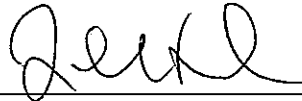
JOSEPH M. MCDONALD
Commissioner



FILOMENA M. CANTORIA
Commissioner



MICHAEL A. PANGELINAN
Commissioner

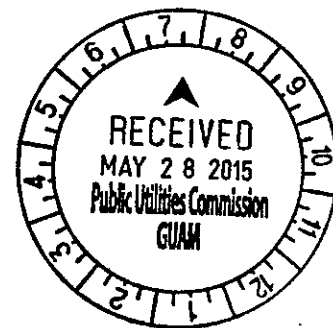


PETER MONTINOLA
Commissioner



ANDREW L. NIVEN
Commissioner

P153020.JRA



BEFORE THE PUBLIC UTILITIES COMMISSION

**IN RE: REVIEW OF CONTRACT)
 FOR IMPLEMENTATION)
 AND INTEGRATION)
 SERVICES FOR)
 TERMINAL OPERATING)
 SYSTEM)**

PAG DOCKET 15-02

ORDER

INTRODUCTION

This matter came before the Guam Public Utilities Commission (the “PUC”) pursuant to the May 5, 2015 Petition for review and approval of the G4S Security Systems (Guam) Inc. (“G4S”) contract related to the Implementation and Integration Services for its Terminal Operating System (“Petition”), filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG” or the “Port”). PAG seeks the PUC’s review, ratification and approval of its services contract with G4S.

DETERMINATIONS

On July 10, 2013, PAG issued a Request for Proposal (“RFP”) to solicit services related to the implementation and integration of a Terminal Operating System (“TOS”).¹ The project was proposed as a five (5) year service contract, which also involved tasking of work in phases through Task Orders.² According to PAG, the initial Task Order was designed to produce a detailed business analysis that would include the proposal of a TOS, a proposed financial approach, as well as phases of implementation.³

¹ Petition, p. 1.

² Petition, p. 1.

³ Petition, p. 1.

ATTACHMENT E

The implementation phases, as well as the other phases of the project, would be subject to the issuance of subsequent Task Orders, approved by the Port.⁴

The firm sought under the RFP would be required to help PAG transition its current operating practices to “a modern automated system that will have a direct interaction and work protocols with external stakeholders such as the shipping lines, truckers and Customs.”⁵ The selected firm would also be required to furnish the support or any hardware or software required for the implementation of the proposed TOS.⁶

Two firms submitted proposals in response to the RFP, which were evaluated by PAG’s procurement team.⁷ PAG’s procurement team thereafter determined G4S to be the highest ranked and most qualified firm to perform the services.⁸ On February 17, 2014, PAG’s Board of Directors approved the contract award to G4S, and approved the initial Task Order at a cost of \$106,637.00.⁹

On May 16, 2014, G4S submitted its initial proposal for Task Order No. 2 at a total proposed cost of \$6,798,895.30, presenting NAVIS SPARCS N4 License as a TOS.¹⁰ After negotiations between PAG and G4S, Task Order No. 2, which has triggered the instant regulatory review, was negotiated at a cost of \$4,135,112.36.¹¹ Task Order No. 2 involves system development; testing and training; implementation and system

⁴ Petition, p. 1.

⁵ Petition, p. 1.

⁶ Petition, p. 1.

⁷ Petition, p. 1.

⁸ Petition, p. 1.

⁹ Petition, p. 1.

¹⁰ Executive Summary Re: Task Order No. 2, Board of Directors Special Meeting, p. 1 (May 13, 2015).

¹¹ Petition, p. 2.

transition.¹² System development involves hardware, software, and network design; along with application design and build.¹³ On May 26, 2015, the Administrative Law Judge of the PUC (the “ALJ”) issued an ALJ Report detailing his review of the administrative record related to the services contract with G4S.

Pursuant to 12 G.C.A. §12004,¹⁴ PAG may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. Additionally, pursuant to PAG’s current Contract Review Protocol, “[a]ll professional services contracts in excess of \$1,000,000” “shall require prior PUC approval under 12 G.C.A. §12004.”¹⁵

According to PAG, the initial Task Order required G4S to produce a detailed business analysis that would include the proposal of a TOS, a proposed financial approach, as well as phases of implementation.¹⁶ With respect to Task Order No. 2, G4S would assist PAG with the system development of TOS; to include testing and training; implementation and system transition.¹⁷ Such system development includes hardware, software, and network design; as well as the application design and build.¹⁸

Pursuant to the RFP and the current contract, G4S is required to complete the project within five (5) years, beginning on the effective date indicated on Task Order No. 1.¹⁹

¹² Petition, p. 1.

¹³ Petition, p. 1.

¹⁴ Renumbered as 12 G.C.A. § 12105.

¹⁵ Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).

¹⁶ Petition, p. 1.

¹⁷ Petition, p. 1.

¹⁸ Petition, p. 1.

¹⁹ RFP, p. 14; Contract between PAG and G4S, p. 2.

As indicated by PAG, Task Order No. 1 cost PAG \$106,637.00. Task Order No. 2 will cost PAG \$4,135,112.36.²⁰ The following is a breakdown of the costs associated with Task Order No. 2: \$1,944,648.11 for Navis TOS license, which includes program installation, training, customization, configuring, commissioning, and testing; \$621,561.60 for five (5) year license maintenance, service, and technical support; and \$1,568,902.65 for labor, materials, and equipment (such as network service, servers, etc.).²¹

According to PAG, Task Order No. 2 will be funded as follows: \$500,000.00 will be funded under the CIP Account budgeted for FY2015; \$1,000,000.00 will be funded from the \$10 million SLE loan; and \$2,635,112 will be budgeted and funded from the CIP for FY2016 and 2017.²²

Resolution No. 2015-02 indicates that PAG's Board of Directors approved the contract award to G4S, as well as the issuance of \$106,637.00 for the initial Task Order, during its February 17, 2014 meeting.²³ In addition, the Resolution approved the amount of \$4,135,112.36 for Task Order No. 2, and authorized PAG management to petition the PUC for review and approval of this particular Task Order.²⁴

The ALJ found that it was critical to PAG's operations that it upgrade its operating practices to "a modern automated system that will have a direct interaction and work protocols with external stakeholders such as the shipping lines, truckers and

²⁰ Petition, p. 2; PAG Board of Directors' Resolution No. 2015-02, p. 1 (May 13, 2015).

²¹ Petition, p. 2; *See also* PAG Board of Directors' Resolution No. 2015-02, p. 1 (May 13, 2015).

²² Executive Summary Re: Task Order No. 2, Board of Directors Special Meeting, p. 2 (May 13, 2015).

²³ PAG Board of Directors' Resolution No. 2015-02, p. 1 (May 13, 2015).

²⁴ PAG Board of Directors' Resolution No. 2015-02, p. 1 (May 13, 2015).

Customs.”²⁵ Accordingly, the ALJ recommended that the PUC ratify the current contract ~~with~~ with G4S, and approve Task Order No. 2 at a cost of \$4,135,112.36. The ALJ further recommended that the PUC require PAG to return to the PUC, for prior approval, for any remaining Task Orders that exceed \$1 million under this particular contract.

The Commission hereby adopts the findings made in the May 26, 2015 ALJ Report, and therefore, issues the following:

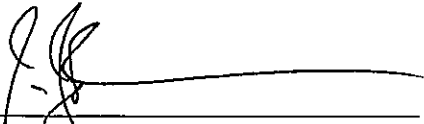

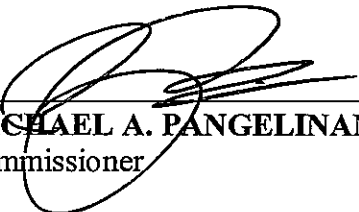
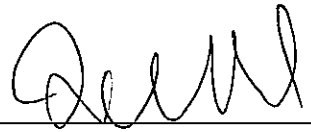
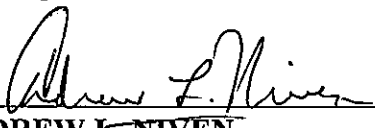
ORDERING PROVISIONS

Upon careful consideration of the record herein, and for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS the following:

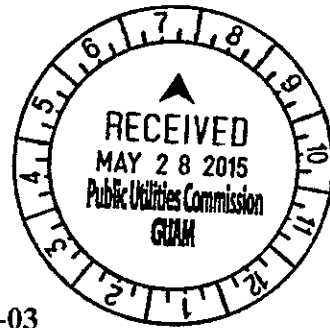
1. That PAG’s current contract with G4S is hereby RATIFIED, and Task Order No. 2 is APPROVED at a cost of \$4,135,112.36;
2. PAG shall request prior PUC approval for any remaining Task Orders that exceed \$1 million under this particular contract;
3. PAG is ordered to pay the PUC’s regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with this docket. Assessment of the PUC’s regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12002(b) and 12024(b) (renumbered as 12 G.C.A. §§ 12103(b) and 12125(b)), and Rule 40 of the Rules of Practice and Procedure before the PUC.

²⁵ Petition, p. 1.

SO ORDERED this 28th day of May, 2015.


JEFFREY C. JOHNSON
Chairman
JOSEPH M. MCDONALD
Commissioner
ROWENA E. PEREZ
Commissioner
FILOMENA M. CANTORIA
Commissioner
MICHAEL A. PANGELINAN
Commissioner
PETER MONTINOLA
Commissioner
ANDREW L. NIVEN
Commissioner

P153024.JRA



BEFORE THE PUBLIC UTILITIES COMMISSION

IN RE:)
 REVIEW OF \$2 MILLION)
 USDA DIRECT LOAN)
_____)

PAG DOCKET 15-03
ORDER

INTRODUCTION

This matter came before the Guam Public Utilities Commission (the “PUC”) pursuant to the Petition filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG”) on May 5, 2015, whereby PAG requested review and approval of a \$2 million United States Department of Agriculture Rural Development (“USDA”) Community Facility Direct Loan (hereinafter referred to as the “USDA Direct Loan”) for the purchase of several pieces of critical cargo handling and maintenance equipment. In particular, the USDA Direct Loan will be used for the acquisition of eight (8) terminal yard tractors; a telescopic boom lift (126 feet); a compact articulated boom lift (33 feet); an industrial street sweeper; two (2) portable dual operation welding machines; and four (4) five-ton forklifts.

DETERMINATIONS

Back in 2006, the USDA approved a total of \$14 million for PAG’s purchase of gantry cranes.¹ In 2012, PAG purchased gantry cranes for \$12 million, leaving a balance of \$2 million.² In 2013, PAG expressed its interest in utilizing the \$2 million with the USDA in a June 13, 2013 letter and requested that the loan be used for the

¹ Petition, p. 1.

² Petition, p. 1.

purpose of acquiring critical equipment.³ In June 2013, PAG and USDA worked to reprogram the loan for the purchase of such equipment.

On August 8, 2014, PAG's Board of Directors issued Resolution No. 2014-12, which approved the terms and conditions of the USDA Direct Loan for the amount of \$2 million, as well as the terms and conditions contained in the Second Amendment to the Letter of Conditions related to the loan. On May 13, 2015, PAG's Board of Directors again approved the terms and conditions of the USDA Direct Loan through approval of the Fourth Amendment to the Letter of Conditions related to the USDA Direct Loan, and therefore authorized PAG to execute the loan documents.⁴ On May 26, 2015 the Administrative Law Judge (the "ALJ") of the PUC issued an ALJ Report detailing his review of the administrative record related to the USDA Direct Loan. In the ALJ Report, the ALJ found the following.

Under 12 G.C.A. §12004, the PUC must expressly approve any contractual agreements or obligations which could increase PAG's rates and charges. In addition, under PAG's Contract Review Protocol, "[a]ll externally funded loan obligations . . . in excess of \$1,000,000" "shall require prior PUC approval under 12 G.C.A. § 12004."⁵⁶

Based on the Promissory Note, the following is a summary of the terms of the USDA Direct Loan. The subject loan shall be for a principal amount of \$2 million, and

³ PAG Resolution No. 2015-03, p. 1 (May 13, 2015).

⁴ PAG Resolution No. 2015-03, p. 1 (May 13, 2015).

⁵ Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).

⁶ Renumbered as 12 G.C.A. § 12105.

shall bear interest at a rate of 3.5% per annum.⁷ The first payment shall be due on June 5, 2015, in a monthly amount of \$26,880.00.⁸ The term of the loan is seven (7) years.⁹

Based on the "Fourth Amendment" to the Letter of Conditions, prior to any disbursements from the Supervised Bank Account (by the Bank of Guam), PAG will furnish copies of appropriate documentation, such as bills of sale, purchase order requests, and certificates of title.¹⁰ In addition, all disbursements from the Supervised Bank Account shall require USDA approval.

With respect to security, according to the Letter of Conditions, USDA will take a First Lien position covering all equipment, including certificates of title ownership covering any and all vehicles, purchased by the loan proceeds.¹¹ And again, repayment of the loan shall be over the course of seven (7) years, with an interest rate of 3.5%, which provides for a monthly payment of \$26,880.00.¹²

As discussed above, based on the draft Security Agreement and Assignment of income and Assessments Related to the Port Authority of Guam Operations, in consideration of the \$2 million loan, PAG will assign a security interest to USDA in all PAG's income and assessments related to its operations. A Uniform Commercial Code-Financing Statement also reflects such an assignment.

Pursuant to Resolution No. 2015-03, PAG's Board of Directors approved the terms and conditions of the loan with USDA for \$2 million, and thereby authorized

⁷ Promissory Note, p. 1.

⁸ Promissory Note, p. 1.

⁹ Promissory Note, p. 1.

¹⁰ *See, e.g.*, Fourth Amendment to the Letter of Conditions, p. 1 (Apr. 21, 2015).

¹¹ Fourth Amendment to the Letter of Conditions, p. 1 (Apr. 21, 2015).

¹² Fourth Amendment to the Letter of Conditions, p. 1 (Apr. 21, 2015).

PAG to execute the Fourth Amendment to the Letter of Conditions in order to close the loan.

According to PAG, repayment for the debt service has been budgeted into PAG's FY2015 operations budget.¹³

Based on the documentation provided by PAG, the ALJ recommended that the PUC authorize PAG to enter into the USDA Direct Loan agreement. The terms and conditions contained in the Promissory Note, the Fourth Amendment to the Letter of Conditions, along with the corresponding assignment of interest, appeared commercially reasonable and not unduly burdensome. Repayment of the loan is scheduled over a period of seven (7) years, with an interest rate of 3.5%, and a monthly payment of \$26,880.00.¹⁴ In addition, the ALJ further found that the purchase of the cargo handling and maintenance equipment appeared essential to PAG's operations.

Accordingly, based on the record in the instant docket, and for the other reasons set forth herein, the ALJ recommends that the PUC approve the USDA Direct Loan and authorize PAG to enter into the USDA Direct Loan agreement.

The Commission hereby adopts the findings made in the May 26, 2015 ALJ Report, and therefore, issues the following:

ORDERING PROVISIONS

Upon careful consideration of the record herein, and for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS the following:

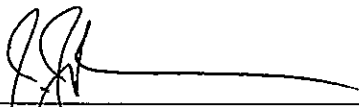
¹³ Petition, p. 1.

¹⁴ Fourth Amendment to the Letter of Conditions, p. 1 (Apr. 21, 2015).

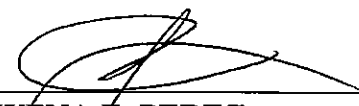
1. That PAG is hereby AUTHORIZED to enter into the USDA Direct Loan Agreement;


2. PAG is ordered to pay the PUC's regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with this docket. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12002(b) and 12024(b) (renumbered as 12 G.C.A. §§ 12103(b) and 12125(b)), and Rule 40 of the Rules of Practice and Procedure before the PUC.

SO ORDERED this 28th day of May, 2015.



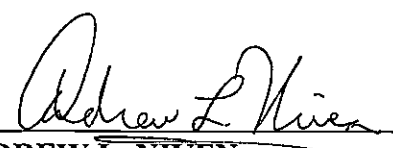
JEFFREY C. JOHNSON
Chairman

JOSEPH M. MCDONALD
Commissioner

ROWENA E. PEREZ
Commissioner

FILOMENA M. CANTORIA
Commissioner

MICHAEL A. PANGELINAN
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ANDREW L. NIVEN
Commissioner

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