

**GUAM PUBLIC UTILITIES COMMISSION
REGULAR MEETING
October 29, 2020
GCIC CONFERENCE ROOM, GCIC BUILDING, HAGATNA**



MINUTES

The Guam Public Utilities Commission [PUC] conducted a regular meeting commencing at 6:36 p.m. on July 30, 2020, pursuant to due and lawful notice. Commissioners Johnson, Perez-Camacho, Montinola, Pangelinan, McDonald, Flores-Brooks, and Guerrero were in attendance. The following matters were considered at the meeting under the agenda included as *Attachment "A"* hereto.

1. Approval of Minutes

The Chairperson announced that the first item of business on the agenda was approval of the minutes of September 24, 2020 and that the minutes were still being worked on and will be available for approval at the Commission's next meeting.

2. Guam Power Authority

The Chairperson announced that the next item of business on the agenda was the Guam Power Authority [GPA] Docket 21-01, Petition for Increase in the Stanley Engineering, Procurement, and Construction Management (EPCM) Contract, ALJ Status Report, and Proposed Order. ALJ Horecky stated that in 2016, the PUC authorized GPA to proceed with the construction of the new 180-megawatt plant and it also authorized GPA to retain a consultant that would act as an owner's representative for the new power plant to act as an independent voice and to monitor the project. ALJ Horecky stated that Stanley Consultants began this work in 2017 and assisted GPA with the procurement process to select the independent power producer which culminated in GPA's selection of KEPCO. ALJ Horecky stated that Stanley Consultant's duties expanded greatly when it became the owner's representative for the power plant project and is coordinating between KEPCO, GPA, and local and federal agencies to complete the project. ALJ Horecky stated that the PUC approved the expenditure of \$3.7 million for Stanley Consultants' contract and that this amount will be exhausted by January, 2021, and that the contract was costing GPA approximately \$1.2 million a year. ALJ Horecky stated that GPA is now asking the PUC to approve an additional thirteen months of funding for this contract so that it will expire in February, 2022, and that GPA will have to come back to the PUC when it's time to go out for procurement for a EPCM. ALJ Horecky stated that the monthly amounts for the contract range between \$150,000, \$160,000, or \$170,000 per month, and that the additional months between January, 2021

and February, 2022 will cost approximately \$2,045,450.00 and that he believes that this cost is fair considering the amount of work that Stanley Consultants will be doing, and he recommends that the PUC approve this amount. GPA GM Benavente stated that he agrees with ALJ Horecky's recommendation and that there is going to be a lot of work during the additional months that is required to construct the new power plant and that GPA needs this consultant to complete this work. The Chairperson inquired as to whether GPA was behind on the construction schedule and GPA GM Benavente stated that he had no definitive completion date for the new power plant at this time because they were still negotiating some matters that would extend the construction schedule with KEPCO. Commissioner McDonald inquired whether extending Stanley Consultant's contract would result in the obtaining the permits for the new power plant by March, 2022 and GPA GM Benavente confirmed that this would be so and that GPA is expects to get the permits by the middle of next year and that it would take about 28 to 32 months to construct the new power plant after that. A discussion ensued between the Commissioners and GPA GM Benavente concerning the difference between minor source and major source pollutants, the amounts of such pollutants that are expected by arise from the operation of the new power plant, the relocation of 65 megawatts of generating capacity to the older units at Cabras, and the use of LNG in power generation. Commissioner Flores-Brooks inquired whether GPA had any of its personnel assisting Stanley Consultants so that they can gain experience and knowledge and GPA GM Benavente stated that GPA had a support group of its employees assisting Stanley Consultants and that GPA still makes the final decisions. Commissioner Flores-Brooks inquired as to whether there were a lot of change orders and GPA GM Benavente stated that there were not change orders in the contract so far. Commissioner Montinola inquired as to whether the EPCM would be liable if any issues with the construction or the plant arise and ALJ Horecky stated that the EPCM contract contains indemnification clauses and standard legal protections which would make the EPCM liable if it mis-advised GPA or did something that led to a mistake in the construction of the plant. Commissioner Montinola inquired as to whether there would be a cap on the amount GPA spends on the EPCM contract whether the consultant was billing on an hourly basis and ALJ Horecky stated that if the PUC approves the extension the contract total will be \$6 million, but that will not be the total amount because the extension only funds the contract through February, 2022 and that GPA will likely be coming back to the PUC to obtain approval when the new EPCM contract starts, and that the consultant was in fact billing on an hourly basis, and that GPA must be vigilant in monitoring the contract costs. GPA GM Benavente stated that its really about managing the amount of work and that GPA tries to get the consultant's work done as quickly as possible and that GPA does not plan on asking the PUC for another increase in the Stanley Consultant contract until the new EPCM contract goes out to bid in August, 2021. A discussion ensued between the Commissioners and GPA GM Benavente concerning the budget to construct the new power plant, the use of the insurance proceeds from Cabras 3 and 4 insurance settlement, the construction of the pipeline, the conversion of the Piti 8 and 9 plants, the annual fee GPA will pay KEPCO

for the operation of the plant for twenty-five years, the monthly capacity fees and the fixed and variable O&M fees that will be paid to KEPCO, and GPA's requirement to provide fuel for the new power plant. Commissioner Pangelinan inquired as to how much Stanley Consultants was paying for its subcontractors and GPA GM Benavente stated that amount was approximately \$100,000 per month and that cost was included in the contract cost amount that GPA was asking the PUC to approve. Commissioner Pangelinan stated that the proposed order should be amended to read that GPA shall use its best efforts to reduce the contract cost to avoid the need for further increases, at least through the current contract period in ordering provision 3. Commissioner Montinola inquired as to whether GPA could go over the approved amount by 20% and ALJ Horecky stated that they could under the Contract Review Protocol. Commissioner Pangelinan moved to approve the proposed order with the amendment, which motion was seconded by Commissioner Montinola, and the motion carried with only Commissioner Guerrero voting in opposition to granting the motion.

The Chairperson announced that the next item of business was GPA Docket 21-02, Petition for PUC of GPA Exercise of Renewal Option for Unarmed Uniformed Security Guard Services, ALJ Report, and Proposed Order. ALJ Alcantara stated that GPA is requesting the PUC approve the renewal option for the remaining eight months of its security guard services contract with Pacific Island Security Agency [PISA] and the contract's second year option which would extend the contract to May 31st, 2022 at a cost of \$2,046,701.00, and that GPA has expended about \$1.2 million on the contract so far. ALJ Alcantara stated that this matter falls under GPA's contract review protocol which requires that all professional services over \$1.5 million be reviewed by the PUC, that on October 20, 2020 the Consolidated Commission on Utilities [CCU] issued Resolution 2020-22 authorizing GPA to exercise the remainder of the first option year as well as the second renewal option year, that the contract is advantageous because GPA's demand for security services has increased, and he recommended that the PUC approve the proposed order granting the petition. GPA GM Benavente stated that GPA is currently restructuring its security guard services and that this contract is still necessary for the time being. Commissioner Flores-Brooks inquired as to whether PISA was a local company and GPA GM Benavente confirmed that it was, and GPA Legal Counsel Botha stated that PISA and G4S were the largest security companies on Guam. Commissioner Flores-Brooks inquired as to who owned PISA and GPA GM Benavente stated that GPA would provide that information to her. The Chairperson inquired as to why there was a security guard requirement for GPA's Tenjo facility and GPA GM Benavente stated that a security guard was needed at that location to protect GPA's equipment assets located there and to mitigate GPA's liability by preventing someone from entering the facility and getting injured or injuring others by damaging the equipment. Commissioner Montinola commended GPA for working with the Department of Homeland Security to improve and modernize GPA's security methods and procedures. Commissioner Montinola made a motion to approve the proposed

order granting GPA Docket No. 21-02, which motion was seconded by Commissioner McDonald, and the motion carried unanimously.

The Chairperson announced that the next item of business was GPA Docket 20-13, LEAC, Update by GPA as to the Under-Recovery Balance, End of October (for information purposes only). GPA's Kim stated that for September, 2020, GPA's actual under-recovery was about \$5.1 million dollars and that its projection until January, 2021, is still \$16 million dollars. Commissioner Flores-Brooks inquired as to the status of fuel prices, and GPA's Kim stated that the price of fuel has gone up since July, 2020, it used to be \$48.32 per barrel back then, GPA's fuel purchase in September, 2020 was at \$54.64 per barrel, and that when GPA received its latest fuel shipment last week, it was \$57.57 per barrel, and that high-sulfur fuel was \$30.44 per barrel in April, 2020, and that in May, 2020 it jumped to \$39.68. GPA's Kim stated that the LEAC would have to be increased from 8.6 cents to 12.69 cents per kilowatt-hour to begin recovery of the fuel costs. The Chairperson inquired as to whether GPA needed a 4 cent increase in October, 2020 to catch-up by January, 2021 and GPA GM Benavente and GPA's Kim confirmed this. A discussion ensued between the Commissioners and GPA GM Benavente and GPA's Kim regarding the fuel prices, and the 12.69 cent recovery rate.

3. Guam Solid Waste Authority

The Chairperson announced that the next item of business on the agenda was the Guam Solid Waste Authority [GSWA] Docket 19-01, PUC Review of Final GSWA Management Audit prepared by MSW Consultants, ALJ Report, and Proposed Order. ALJ Horecky stated that the management audit was required by legislation and that work on the audit has been ongoing since 2017 and that the PUC hired MSW Consultants to conduct the audit, MSW Consultants completed the audit report, and that the GSWA Board has reviewed the audit report. ALJ Horecky stated that the audit report complies with the scope of the study that was established by the Commission because it contains an overview of the GSWA cost of service analysis, an evaluation of the efficiency of solid waste operations, and a management and staffing study, and that the Commissioners have had an opportunity provide questions to MSW Consultants about the audit report and that his report contains a summary of the audit report, and he recommends that the PUC adopt the final report of MSW Consultants as the PUC's management audit of GSWA. Commissioner Flores-Brooks inquired whether the report's statement that in item number 23 that the current management staffing is appropriate is still true considering that GSWA GM Gast has left GSWA. GSWA Board Chair Gayle stated that GSWA GM Gast rescinded his resignation and remains the GSWA GM and that GSWA GM Gast had agreed to remain in that position until GSWA hires a replacement GM so that he can proceed with his plans to retire. Commissioner Montinola made a motion to adopt the final report of MSW Consultants as the PUC's management audit

of GSWA, which motion was seconded by Commissioner Flores Brooks, and the motion carried unanimously. Commissioner Flores-Brooks inquired whether the report would be on the PUC's website so that the public could review it and whether any other government officials would receive the report and ALJ Horecky stated that the report would be published on the PUC's website and that Senator Perez's office requested a copy of the report and the PUC would send a copy, and that the PUC would send a copy of the Governor's Office, the Lieutenant Governor and all the senators. Commissioner Flores-Brooks requested that the report's executive summary also be sent and ALJ Horecky stated that the executive summary would be sent along with the full report.

4. Administrative Matters

The Chairperson announced that the next item of business was the Signing of Bank Pacific Account Signature Cards.

The Chairperson announced that the next item of business was the 4th Qtr Host Community Premium Surcharge Fees Report (for information purposes only). ALJ Horecky stated that the collection of GSWA's tipping fees have gone down and that the existing fees may not be fully adequate to fund the host community premium benefit. Commissioner Montinola inquired as to what the amount of the community premium benefit was and ALJ Horecky stated that the villages of Ordot-Chalan Pago and Inarajan each received the amount of \$150,000 per year. A discussion ensued between the Commissioner about the Ordot-Chalan Pago and Inarajan's request to increase the benefit, and the status of the construction of the Community Center in Ordot-Chalan Pago.

The Chairperson stated that the next item of business was the Selection of a Part Time Administrative Assistant to the PUC Administrator. Ms. Palomo stated that she interviewed nine candidates for the position and that her recommendation would be Jean Mann or Cindy Brown and that both candidates have a lot of knowledge for this type of field, they are both independent and self-sufficient, and that Cindy Brown was a former legal secretary and Jean Mann was is a realtor and she had worked with a bank. A discussion ensued between the Commissioners and Ms. Palomo regarding the qualifications and employment history of both candidates, and the work schedule and duties for the Administrative Assistant. Ms. Palomo stated that she recommends that the PUC offer the position to Cindy Brown first and then Jean Mann if Cindy Brown does not accept. Commissioner Perez-Camacho moved to approve Ms. Palomo's recommendation, which motion was seconded by Commissioner Guerrero, and the

motion carried unanimously. Commissioner Flores-Brooks inquired as to whether either of the candidates were currently working and when they could begin and Ms. Palomo stated that Cindy Brown was currently unemployed and that Jean Mann was currently employed and that both candidates stated they could be available as soon as possible.

The Chairperson announced that the next item of business was the Election of PUC Chairperson and Vice Chairperson. Commissioner Perez-Camacho stated that she would like to step down as Vice Chairperson for personal reasons. A discussion ensued between the Commissioners and ALJ Horecky about Commissioner Guerrero's utility infrastructure expertise, the need to reduce costs to the ratepayers especially during the pandemic emergency, whether the PUC should hold a working session, and the Open Government Law's notice requirements for PUC meetings. Commissioner Pangelinan nominated the Chairperson to continue as PUC Chair and he nominated Commissioner Montinola as the PUC's Vice-Chairperson, which nominations were seconded by Commissioner Perez-Camacho, and the Chairperson and Commissioner Montinola were unanimously voted in as the PUC's Chairperson and Vice-Chairperson respectively.

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



Jeffrey C. Johnson
Chairperson

ATTACHMENT A
THE GUAM PUBLIC UTILITIES COMMISSION
NOTICE OF PUBLIC MEETING

NOTICE IS HEREBY GIVEN that the Guam Public Utilities Commission [PUC] will conduct a regular business meeting, commencing at 6:30 p.m. on October 29, 2020, on the third floor, GCIC Building, 414 W. Soledad Ave., Hagatna.

The following business will be transacted:

Agenda

- 1. Approval of Minutes of September 24, 2020**
- 2. Guam Power Authority**
 - **GPA Docket 21-01, Petition for Increase in the Stanley Engineering, Procurement, and Construction Management (EPCM) Contract, ALJ Status Report, and Proposed Order**
 - **GPA Docket 21-02, Petition for PUC of GPA Exercise of Renewal Option for Unarmed Uniformed Security Guard Services, ALJ Report, and Proposed Order**
 - **GPA Docket 20-13, LEAC, Update by GPA as to the Under-Recovery Balance, End of October (for information purposes only)**
- 3. Guam Solid Waste Authority**
 - **GSWA Docket 19-01, PUC Review of Final GSWA Management Audit prepared by MSW Consultants, ALJ Report, and Proposed Order**
- 4. Administrative Matters**
 - **Signing of Bank Pacific Account Signature Cards**
 - **4th Qtr Host Community Premium Surcharge Fees Report (for information purposes only)**
 - **Selection of Part Time Administrative Assistant to the PUC Administrator**
 - **Election of PUC Chairperson and Vice Chairperson**

5. Other Business

Due to the current public health emergency, all persons attending the meeting will be required to wear masks. Social distancing protocols will be observed. Further information about the meeting may be obtained from the PUC's Administrator Lou Palomo at 472-1907. Those persons who require special accommodations, auxiliary aids, or services to attend the meeting should also contact Ms. Palomo.

This Notice is paid for by the Guam Public Utilities Commission

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:

) GPA Docket 21-01

)
)
) The Application of the Guam Power
Authority for an Increase in the Stanley
Engineering, Procurement and
Construction Management (EPCM)
Contract.)

) ORDER

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission [PUC] upon the Petition of the Guam Power Authority ["GPA"] to Request Review and Approval by PUC for an increase in the Stanley EPCM Contract.¹

BACKGROUND

2. In March 2017, Stanley Consultants ["Stanley"] was selected by GPA, through GPA RFP 17-001, as the Engineering, Procurement and Construction Management (EPCM) contractor for the new 180MW power plant.²
3. The PUC has a history of involvement with the EPCM Contract. It authorized the Contract and approved various prior fee increases. In GPA Docket 15-05, on October 27, 2016, the PUC authorized GPA to procure the 180MW combined cycle plant. At the same time, it allowed GPA "to procure an Engineering, Procurement and Construction Management contractor for a new combined cycle plant, and authorized the expenditure of \$750,000 for such engineering and consulting services (to be paid from the 2014 bond fund allocation for LNG Initial Startup)."³
4. In GPA Docket 18-09, on March 29, 2018, the PUC addressed GPA's request for an increase in the Stanley EPCM contract in the amount of \$650,000 for consulting and technical services through September 2018.⁴
5. In its Order, PUC recognized that Stanley had been assigned numerous tasks, which included preparation of all bid documents for the procurement of the 180MW plant

¹ GPA Petition for Approval of GPA Request for an Increase in the Stanley EPCM Contract, filed October 20, 2020.

² Id.

³ PUC Order, GPA Docket 15-05, dated October 27, 2016, at p. 9.

⁴ PUC Order, GPA Docket 18-09, dated March 29, 2018.

and assistance regarding determination of the most qualified bidder. In addition, Stanley, as EPCM, had major responsibility for assisting GPA in the process of land acquisition for the new power plant, including representation at legislative and other public hearings, and preparation of responses to issues raised in various forums.⁵

6. Stanley was involved with technical discussions concerning the IPP scope and support for land rezoning efforts. Stanley further addressed incorporation of Liquified Natural Gas ["LNG"] details into the bid documents, regulatory requirements, and preparation of responses to bidders' procurement questions.⁶
7. The extensive amount of work involved, and its technical nature, has required that Stanley retain various subconsultants, including K&M Advisors LLC, Pond & Company, EA Engineering, Science and Technology, and PBC.⁷
8. Stanley has served as GPA's Owner's Representative under the EPCM contract.⁸ In that respect it is involved in every aspect of the administration of the IPP Contract. On March 29, 2018, PUC approved an additional \$600,000 for the increase in the Stanley Contract (however, deleting a request for a "community outreach specialist").⁹
9. On November 29, 2018, in GPA Docket 18-09 the PUC approved an additional \$2.4M for services to be performed by Stanley for years 2019 through 2022.¹⁰ New services included "project management" for the new power plant project for the term of the construction, continuing Owner's Representative services, and regulatory support before the PUC, Legislature and CCU, including preparation of a rate impact study for the selected IPP proponent.¹¹
10. The total authorized by PUC for the Stanley EPCM Contract, to date, is \$3,750,000. With the additional \$2.25M requested by GPA, the total contract amount would be increased to approximately \$6M.
11. In Resolution No. 2020-20, adopted on October 20, 2020, the Guam Consolidated Commission on Utilities approved a contract increase for the Stanley EPCM

⁵ Id., at p. 2.

⁶ Id., at p. 2.

⁷ Id., at p. 3.

⁸ Id.

⁹ Id., at p. 4.

¹⁰ PUC Order, GPA Docket 18-09, dated November 29, 2018, at pgs. 5-6.

¹¹ Id., at p. 2.

Contract, through March 2022, in the amount of \$2.25M. The funding source for the additional contract costs will be from the Cabras No. 3 & 4 Insurance proceeds.¹²

12. The ALJ filed his Report in this Docket dated October 26, 2020.¹³

DETERMINATIONS

13. To date, GPA has expended roughly \$3.1M on EPCM services with Stanley Consultants. Based upon average monthly cost estimates, GPA estimates that the current budget of \$3.75M will be exhausted in January, 2021.¹⁴ If the additional funding sought in this Docket by GPA is approved by the PUC, the total available funds for the EPCM Contract would be \$6M.¹⁵

14. A budget for the five-year period, March 2017 to February 2022, would be \$6M. This equates to an annual cost of \$1.20M.

15. There can be no dispute, but that GPA needs the services of an EPCM such as Stanley Consultants. As the PUC held in GPA Docket 15-05: “the process of procurement for the combined cycle plant, as well as various proposed aspects of GPA’s IRP plan, will require expert consulting services. It stands to reason that GPA needs the services of a highly specialized consultant to carry out a project [i.e. the new power plant] of this scope and magnitude.”¹⁶

16. In GPA Docket 18-09, the PUC further determined that “GPA clearly has a need for an EPCM Contractor. The proposed 180MW IPP project is a substantial and technical undertaking. It has some complicated aspects including provision for dual firing with both ULSD and LNG and the need to install a new pipeline. GPA needs the technical assistance of a contractor such as Stanley to assist it as Owner’s Representative and to guide GPA through the construction and commissioning process. Such assistance can help to ensure that the new plant is constructed in an efficient and safe manner.”¹⁷

¹² CCU Resolution No. 2020-20, Relative to Authorization of Contract Increase for Engineering, Procurement, and Construction Management through March 2022, adopted on October 20, 2020, at p. 2.

¹³ ALJ Report, GPA Docket 21-01, dated October 26, 2020.

¹⁴ GPA Petition for Approval of GPA Request for an Increase in the Stanley EPCM Contract filed October 20, 2020, at p. 1.

¹⁵ Id., at pgs. 1-2.

¹⁶ PUC Order, GPA Docket 15-05, dated October 27, 2016, at p. 6.

¹⁷ PUC Order, GPA Docket 18-09, dated November 29, 2018, at p. 4.

17. The complexity of the GPA EPCM Project is indicated in the Summary attached to the ALJ Report as Exhibit "1".¹⁸ The Summary details the work completed by Stanley in the procurement process to select the contractor for the new power plant and tasks undertaken in the Project Initiation and Project Permitting Phases.¹⁹ A major change in the Project Permitting Phase is that KEPCO has now determined that it must pursue a "major source air permit", rather than a "minor source permit", as originally contemplated.²⁰
18. Future Support Services will be provided, such as the facilitation of coordination, communication, and documentation between KEPCO, GPA & GWA, the monitoring and facilitation of Permitting Progress, and the monitoring and facilitation of the KEPCO & GWA interface on water treatment issues.²¹ Stanley will be responsible for "permitting support", which includes various aspects of Environmental Permitting, Air Permit, Biological Resources Approvals, Cultural Resources Approvals, Environmental Impact Assessment approvals, and additional pre-construction permits.²²
19. Stanley and its participating sub-contractors have an extremely challenging and detailed job ahead of them. Stanley, as GPA's Owner's Representative, has substantial responsibility for this successful construction, permitting, and commissioning of the new 180MW power plant.
20. The original cost estimates of GPA for the EPCM Contract were apparently underestimated. The November 2018 PUC Order in GPA Docket 18-09 approved an additional \$2.65M for the period **through September 2022**. Now, GPA has, in the current Petition, requested an additional \$2.25M for the period **through March 2022**. However, GPA has submitted some compelling reasons as to why the estimated current cost for the EPCM contract is higher than the initial cost estimates made in 2017-2018.²³
21. The original schedule for the commercial operation date of the new power plant was December 2021. The present IPP schedule shows COD being achieved in the first quarter of 2024. Additional permitting oversight, including specialized resources,

¹⁸ GPA EPCM Project Summary (GPA Work Session-October 15, 2020-ISSUES FOR DECISION).

¹⁹ Id., at pgs. 1-14.

²⁰ Id., at pgs. 13-14.

²¹ Id., at p. 15.

²² Id., at pgs. 18-23.

²³ Submission by GPA Legal Counsel Graham Botha of GPA response to discovery questions, October 23, 2020: "Reasons the current estimated cost is higher than the initial cost estimates made in 2017-2018."

are required from Stanley Consultants and the external sub-contractors.²⁴ These needs increase the cost of the EPCM Contract.

22. As previously mentioned, it has now been determined that a “major source permit” must be obtained for the new power plant rather than a “minor source air permit.” A minor source permit was estimated by the Contractor to take 9 months, but it now appears that the major source air permit will take approximately 18 months to obtain.²⁵
23. The environmental and construction permitting for the new power plant and pipeline have proven to be more complex than originally anticipated and has required more coordination by GPA and Stanley with Govguam/US federal government agencies, and between intra-agencies. For ongoing work, the plan of the IPP contractor is improved; however, the overall schedule has been impacted and extended for additional time.²⁶
24. Project delay has also been caused by the coronavirus through travel restrictions and other issues. It should be expected that GPA will likely seek further funding increases for the EPCM Contract for the period of March 2022 through March 2024.
25. The work of Stanley and its sub-contractors is extremely important to ensure the commissioning of a safe and efficient plant; shortchanging the funding for such services would be highly risky. GPA must take every effort to ensure that the power plant is properly constructed, permitted, and commissioned.
26. GPA estimates that EPCM Contract costs typically are 1-3% of the total plant project costs. The new power plant is now expected to cost \$600M. At 1%, there would be \$6M EPCM cost. GPA believes its EPCM costs are within industry standards.²⁷
27. However, there are still issues concerning the amount of funding that GPA seeks at the present time.
28. According to GPA’s own estimates, the current funding of \$3,750,000 is sufficient to pay for EPCM services until January 2021.²⁸ GPA then requests an additional \$2.25M for the period from February 2021 through February 2022.

²⁴ Id.

²⁵ Id.

²⁶ Id.

²⁷ CCU Resolution No. 2020-20, Relative to Authorization of Contract Increase for Engineering, Procurement, and Construction Management through March 2022, adopted on October 20, 2020, at p. 2.

²⁸ Petition, at Attachment A.

29. According to GPA's "EPCM Project Support Projected Cost Breakdown", attached to the ALJ Report as Exhibit "2", the total anticipated cost for EPCM services between January 2021 and February 2022 is \$2,045,450 (13 months at roughly \$157,000 per month).
30. In CCU Resolution No. 2020-20, the possibility is referenced for adding in an additional amount for "an allowance for a 20% contingency..."²⁹ The GPA Contract Review Protocol already includes an authorization for GPA to incur additional expense on PUC approved contracts: "GPA shall not incur expenses for PUC approved contracts and obligations in excess of 20% over the amount authorized by the Commission without prior PUC approval."
31. It is not necessary for GPA to include a 20% contingency in the contract price. If GPA needs additional funding, it can rely upon the Contract Review Protocol or subsequently seek additional funds from the PUC.
32. The EPCM contract will terminate in March 2022. GPA will be required to solicit a new Construction Management Contract by August 2021; if any additional EPCM funds will be needed, GPA can petition the PUC at that time.

ORDERING PROVISIONS

After careful review and consideration of the above determinations, the Petition of GPA, the Report of the Administrative Law Judge, 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. An increase in the Stanley EPCM Contract for consulting and technical services for GPA is approved in the amount of \$2,045,450.00.
2. No contingency provision apart from the GPA Contract Review Protocol is required.
3. GPA shall exercise best efforts to reduce EPCM Contract costs to avoid the need for further increases in contract costs for the remaining period.
4. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and


²⁹ CCU Resolution No. 2020-20, adopted October 20, 2020, at p. 2.

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.

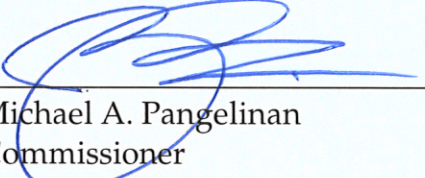
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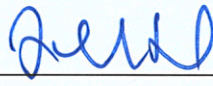
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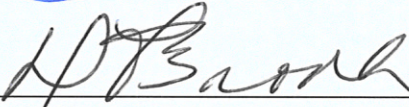


Jeffrey C. Johnson
Chairman

Rowena E. Perez-Camacho
Commissioner

Joseph M. McDonald
Commissioner

Michael A. Pangelinan
Commissioner

Peter Montinola
Commissioner

Doris Flores Brooks
Commissioner

Pedro S.N. Guerrero
Commissioner



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE) GPA DOCKET 21-02
APPLICATION OF THE GUAM POWER)
AUTHORITY TO APPROVE THE) ORDER
CONTRACT OPTION FOR UNARMED)
UNIFORMED SECURITY SERVICES.)

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the October 20, 2020 Application to Approve the Contract Option for Unarmed Uniformed Security Services (the “Petition”), filed by the Guam Power Authority (“GPA”). GPA seeks PUC approval to continue services with Pacific Island Security Agency (“PISA”), so it may exercise the option for renewal for the remaining eight (8) months, and the second year option for renewal through May 31, 2022, at a cost of \$2,046,701.80.

On October 26, 2020, the Administrative Law Judge of the PUC (the “ALJ”) assigned to this matter filed an ALJ Report that included his findings and recommendations based on the administrative record before the PUC. The ALJ found the following.

DETERMINATIONS

In April 2019, GPA issued Invitation for Bid (“IFB”) GPA-051-19, which sought services for unarmed, uniformed security guard services for key assets and

locations, with options to enhance security measures.¹ GPA later made an award to the winning lowest bidder, PISA.² The agreement consisted of a year-long initial term, with two (2) year-long options for renewal.

On June 5, 2019, the Consolidated Commission on Utilities (the “CCU”), through CCU Resolution No. 2019-09, approved a \$1.2 million spending authorization for the purchase order related to the unarmed, uniformed security guard services.³ Specifically, this approval authorized the expenditure of \$806,916.60 for services rendered between June 1, 2019 and May 31, 2020; and \$351,394.65 for services rendered between June 1, 2020 and October 31, 2020, which included a portion of the first renewal option year.⁴

On October 20, 2020, the CCU issued Resolution No. 2020-22, which authorized GPA to exercise its remaining options for renewal, specifically for services rendered between November 1, 2020 and May 31, 2021 (to finish the first renewal term), and between June 1, 2021 and May 31, 2022 (for the second renewal term), at an additional cost of \$2,046,702.00.

A. Contract Review Protocol

Pursuant to 12 G.C.A. § 12105, GPA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. Furthermore, GPA’s Contract Review Protocol requires that “[a]ll

¹ Consolidated Commission on Utilities (“CCU”) Resolution No. 2020-22, p. 1 (Oct. 20, 2020).

² See CCU Resolution No. 2020-22, p. 1.

³ CCU Resolution No. 2020-22, p. 1.

⁴ CCU Resolution No. 2020-22, pp. 1-2.

professional service procurements in excess of \$1,500,000” require “prior PUC approval . . . which shall be obtained before the procurement process is begun.”⁵ The instant contract is now before the PUC since GPA has already expended a total of \$1.2 million on the contract.

B. Invitation for Bids GPA-051-19

Based on the corresponding bid documents, and purchase orders, PISA is responsible for providing the following services. According to the purchase orders submitted by GPA, PISA is required to provide unarmed security guards, both posted and roving, at the following locations: the Gloria B. Nelson Public Service Building in Fadian; GPA’s Supply Warehouses and Storage Yards; the Aggreko/Yigo Combustion Turbine Power Plant Compound in Yigo; the Tanguisson Power Plant Compound; the Cabras Power Plant Compound in Piti; the Dededo Combustion Turbine Power Plant Compound.

With regard to the security guard services, a few requirements include that such security guards wear proper uniforms; have a minimum six (6) months of experience; no felonious records; facilitate authorized entrance onto the premises; enforce access control; maintain and secure entrance gates; and maintain an hourly Guard Log. The security guards must also conduct and log security patrol and checks of the facilities; respond to and report security threats; respond and report suspicious activities; prepare incident reports when necessary; and provide immediate response and assistance during an emergency, just to name a few responsibilities.

⁵ GPA’s Contract Review Protocol (“GPA CRP”), Administrative Docket 00-04, p. 1 (Feb. 15, 2008).

With regard to contractual obligations, the purchase orders have required that PISA assume responsibility for all damages or injuries to persons or property occasioned by the operation of PISA's employees. In addition, the purchase orders contain a standard indemnity provision, which protects GPA from lawsuit arising from the contractor's negligence. The contractor is also required to maintain insurance. Moreover, GPA can terminate the contract upon thirty (30) days written notice.

C. Cost

In this instance, GPA seeks authorization for \$2,046,702, which will fund the remainder of the first option year and the entire second option year (November 1, 2020 through May 31, 2022). According to GPA, the total cost of the contract after the initial year and the exercise of two year renewals, is \$3,684,063.00. GPA has submitted that the funding source for the entire project will be drawn from its Operations and Maintenance account.

D. CCU Resolution No. 2020-22

The Petition is supported by Resolution No. 2020-22 issued by the CCU on October 20, 2020 (the "Resolution"). In the Resolution, the CCU found that "Guam's Island-Wide Power System is critical infrastructure, whose assets, systems, and networks, whether physical or virtual, are considered so vital to the island community, military and nation that the incapacitation or destruction thereof would have a debilitating effect on readiness, economic security, public health or safety, or any combination thereof"⁶

⁶ CCU Resolution No. 2020-22, p. 1.

The CCU further found that to help protect such assets, infrastructure, employees, and patrons, GPA must utilize unarmed security guard services during work and after hours.⁷

The CCU indicated that for FY2021, a budget of \$1,147,500.00 has already been approved for such security guard services.⁸ The CCU also indicated that “the option to extend the security services under the current contract is advantageous to GPA as the demand for unarmed, uniformed security services are increased” during the current COVID-19 pandemic.⁹

Accordingly, the CCU found that the exercise of the options to renew the subject contract was reasonable, prudent, and necessary.¹⁰ Therefore, the CCU authorized GPA to exercise the renewal options, specifically for a term beginning November 1, 2020 through May 31, 2021, and another term beginning June 1, 2021 through May 31, 2022, at a cost of \$2,046,702.00.¹¹

In GWA Docket 19-09, the PUC found that security services were “an important safeguard” that protects “facilities, employees, and customers.” PUC Order, GWA Docket 19-09, p. 2 (May 30, 2019). Indeed, this Commission found that a “security services contract is a necessary one,” and that it was reasonable “to require security guards to be present whenever its customer service centers are open to the public”, and even where such services would result in an increase in costs. *Id.*, p. 3.

⁷ CCU Resolution No. 2020-22, p. 1.

⁸ CCU Resolution No. 2020-22, p. 2.

⁹ CCU Resolution No. 2020-22, p. 2.

¹⁰ CCU Resolution No. 2020-22, p. 2.

¹¹ CCU Resolution No. 2020-22, p. 2.

In this instance, the PUC is again asked to place value on the protection of key assets and infrastructure, and the protection of personnel and utility customers. Based on the documentation provided by GPA, along with the record before the Commission, the ALJ found that there is a clear need for a utility's security services, one that safeguards facilities, employees, and customers. And, that any threat to GPA's infrastructure could potentially undermine, and have a debilitating affect, on our island community and the readiness and vitality of the U.S. military on the island; so much so that even greater measures of protection should likely be considered.

Based on a review of the purchase order, the ALJ further found that the subject agreement between PISA and GPA contains standard protections for GPA, which include indemnity protecting GPA from lawsuit arising from contractor's negligence, and insurance. Accordingly, the agreement adequately protects the interests of GPA and its ratepayers. The ALJ, therefore, found the subject agreement to be reasonable, prudent, and necessary.

Based on the documentation provided by GPA in this docket, and for the other reasons set forth herein, the ALJ recommended that the PUC approve GPA's Petition. Accordingly, the ALJ recommended that PUC should authorize the expenditure of \$2,046,702 for GPA's security services purchase order agreement with Pacific Island Security Agency; in particular, \$818,681 for the remainder of the first option renewal period, and \$1,228,021 for the second option renewal year.

The Commission hereby adopts the findings in the October 26, 2020 ALJ Report and therefore issued 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 instant Petition is hereby APPROVED.
2. That GPA's expenditure of \$2,046,702.00 for GPA's security services purchase order agreement with Pacific Island Security Agency; in particular, \$818,681.00 for the remainder of the first option renewal period, and \$1,228,021.00 for the second option renewal year is authorized.
3. GPA 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 matter. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.

[SIGNATURES TO FOLLOW ON NEXT PAGE]


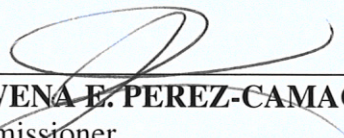
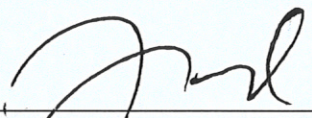
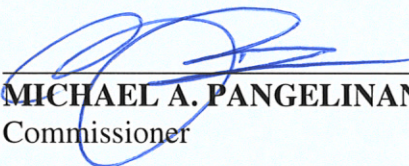

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SO ORDERED this 29th day of October, 2020.


JEFFREY C. JOHNSON
Chairman
ROWENA E. PEREZ-CAMACHO
Commissioner
JOSEPH M. MCDONALD
Commissioner
PEDRO GUERRERO
Commissioner
MICHAEL A. PANGELINAN
Commissioner
PETER MONTINOLA
Commissioner
DORIS FLORES BROOKS
Commissioner

P203025.JRA

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:) GSWA Docket 19-01
)
MSW Consultants' Final PUC)
Management Audit of GSWA) **ORDER**
)
_____)

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon the submission by MSW Consultants ["MSW"] of the Final PUC Management Audit of the Guam Solid Waste Authority ["GSWA"].¹
2. In Public Law 34-058: 3, enacted on November 1, 2017, the Guam Legislature added 10 GCA § 51A119, which required the Guam Public Utilities Commission to perform a management audit of the existing operations of the Guam Solid Waste Authority.
3. On July 25, 2019, the PUC approved the Final Proposal of MSW Consultants for the conduct of the Management Audit of GSWA, the Management Audit schedule, and a budget of \$278,400.²
4. MSW proceeded with the project in August 2019.
5. In this proceeding, the PUC is now addressing the issue of whether the MSW Final Report should be adopted as the PUC Management Audit, in accordance with 10 GCA § 51A119.

BACKGROUND

6. Copies of the Final Report of MSW, as updated, have been provided to the PUC Commissioners, and the Report has been filed in this Docket.
7. In November 2019, three MSW consultants, Steve Lynch, Walt Garrison, and Don Grigg, visited Guam for approximately one week to conduct the necessary

¹ MSW Consultants Final Report, Management Audit of the Guam Solid Waste Authority, submitted on October 23, 2020.

² PUC Order, GSWA Docket 19-01, dated July 25, 2019.

investigation, onsite inspections, and meetings with officials of GSWA and the PUC.

8. MSW had originally contemplated that it would make two more trips to Guam for the project; however, the Second Working Meeting and the Final Meeting and Presentation, scheduled for this year, had to be cancelled due to the corona virus pandemic.
9. MSW was able to complete the Report through email communications, by conducting online discussions with GSWA officials, the ALJ, and PUC Commissioners, and by coordinating with the parties as to issues which needed resolution, prior to the completion of the Report.
10. On October 21, 2020, MSW conducted an online presentation of its Report with members of the PUC. PUC Commissioners were provided copies of the Report in advance of the presentation and had a full opportunity to question MSW representatives concerning the Report.
11. A copy of the MSW presentation is attached to the ALJ Report as Exhibit "1". The presentation provides a good summary of the major findings and recommendations of MSW.
12. The Administrative Law Judge ["ALJ"] filed his Report herein on October 26, 2020. The PUC adopts the recommendations contained in the Report.

DETERMINATIONS

13. The Management Audit Scope adopted by the PUC contained five major tasks: (1) an examination of the GSWA facilities and baseline assessments of the Collection System, the Transfer Stations, and the Landfill; (2) Evaluation of Current Rate Structure, a cost of service study, and a determination made if the current rate structure is sufficient to meet the needs of GSWA; (3) Comparative Analysis of Manpower and Staffing, to meet the requirements of the Ratepayer Bill of Rights, 12 GCA §§ 12102.1 through 12102.2, which require the PUC to conduct a study comparing the staffing pattern and manpower levels of GSWA to the staffing patterns and manpower levels of at least (4) utilities in the United States Mainland; (4) Evaluation of Current Management Practices and Capabilities of GSWA, and whether such practices are in accord with industry best management practices; and (5) preparation and presentation of a final report.

14. The Final Report of MSW fully addresses each of the five tasks required in the Scope of Work. It contains detailed and appropriate information on the issues set forth in the Scope of Work.
15. The Report contains a complete examination of the collection system, transfer Stations, and the Landfill. It examines details of the collection system, such as the types of equipment utilized (semi-automated, mini-packer, and Baby Packer), the routes carried out by GSWA, and the GSWA Staffing. The Report provides PUC with a good understanding of the basic components of the GSWA system and their functioning.
16. An important task in this project is for MSW to provide GSWA and PUC with an updated rate model, and to particularly address whether the current rate structure is sufficient to meet the needs of GSWA. The rate model is based upon various cost determinations arrived at by MSW. Particularly expensive aspects of the program are cell construction at \$2M per acre. For example, Cell 3 contracted construction costs are approximately \$27,000,000 for approximately 13.3 acres (roughly \$2M per acre).³ Cell closure costs are estimated to be \$820,000 per acre.⁴
17. MSW concluded that rate increases will be necessary to enable GSWA to meet its full costs. According to MSW, existing rates will not be sufficient to fund GSWA operations in coming years. The need for rate increases is primarily due to the necessity of establishing reserve funds for Layon cell construction and Layon/Ordot closure. Increases could be in the form of a single increase in FY2024 or increases in both FY2022 and 2024. Total estimated increases would range around 30%, or an increase of approximately \$10 per customer over the present bill. Commercial rates would increase from \$171.60 per ton to \$225 per ton. Such increases would mitigate substantial long-term projected deficiencies in the Layon Closure and Post-Closure Reserve Funds under current and projected rates and projected system costs.⁵
18. The rate increase recommendations by MSW are merely that—recommendations. Of course, any actual rate increase would have to be approved by the PUC after a full rate investigation and case.

³ Final Report at p. 3-2.

⁴ Id., at p.3-3.

⁵ Final Report at p. 3-5.

19. A major issue raised by MSW is that, under the current system, Guam households are not required to utilize collection services provided by GSWA—residential curbside refuse collection is therefore “non-mandatory.” Only roughly 50% of residential households presently have service (although this estimate may need to be further refined). MSW points out that “Guam is in a very small minority of jurisdictions that has not established exclusive, mandatory residential refuse collection.”⁶ Requiring residential homeowners to have mandatory service would increase the revenues of GSWA and at least partially reduce the amount of rate increases that GSWA would require.
20. MSW has also provided a “Manpower & Staffing Analysis” of GSWA. Before PUC can approve any rate increase for a public utility, it must compare GSWA with “at least (4) other utilities in the US mainland which provides similar services to a comparable number of customers.”⁷ This study was prepared in order to assist GSWA in the event that it files a rate case. The statutorily mandated manpower & staffing study will already have been accomplished.
21. MSW has provided a study which complies with the statutory requirements. Based upon an overview of 4 selected cities, MSW concludes that “GSWA is maintaining slightly larger collection system than necessary to service its customer base. However, this may be appropriate if GSWA is obligated to collect from non-customers and/or support other services (e.g., illegal dump cleanups), which may not be the case in the benchmark cities. Furthermore, GSWA maintains incrementally more customer service staff. This is to be expected from a non-exclusive provider of service who must track current customers and manage new customer onboarding and suspension of accounts for former customers.”⁸
22. Regarding manpower & staffing, MSW again concludes that “non-mandatory collection policy hampers GSWA productivity and increases management burden.”⁹

⁶ Id., at p. 3-6.

⁷ 12 GCA § 12102.2(d).

⁸ Id., at p. 4-4.

⁹ Id., at p. 4-6.

23. MSW has also conducted a “Management & Operational Evaluation” of GSWA. MSW finds that “the current management staffing configuration is appropriate for the GSWA’s current break down of directly managed and contracted operations.”¹⁰
24. MSW also determines that “current authority senior management and staff possess the industry knowledge, experience, and commitment to operate the residential collection system and the residential convenience centers affectively. The framework for the collection system is appropriate, and the user fee structure is typical of numerous programs on the US mainland that must cover their full costs from direct fees charged to customers.”¹¹
25. MSW does recommend some modifications of the refuse and recycling route configurations. These would involve “route balancing” and reduction of the numbers of operating routes per day. MSW questions, however, whether GSWA should takeover certain functions that are presently contracted, such as Ordot Post-Closure and Layon Operations.¹²

ORDERING PROVISIONS

Upon consideration of the record herein, 10 GCA § 51A119, the Final Report of MSW Consultants, and the ALJ Report, and for good cause shown, upon motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby **ORDERS** that:

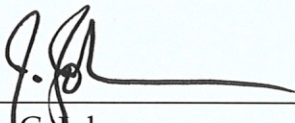
1. The FINAL REPORT of MSW Consultants is approved.
2. The PUC adopts the FINAL REPORT as the PUC Management Audit of GSWA.
3. GSWA shall carefully review the recommendations in the REPORT concerning its operations and make specific written determinations as to whether it will adopt such recommendations.
4. The rate recommendations in the Report are recommendations only and shall not be final unless and until approved by the PUC after a full investigation and the completion of a full rate case proceeding.

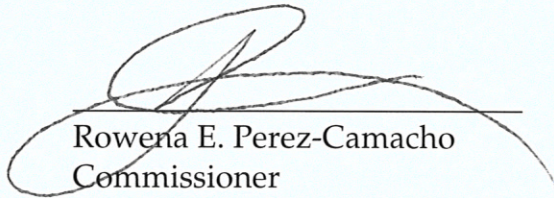
¹⁰ Id., at p. 6-1.

¹¹ Id., at p. 6-2.

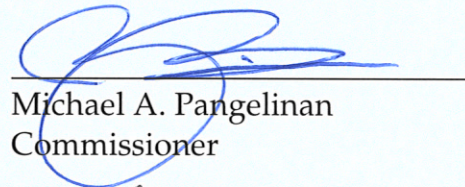
¹² Id., at p. 6-3.

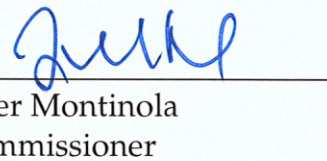
Dated this 29th day of October 2020.

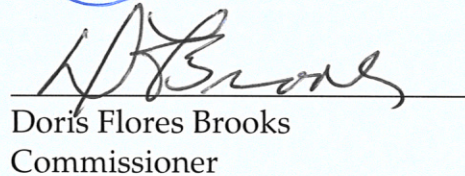


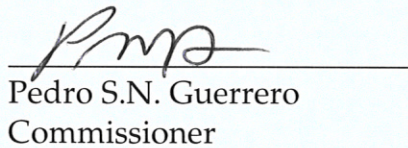
Jeffrey C. Johnson
Chairman

Rowena E. Perez-Camacho
Commissioner

Joseph M. McDonald
Commissioner

Michael A. Pangelinan
Commissioner

Peter Montinola
Commissioner

Doris Flores Brooks
Commissioner

Pedro S.N. Guerrero
Commissioner