

GUAM PUBLIC UTILITIES COMMISSION  
REGULAR MEETING  
July 30, 2020  
GCIC CONFERENCE ROOM, GCIC BUILDING, HAGATNA



MINUTES

The Guam Public Utilities Commission [PUC] conducted a regular meeting commencing at 6:35 p.m. on July 30, 2020, pursuant to due and lawful notice. Commissioners Johnson, who appeared telephonically, Perez-Camacho, who served as acting Chairperson, 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 May 28, 2020 and June 25, 2020. Upon motion duly made, seconded, and unanimously carried, the Commission approved the minutes subject to correction.

**2. Guam Power Authority**

The Chairperson announced that the next item of business was Guam Power Authority [GPA] Docket 20-13, Levelized Energy Adjustment Clause [LEAC Filing], Administrative Law Judge [ALJ] Report, and Proposed Order. ALJ Horecky stated that the current LEAC rate is 8.6 cents per kilowatt-hour which is a nearly a 50% reduction from the prior LEAC rate caused by a reduction in fuel prices. ALJ Horecky stated that the updated fuel price for the last 10 days prior to this PUC meeting and the five-day fuel price average based on that indicates a substantial increase in the cost of fuel and GPA is requesting that the LEAC factor be set at 11.45 cents per kilowatt-hour with a 100% recovery of the cost of fuel for LEAC. ALJ Horecky stated that a 50% fuel recovery factor is about 10.0026 cents per kilowatt-hour and that he and GPA believe that the 10.0026 factor would be the appropriate LEAC factor for the next period due to the increasing cost of fuel prices which is reflected in GPA's new fuel contract. ALJ Horecky stated that if the Commission leaves the LEAC factor at 8.6 center per kilowatt-hour GPA's current fuel \$3.25 million under-recovery balance will rise to almost \$17 million by the end of the next LEAC period in January, 2021 and he did not recommend doing this because it would not be consistent with the LEAC clause and because it would leave the ratepayers with a huge debt that you're going to have to make up with future LEAC increases. ALJ Horecky stated that if Commission approved the 11.45% recovery that GPA proposes, there would be no under-recovery by the end of the next

LEAC period but the 33% increase in the LEAC rate would pose a hardship on the ratepayers who are suffering from the reduced economy caused by the COVID-19 Pandemic Emergency. ALJ Horecky recommended that the Commission adopt a 50% recovery at the rate of 10.0026 cents per kilowatt-hour which would result in a 7% increase in the total bill and would result in an under-recovery of \$8.5 million at the end of the next LEAC period. GPA General Manager [GM] Benavente stated that he supported ALJ's Horecky's recommendation and that the 50% recovery makes sense.

A discussion ensued between the Chairperson, Commissioner Montinola, ALJ Horecky, and GPA GM Benavente concerning GPA's LEAC filing in May, 2020 and the differences between that filing, GPA's current LEAC filing, and the recommendation for a 50% recovery, how GPA pays for fuel cost under-recovery using its working capital fund, how the ratepayers ultimately pay for any under-recoveries in fuel costs caused by the LEAC factor, the effect of GPA's demand side-management program on the reducing the demand for energy, and the amount and duration of GPA's past under-recoveries. Commissioner Pangelinan stated that although the goal of the LEAC is to get a full recovery, the Commission should use its discretion to address what the LEAC rate should be and consider the effect increased LEAC would have on the ratepayers who are affected by the dire straits the economy is in right now and due to that, he is inclined to keep the LEAC at its current rate. Commissioner Flores-Brooks stated that she did not want the Commission to give the rate-payers the benefit of the reduced LEAC for only two months that has benefited the ratepayers who are just barely getting by as a result of the current economic downturn, especially the small businesses, and that she wanted to keep the LEAC steady at its current rate so that people can plan on it. A discussion ensued between the Chairperson, Commissioner Flores-Brooks, Commissioner Montinola, Commissioner McDonald, Commissioner Guerrero, ALJ Horecky, CCU Commissioner Duenas, and GPA GM Benavente concerning the increased salaries at double regular pay rates that GPA paid to some of its employees as a result of the pandemic emergency, the regulations requiring the double-pay, cost savings, GPA's labor costs, GPA's LEAC filings, the LEAC procedure, GPA's working capital fund, CARES Act grants, and the amount of baseload generation that GPA was using. Commissioner Montinola inquired as to whether the draft order contained the provision for the 50% under-recovery and ALJ Horecky confirmed that it did. Commissioner Montinola inquired whether the LEAC rate would remain the same if the Commission denied and ALJ Horecky recommended that the Commission order the LEAC factor be set at the rate the Commission approves even if it is the same rate. The Chairperson stated that the discussion has shown that, historically, GPA has been able to address any LEAC under-recovery, that there is a concern with the global pandemic and how it is affecting Guam, and that the Commission is concerned about what the community is going through at this time, and that the Commission could deny the petition or amend the proposed order by keeping the current LEAC factor for the next six months. Commissioners Johnson moved to keep the LEAC factor at its current rate and that GPA be required to give an update on the LEAC in October, 2020, which

motion was seconded by Commissioner Montinola and Commissioner Pangelinan. The motion passed unanimously.

The Chairperson announced that the next item of business was GPA Docket 20-15, Petition to Approve Performance Management Contract for Cabras 1 & 2 Generating Plants [PMC], ALJ Report, and Proposed Order. ALJ Horecky stated that the current PMC contract for Cabras 1 and 2 expires on September 30, 2020 and that GPA's petition seeks authorization to award the new three year PMC to Taiwan Electrical and Mechanical Engineering Services [TEMES] and this contract would commence on October 1, 2020 and end on September 30, 2023 with two 1-year options to renew. ALJ Horecky stated that the Commission approved the solicitation for this contract on January 30, 2020, and that pursuant to the consent decree, GPA must operate Cabras 1 and 2 in order to maintain sufficient generating capacity for the island-wide power system until the new 198-megawatt powerplant project is completed. It is not exactly clear when it will be completed by 2023, and that the CCU approved GPA's request to award the PMC to TEMES. ALJ Horecky stated that the contract cost for the three-year initial term is \$9,969,000, with almost \$6 million of that amount being for management fees to TEMES, for operating the plants and \$4 million for O&M budget. ALJ Horecky stated that TEMES has the PMC for Cabras 1 and 2 for the past 10 years, they have a lot of experience with GPA's power system, that since the 1990s, the Commission has required GPA to operate its baseload plants with PMCs who used GPA employees, and that the management fees and the O&M Budget for the next three years have increased based on inflation and other cost factors, but are not out of line or inconsistent with what has been spent on Cabras 1 and 2 in previous years, and he recommended that the Commission approve the contract. GPA GM Benavente stated that he agreed with ALJ Horecky's recommendation and that the PMC is needed because Cabras 1 and 2 are 46 years old, GPA must operate them for the next three to five years, and TEMES was the only bidder. Commissioner Montinola inquired whether GPA would be retiring the plants at the end of the PMC contract and GPA GM Benavente affirmed that they would be retired when the new plants come on line and that the decommissioning process would involve the removal of all hazardous materials to complete the process, and that GPA might incorporate Cabras 1 and 2, the Tanguissan powerplant, and Cabras 3 and 4 into future power plans, and that GPA would be petitioning to decommission Piti 8 and 9 in a future docket. A discussion ensued between the Chairperson, Commissioner Montinola, Commissioner Flores-Brooks, and GPA GM Benavente concerning when the new power plant and the new renewable energy plants would be coming online, power transmission lines to the new plants, line losses, the feasibility study for a LNG plant, and GPA not hedging on fuel costs. Commissioner Montinola moved to approve the proposed order approving the petition, which motion was seconded by Commissioner McDonald. The motion passed with five affirmative votes to one opposition vote from Commissioner Guerrero.



The Chairperson announced that the next item of business was GPA Docket 20-17, Petition to Approve the Contract for Residual Fuel Oil No. 6 for the Baseload Power Generating Plants, PUC Counsel Report, and Proposed Order. Legal Counsel Camacho stated that the Commission approved GPA's solicitation for a new fuel oil contract for its baseload powerplants on March, 26, 2020, and GPA received three bids in response to the solicitation from Mobil, Hyundai, and Hanwon, and that GPA awarded the contract to Hyundai subject to the Commission's approval. Legal Counsel Camacho stated that GPA is expecting to use 2 million barrels of residual fuel oil per year for the first two years of this contract but would reduce that the amount of fuel it uses to 1-1.5 million barrels in the third year, and that the contract would about \$276 million dollars for the three year initial contract term, that this was a \$27 million dollar cost increase from its existing fuel oil contract with Mobil. Commissioner Montinola and Commissioner Flores-Brooks inquired why there was a price increase and Legal Counsel Camacho stated that the price increase was the result of new shipping regulations that require the ships transporting the fuel oil to use more expensive low-sulfur fuel oil. Legal Counsel Camacho stated that despite the increased cost, he found the new fuel contract to be reasonable, prudent, and necessary, and he recommended that the Commissioners approve it. Commissioner Montinola inquired as to what GPA's annual revenues were and GPA GM Benavente stated that they were about \$300 million and that he thought fuel prices would begin to decline next year. The Chairperson and Commissioner Flores-Brooks inquired as to whether the cost of the new fuel contract was included in the LEAC and GPA GM Benavente stated that it was but that the cost would be part of the under-recovery that would have to be recovered later. Commissioner Flores-Brooks inquired as to whether the \$27 million in increased fuel oil costs would be spread out over the initial three-year term of the contract and Legal Counsel Camacho affirmed that it would be and that it would not be incurred in the first year of the contract. Commissioner Guerrero inquired as to what percentage increase in the cost of fuel would be under the new contract and Legal Counsel Camacho stated that it would 44% more than the existing contract due to the increase in the price of the fuel and the increase in the cost of shipping it to Guam. GPA GM Benavente stated that the 44% cost increase was in the price per barrel and that high sulfur fuel oil went from \$7.31 per barrel today to \$11.27 per barrel under the new contract, and that low-sulfur fuel oil went from \$13.91 per barrel to \$19.60 per barrel. Commissioner Guerrero inquired as to when GPA would stop burning low-sulfur and high sulfur fuel oil and GPA GM Benavente stated that in 2022 GPA will shift to burning low-sulfur fuel only until the new powerplant comes online. Commissioner Montinola moved to approve the proposed order approving the petition which motion was seconded by Commissioner Pangelinan. The motion passed unanimously.



### 3. Port Authority of Guam

The Chairperson stated that the next item of business was Port Authority of Guam [PAG] Docket 20-05, Petition for Approval of Additional \$800,000.00 for PAG Owner's Agent Engineer Services, ALJ Report, and Proposed Order. ALJ Alcantara stated that PAG is requesting an approval of an additional \$800,000.00 to its owners agent engineering services contract which it currently has with WSP USA, that the contract was approved by the Commission and procured in 2015 and involves professional services for design and engineering work, financial consulting, and assistance with program management for PAG's projects, and that in January, 2020, the Commission approved an additional \$1.57 million for this contract, \$800,000.00 of that amount was from a grant by the Federal Office of Economic Adjustment, and \$774,000.00 allocated to PAG's Hotel Wharf project. ALJ Alcantara stated that in February of this year, PAG applied for and was subsequently awarded an additional \$800,000.00 in federal grant funding which extends WSP's services under the contract into calendar years 2020 through 2021 to implement PAG's modernization projects which include the PAG's 2020 master plan, wharf service life extensions, ship-to-shore crane program support, future tariff analysis, IT support, environmental programs, CIP program support, health and safety programs, a deep draft wharf, a field improvements project feasibility study, cyber security, introduction of management reporting systems, and development of resource conservation and recovery act contingency plan. ALJ Alcantara stated that the WSP contract's hourly rates range from \$260.00 to \$300.00 per hour, that this is a very important contract for PAG because the scale, the complexity and the challenges imposed by modernization projects are unprecedented for PAG and required considerable expertise, capacity, and capability that is currently not present in PAG's staff and resources, and that the federal grant funds relieve the ratepayers from any negative impacts related to PAG's modernization efforts and that he recommends the Commission approve the \$800,000.00 increase PAG is requesting for the WSP contract. PAG GM Respicio stated that the \$800,000 in additional funding is coming from the federal Office of Economic Adjustment and that these additional funds would be used to provide for this master plan in looking out what we believe to be the necessary components in this 2020 master plan. It was determined that we were short in what the overall plan would cost to complete everything PAG wants to provide in its updated 2020 master plan and would result in the continued security and safety of the Port, an updated tariff assessment, and modernization of the PAG's physical structure, IT, terminal and gate operating systems, and enhanced counter-drug efforts. A discussion ensued between Commissioner Flores-Brooks inquired as to whether the hourly rates in the WSP contract could be reduced to use those funds on the projects themselves and PAG GM Respicio and PAG's Javellana stated that the federal grant required PAG to use the additional grant funds only on the master plan update, and that PAG does try to reduce WSP's cost proposals by 20% every time they submit one to prevent them from padding their cost estimates. A discussion ensued between Commissioner Montinola, Commissioner Flores-Brooks and PAG GM Respicio concerning the PAG's audits, the

decrease in container activity at the PAG due to the pandemic emergency, Standard & Poors rating of PAG, and the effect of military construction on PAG. Commissioner Flores-Brooks inquired as to whether the PAG paid its employees double pay during the pandemic emergency and PAG GM Respicio stated that it did not because PAG remained open through the emergency. The Chairperson inquired as to the status of the coral relocation project at Hotel Wharf and GPA GM Respicio stated that it was complete and that 800 species of coral were successfully relocated and that they could provide a video of the project, and that they are currently monitoring the relocated corals and that there should be a report on the relocated coral in 2021. Commissioner Guerrero made a motion to approve the proposed order granting the petition, which motion was seconded by Commissioner Montinola. The motion passed unanimously.

#### **4. Administrative Matters.**

The Chairperson announced that the next item of business was the FY 2019 Citizen Centric Report. ALJ Horecky stated that the report was compiled by himself and Ms. Palomo and that it was submitted for information to the Commission prior to it being sent to the OPA. A discussion ensued between the Commissioner concerning the Commissions budget, the pay received by the Commissioners for attending meetings, the travel budget, the Commission's expenses, the Commission's professional fees, and the Commission's NARUC membership fee.

The Chairperson announced that the next item of business was the Hiring of a Part-Time Assistant for the PUC Administrator. ALJ Horecky stated that the Commission was not highly staffed, it operates mainly through consultants, and it has only one office staff who is a full-time contractual employee Ms. Palomo, and Mr. Kim who is less than a half time, and that an additional part-time administrator is needed to ensure that the Commission's office is open during work hours, and to cover for Ms. Palomo when she is off-island for training, vacations or there is an emergency, and also to prepare to someone to replace Ms. Palomo should she retire. Commissioner Montinola inquired as to whether the part-time assistant would be in addition to Mr. Kim and ALJ Horecky affirmed that this was so and that Mr. Kim was in the office for three days per week for four hours per day and that the new administrative assistant would be working part-time for 20 hours per week. A discussion ensued between the Commissioners regarding the status of the employees as independent contractors, the need for them to have business licenses, whether the federal Wage determination would apply to them, having the part-time assistant be an independent contractor vs. an actual employee, how the Commission hired emergency temporary help in the past. ALJ Horecky stated that the Commission could create a part-time administrative position by making a justification letter and by passing a resolution creating the position, and which approves the process used to hire the employee which could include placing an

ad in the paper, having the administrator interview the applicants and make a recommendation at the end of the process, which the Commission would give final review and approval. A discussion ensued among the Commissioners concerning whether such an ad would entice many applicants to apply. Commissioner Pangelinan inquired as to why the Commission did not have any actual employees now and ALJ Horecky stated that the Commission has not created any positions or created a procedure to hire actual employees. The Chairperson inquired as to whether the Commission was in executive session and ALJ Horecky affirmed that the Commission was not. A discussion ensued among the Commissioners concerning possible pay for a part-time administrative assistant, how much the Commission paid Ms. Palomo as an independent contractor, whether the proposed \$16 hourly rate for the part-time administrator complied with the federal wage determination for Guam, how the Commission could do payroll for actual employees, and whether the amount of \$16 per hour was too low. The Commissioners agreed to table this matter pending clarification of the legal issues regarding the hourly rate, and the development of options as to how the Commission would conduct payroll operations.

The Chairperson announced that the next item on the agenda was the Establishment of ACH or Wire Transfer Capability for PUC's Bank Account. ALJ Horecky stated that this issue arose from a couple of the Commission's off-island consultants who complained of delays in receiving payment for their work and requested that the Commission speed up the process. ALJ Horecky stated that Ms. Palomo is unable to answer any consultant inquiries regarding payment because she has no access to the Commission's account information and because the Commission's bank account is not online and that these issues could be resolved by making Ms. Palomo a signatory to the account and by getting online services for the Commission's bank account which would also enable the Commission to make its payment via ACH wire transfers.

Commissioner Flores-Brooks inquired as to whether the Commission could write a letter to the Commission's bank, Bank Pacific, authorizing Ms. Palomo to have online access, to account information. Commissioner Flores-Brooks made a motion that the Commission write a letter to Bank Pacific asking them to give Ms. Palomo online access to Commission's bank account, which motion was seconded by Commissioner Guerrero. The motion passed unanimously.

ALJ Horecky stated that the signatories on the Commission's bank account needed to be updated because the last time that was done was in 2007 and the signatories include persons who are no longer Commissioners, and that once updated to reflect the current Commissioners, any check would have to be signed by any two of the Commissioners. A discussion ensued between the Commissioners concerning the making of online payments instead of writing checks and the bank costs for making payments online. Commissioner Guerrero made a motion to make only the current Commissioners the



signatories on the Commission's bank account, which motion was seconded by Commissioner Flores-Brooks. The motion passed unanimously.

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



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Rowena Perez-Camacho  
Acting Chairperson

**ATTACHMENT A**  
**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**  
**REGULAR MEETING**  
**SUITE 202, GCIC BUILDING**  
**414 W. SOLEDAD AVE., HAGATNA, GUAM**  
**6:30 p.m., July 30, 2020**

**Agenda**

1. **Approval of Minutes of May 28, 2020, and June 25, 2020**
2. **Guam Power Authority**
  - **GPA Docket 20-15, Petition to Approve Performance Management Contract for Cabras 1 & 2 Generating Plants, ALJ Report, and Proposed Order**
  - **GPA Docket 20-17, Petition to Approve the Contract for Residual Fuel Oil No. 6 for the Baseload Power Generating Plants, PUC Counsel Report, and Proposed Order**
  - **GPA Docket 20-13, LEAC Filing, ALJ Report, and Proposed Order**
3. **Port Authority of Guam**
  - **PAG Docket 20-05, Petition for Approval of Additional \$800,000.00 for PAG Owner's Agent Engineer Services, ALJ Report, and Proposed Order**
4. **Administrative Matters**
  - **FY 2019 Citizen Centric Report**
  - **Hiring of Part-Time Assistant for PUC Administrator**
  - **Establishment of ACH or Wire Transfer Capability for PUC Bank Account**
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 20-13  
)  
The Guam Power Authority Levelized )  
Energy Adjustment Clause (LEAC) ) **ORDER**  
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INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Petition of the Guam Power Authority ["GPA"] to set the LEAC Factor effective August 1, 2020, for the next six-month period.<sup>1</sup>
2. GPA's Petition filed on May 22, 2020, requested that the Guam PUC maintain a Fuel Recovery Factor at \$.089177/kWh for the upcoming LEAC period.<sup>2</sup>
3. However, after GPA completed its updated Morgan Stanley Noon Call Pricing on July 20, 2020, it recognized that there had been a substantial increase in the cost of fuel. GPA filed with the PUC an updated request that the LEAC Factor be set at \$.114568 for the period of August 1, 2020 through January 31, 2021 to fully recover the cost of fuel.<sup>3</sup>

BACKGROUND

4. During the past 6-month LEAC period commencing February 1, 2020, the PUC addressed the LEAC Factor on three occasions as a result of steep declines in fuel prices. During such period, the PUC reduced the LEAC Factor from \$.154242/kWh to \$.086800.<sup>4</sup>

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<sup>1</sup> GPA LEAC Filing, GPA Docket 20-13, filed May 22, 2020.

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

<sup>3</sup> Email from Lenora M. Sanz, GPA Controller, to Frederick J. Horecky, PUC ALJ, dated July 20, 2020. See GPA Proposed LEAC Rate, Exhibit "A", attached to the ALJ Report. Before the LEAC Factor is set for a particular period, GPA is required to provide an updated LEAC fuel forecast price based upon the average of the 5-day period which is 10 days before the meeting at which the PUC determines the LEAC Factor (PUC LEAC Order, GPA Docket 15-27, dated January 25, 2016, at p. 2).

<sup>4</sup> See PUC Order, GPA Docket 20-03, dated January 30, 2020, at p. 5 (reduction of LEAC Factor from \$.154242/kWh to \$.131145/kWh); PUC Order, GPA Docket 20-12, dated March 26, 2020, at p. 3 (reduction of LEAC Factor from \$.134474/kWh to \$.110039/kWh); and PUC Order, GPA Docket 20-12, dated May 28, 2020, at p.4 (reduction of LEAC Factor from \$.110039/kWh to \$.08680/kWh).



5. During the prior LEAC period there was a nearly 50% reduction in the price of fuel. GPA's fuel pricing figures (per barrel) indicated a price of \$55.47 for February 2020 and \$30.48 for May 2020.<sup>5</sup>
6. On May 21, 2020, the Guam Consolidated Commission on Utilities authorized the General Manager of GPA to seek a proposed secondary voltage LEAC rate of \$0.089177/kWh.<sup>6</sup>
7. On May 28, 2020, the PUC set the secondary Fuel Recovery Factor of \$0.086800 for the months of June and July, 2020.<sup>7</sup>
8. The Administrative Law Judge filed his Report in this Docket dated July 27, 2020.<sup>8</sup>

### **DETERMINATIONS**

9. In his Report at the PUC Meeting, the Administrative Law Judge outlined three approaches to setting the LEAC Factor that the Commission could take. The first approach would maintain the current LEAC Factor of \$0.086800 in effect on and after August 1, 2020. This approach could result in an under-recovery of \$16,962,000 by January 31, 2021.<sup>9</sup> The second approach would set the LEAC Factor at \$0.114568. However, this Factor would result in a 31.99% increase in LEAC, and a 15.31% increase in the total bill.<sup>10</sup> The third approach would set a Factor of \$0.100026. Such Factor would result in a 50% recovery of GPA fuel prices for the LEAC period.
10. The ALJ recommended that the PUC adopt a LEAC Factor of \$0.100026. In his opinion, such approach would ensure that GPA recovers at least 50% of the increase in fuel cost. Fuel prices had increased by more than 40% since May; any under-recovery of fuel prices would merely be a debt that ratepayers would have to pay later. At the end of the LEAC period as of January 31, 2021, GPA estimated that the under-recovery balance would be approximately \$8.5M. The ALJ indicated that, while such under-recovery balance was still high, it was a better option than allowing the under-recovery to increase to over \$16M.
11. The Commission has the power to exercise its judgment when setting the LEAC Factor. If the LEAC was automatic, there would not be a need to have a

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<sup>5</sup> PUC Order, GPA Docket 20-12, dated May 28, 2020, at p. 2.

<sup>6</sup> Guam Consolidated Commission on Utilities, GPA Resolution No.: 2020-09, dated May 21, 2020.

<sup>7</sup> PUC Order, GPA Docket 20-12, dated May 28, 2020, at p. 2.

<sup>8</sup> ALJ Report, GPA Docket 20-13, dated July 27, 2020.

<sup>9</sup> Id.

<sup>10</sup> Exhibit "A" attached to the ALJ Report.

Commission addressing the fuel factor. As in 2017, if the under-recovery balance of GPA becomes high, the Commission can subsequently take steps to recover such balance gradually.

12. The Island is in unprecedented dire straits, and increasing power costs at the present time would have an adverse psychological impact on the Island.
13. The present time is simply not appropriate for increasing power bills due to the severe economic impact of the corona virus pandemic upon Guam. Many people have lost their jobs and are receiving unemployment insurance. Tourism and other industries have been adversely impacted.
14. Since the current LEAC Factor of \$0.086800 was only set by the PUC two months ago, that Factor should remain in effect for the present time in order to smooth rates and lessen the impact of such rates upon the ratepayers.
15. Neither the Consolidated Commission on Utilities nor its General Manager John Benavente requested any increase in the current LEAC rate. CCU Chairman Joseph Duenas stated at the PUC meeting that the CCU stands by its recommendation that the LEAC rate should be 8.9 cents per kWh, and that it recognized that such recommendation could result in a large under-recovery for GPA of fuel costs. General Manager Benavente indicated that GPA was not seeking any increase in the LEAC factor, but had only submitted updated fuel price information to the PUC for its action.
16. Based upon the foregoing reasons, the LEAC Factor should remain at \$0.086800 for the present time.
17. The ALJ is directed to monitor fuel prices on a monthly basis and the amount of any under-recovery in fuel prices by GPA.
18. At its October Meeting, the PUC will review the current LEAC Factor and determine whether such factor continues to be appropriate and the nature and extent of GPA under-recovery of fuel costs.

### **ORDERING PROVISIONS**

After carefully reviewing the record in this proceeding, having considered the LEAC Filing of GPA, and the Administrative Law Judge Report, and after discussion at a duly noticed regular meeting held on July 30, 2020, for good cause shown and on

motion duly made, seconded and carried by affirmative vote of the undersigned Commissioners, the Guam Public Utilities Commission hereby **ORDERS** that:

1. The secondary Fuel Recovery Factor of \$0.086800/kWh shall remain in effect for meters read on or after August 1, 2020.
2. The current singular LEAC factors shall remain in effect on and after August 1, 2020, as shown in the following table:

LEAC	
Delivery Classification	\$ per kWh
Secondary -	\$0.086800
Primary - 13.8 KV	\$0.084200
Primary - 34.5 KV	\$0.083957
Transmission - 115 KV	\$0.082924

3. As requested by GPA, the forecast of the Working Capital Fund Requirement will remain the same, so there will not be a change in the Working Capital Surcharge for the period of August 1, 2020, through January 31, 2021.
4. GPA should file for a change in the LEAC factors to be effective February 1, 2021, on or before December 15, 2020.
5. The ALJ is directed to monitor fuel prices on a monthly basis and the amount of any under-recovery in fuel prices by GPA.
6. At its October Meeting, the PUC will review the current LEAC Factor, determine whether such factor continues to be appropriate, and the nature and extent of GPA under-recovery of fuel costs.
7. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF: ) GPA Docket 20-15  
)  
The Application of the Guam Power )  
Authority to Approve the Contract for a ) **ORDER**  
PMC for Cabras 1 and 2 Generating )  
Plants. )  
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**INTRODUCTION**

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Petition of the Guam Power Authority ["GPA"] to approve the Performance Management Contract ["PMC"] for the Cabras 1 and 2 Generating Plants.<sup>1</sup>
2. GPA's current PMC Contract for Cabras 1 and 2 will expire on September 30, 2020.
3. GPA seeks the PUC's authorization to award a three-year Performance Management Contract with Taiwan Electrical and Mechanical Engineering Services, Inc. ("TEMES").
4. The PMC would commence on October 1, 2020 and end on September 30, 2023 (with options to renew for two 1-year terms).

**BACKGROUND**

5. On January 30, 2020, the PUC approved GPA's procurement of a PMC for Cabras 1 and 2.<sup>2</sup>
6. In accordance with GPA's Consent Decree with the USEPA (approved by the PUC in GPA Docket 20-01), the PUC determined that GPA is required to continue to operate Cabras 1 and 2 in order to maintain sufficient generating capacity for the island-wide power system until the new 198MW power plant project is completed in the last quarter of 2022.<sup>3</sup>

<sup>1</sup> GPA Petition to Approve the Performance Management Contract for the Cabras 1 and 2 Generating Plants, GPA Docket 20-15, dated July 9, 2020.

<sup>2</sup> PUC Order, GPA Docket 20-04, GPA Application to Approve the Procurement of a PMC for Cabras 1 and 2 Generating Plants, dated January 30, 2020 at p. 4.

<sup>3</sup> Id., at pgs. 1-2.

7. GPA issued a multi-step bid (IFB GPA-035-20) for a new Performance Management Contract for the continued Management, Operation and Maintenance of the Cabras 1 and 2 Steam Turbine Power Plant, and also to plan for and conduct activities related to the power plant's de-activation and/or de-commissioning.<sup>4</sup>
8. TEMES was the sole qualified and responsive bidder.<sup>5</sup>
9. The CCU approved GPA's request to award a Performance Management Contract for GPA's Cabras Units 1 & 2 Steam Turbine Power Plant to TEMES, Inc.<sup>6</sup> The award includes a total amount of \$9,969,188.00 for the three-year base period. \$5,919,188.00 is for three years of Management Fees, and the amount of \$4,050,000.00 for O&M Budgets for the three-year period.
10. The breakdown of Annual Management Fees and O&M Budget are set forth in Exhibit "1" attached to the ALJ Report filed herein.<sup>7</sup> The funding source is revenue funds.<sup>8</sup>
11. A copy of the proposed Performance Management Contract between GPA and TEMES, commencing October 1, 2020, is attached to GPA's Petition.
12. The ALJ filed his Report in this Docket dated July 17, 2020. The PUC adopts the conclusions and recommendations therein.

### **DETERMINATIONS**

13. GPA's Contract Review Protocol establishes that, for multi-year procurements with fixed terms and variable annual costs, GPA must seek PUC approval if the aggregate cost estimate for the entire term of the procurement exceeds the

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<sup>4</sup> Guam Consolidated Commission on Utilities Resolution No. 2020-13, Relative to Authorizing the Award of a Performance Management Contract for GPA's Cabras Units 1 & 2 Steam Turbine Power Plant to Taiwan Electrical and Mechanical Engineering Services (TEMES Inc.), approved on June 23, 2020, at p. 1.

<sup>5</sup> Id., at p. 2.

<sup>6</sup> Id.

<sup>7</sup> Exhibit "1" is an Issue for Decision, GPA Resolution No. 2020-13, presented to the Consolidated Commission on Utilities at its meeting on June 23, 2020; the proposed fees exclude costs for inventory, critical repairs, CIPs, and de-activation/de-commissioning activities.

<sup>8</sup> Id.

\$1,500,000 review threshold.<sup>9</sup> This PMC Award exceeds the threshold and requires PUC approval.

14. The selected bidder, TEMES, has been the PMC for Cabras 1 and 2 since 2010, a period of ten years.<sup>10</sup>
15. Over such 10-year period, TEMES, as PMC, has provided GPA with assistance in the continued operation and maintenance of the Cabras plants, including completion of life-extension projects, and the meeting of availability, reliability and efficiency standards.<sup>11</sup> TEMES has demonstrated its competence and ability to render PMC services to GPA.
16. In order to ensure adequate capacity to meet the megawatt demands of the island, the Cabras 1 and 2 Steam Turbine Power Plant must continue to be operated and maintained until the new power plant is commissioned (estimated to be at the end of 2022).<sup>12</sup>
17. GPA's new Ukudu power plant and new renewable energy contracts may possibly not be online until calendar year 2023. GPA will need to continue operating and maintaining the Cabras Power Plant until the new power plant is commissioned.<sup>13</sup>
18. The PUC has previously found that the PMC for Cabras 1 and 2 has improved the operational efficiency, reliability and cost savings of the plant.<sup>14</sup>
19. With regard to the cost of the Award, the Fixed Management Fees and Routine O&M Budget Expenses proposed for FY2021 through 2023 appear to be in line and consistent with expenses previously incurred under the Cabras 1 and 2 PMCs with TEMES.

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<sup>9</sup> PUC Order, Administrative Docket, Contract Review Protocol for GPA, at p. 2.

<sup>10</sup> PUC Order, GPA Docket 10-04, Petition of the Guam Power Authority for Early Review and Approval of the Performance Management Contract (PMC) for Cabras 1 & 2, dated September 15, 2010.

<sup>11</sup> See PUC Order, GPA Docket 17-09, GPA Application to approve the PMC Contract Extension with TEMES, Inc. for Cabras 1 & 2, dated November 28, 2016 at p. 2.

<sup>12</sup> Guam Consolidated Commission on Utilities, GPA Resolution No. 2020-13 at p. 1.

<sup>13</sup> See Exhibit "1", attached hereto.

<sup>14</sup> PUC Order, GPA Docket 10-04, dated September 15, 2010, at p.1; PUC Order, GPA Docket 20-04, dated January 30, 2020, at p. 3.



20. For the first 5-years of the PMC contract with TEMES (2010-2015), the Fixed Management Fees ranged from \$1.52M to \$1.6M annually. For 2016, the Fixed Management Fee was \$1.606M. For years 2017-2020, the Fixed Management Fees ranged from \$1.674M to \$1.870M.<sup>15</sup> The proposed annual management fees for FY2021-FY2023, ranged from \$1.915M to \$2.031M.
21. The increases in the Fixed Management fees under the proposed Award do not appear to be substantial; they are likely based upon the additional work and life extension projects which have been necessary in recent years to keep the Cabras plants operational, and inflation impacts.
22. Similarly, the O&M budgets proposed in the Award to TEMES also appear to be in line with prior budgets. From 2017-2020, annual O&M budget ranged from \$1.286M to \$1.436M.<sup>16</sup> The proposed O&M Budgets for FY2020 through FY2023 is to remain constant at \$1.350M.<sup>17</sup>
23. The proposed contract provisions in the PMC are those that have previously been used by GPA in its performance management contracts approved by the PUC. These provisions include the operation of Cabras 1 & 2, staff management and augmentation, budget management, procurement inventory management and control, plant engineering, environmental compliance, completion of critical repairs and major maintenance projects.<sup>18</sup>
24. However, there are also new contract provisions such as compliance with the recent consent decree between the USEPA and GPA, and the de-activation, de-commissioning, and clean-up of the Cabras 1 & 2 plants.<sup>19</sup>

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<sup>15</sup> PUC Order, PMC Contract Extension with TEMES for Cabras 1 & 2, GPA Docket 17-09, dated November 28, 2016, at p. 3.

<sup>16</sup> Id., at p. 4.

<sup>17</sup> Exhibit 1.

<sup>18</sup> PERFORMANCE MANAGEMENT CONTRACT, attached to the GPA Petition.

<sup>19</sup> Id. at p. 10.

25. The proposed contract appears to be sufficient to protect the interest of GPA and its ratepayers. GPA's request for PUC approval of the Award of the PMC to TEMES is reasonable, prudent and necessary.

### **ORDERING PROVISIONS**

After careful review and consideration of the record in this proceeding, the GPA Petition to Approve the Contract for a PMC for Cabras 1 and 2 Generating Plants, and the PUC Administrative Law Judge Report, and after discussion at a duly noticed regular meeting held on July 30, 2020, for good cause shown and on motion duly made, seconded and carried by affirmative vote of the undersigned Commissioners, the Guam Public Utilities Commission hereby **ORDERS** that:

1. The Award of a Performance Management Contract to TEMES, Inc., for the Management, Operation and Maintenance of the Cabras 1 and 2 Generating Plants is approved.
2. GPA is authorized to expend the total amount of \$9,969,188.00 for the contract base period of three years.
3. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

Order  
Approval of Contract for a PMC for  
Cabras 1 and 2  
GPA Docket 20-15  
July 30, 2020

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Dated this 30th day of July, 2020.

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Jeffrey C. Johnson  
Chairman



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Joseph M. McDonald  
Commissioner

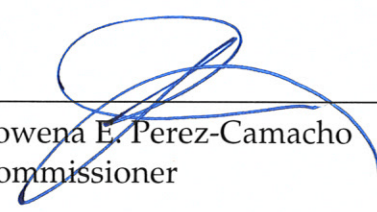


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Peter Montinola  
Commissioner

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Pedro S.N. Guerrero  
Commissioner



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Rowena E. Perez-Camacho  
Commissioner



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Michael A. Pangelinan  
Commissioner



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Doris Flores Brooks  
Commissioner

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:

)  
) GPA DOCKET 20-17  
)

THE APPLICATION OF THE GUAM  
POWER AUTHORITY TO APPROVE  
THE CONTRACT FOR RESIDUAL  
FUEL OIL NO. 6 FOR THE BASELOAD  
POWER GENERATING PLANTS.

)  
) ORDER  
)  
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)  
)  
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INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Petition of the Guam Power Authority ["GPA"] to Approve the GPA-Hyundai Corporation [Hyundai] Contract for Residual Fuel Oil No. 6 [RFO] for the Baseload Power Generating Plants.<sup>1</sup>
2. GPA requests approval of the GPA-Hyundai its solicitation for a contract for the supply of Residual Fuel Oil No. 6 for its Cabras baseload power generating plants for the approximate amount of \$276,779,088 for the contract's three-year initial term.<sup>2</sup>

BACKGROUND

3. GPA requires the use of Residual Fuel Oil No. 6 to operate its Cabras baseload power generating plants and it estimates that annually, GPA requires at least one million barrels to approximately two million barrels of Residual Fuel Oil No. 6 to operate those plants.<sup>3</sup>
4. GPA's prior Residual Fuel Oil No. 6 Contract was with Mobil Oil Guam [Mobil], and this contract had an initial term of two years which will expire in August 31, 2020, and three optional terms of one year each. GPA sought to exercise one or all of the

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<sup>1</sup> GPA Petition to Approve the Contract for Residual Fuel Oil No. 6 for the Baseload Power Generating Plants, GPA Docket 20-17, dated July 10, 2020 [GPA Petition] at 1.

<sup>2</sup> Id., at 2-3. NOTE: Page Numbers are the PDF page numbers and not the page numbers used in the actual Petition or its Exhibits.

<sup>3</sup> PUC Order dated March 26, 2020 for GPA Docket No. 20-11 at 1.



optional terms of the contract with Mobil, but Mobil declined and stated its preference to participate in a new solicitation of the contract.<sup>4</sup>

5. On March 26, 2020, the PUC, in GPA Docket No. 20-11 authorized GPA to solicit for a new contract to supply Residual Fuel Oil No. 6 for its baseload power generating plants and it seeks a contract with an initial term of three years commencing September 1, 2020 and ending on August 31, 2023 with two additional one-year extension options, upon the mutual agreement of the parties.<sup>5</sup>
6. GPA subsequently issued GPA-IFB-050-20 (Multi-Step) (Residual Fuel Oil) [IFB] and GPA received bids from Hyundai, Mobil, and Hanwha Corporation and GPA determined that Hyundai submitted the lowest, responsible, and responsive bid.<sup>6</sup>
7. On July 23, 2020, the Guam Consolidated Commission on Utilities [CCU] issued CCU Resolution No. 2020-16 approving the GPA-Hyundai contract for the approximate amount of \$276,779,088 for the contract's initial three-year term, subject to the PUC's approval.
8. On July 27, 2020, PUC Legal Counsel issued his report.

### **DETERMINATIONS**

9. GPA's contract review protocol requires that any GPA contract that exceeds the amount of \$1,500,000 requires prior PUC approval.<sup>7</sup> Here, GPA must obtain the PUC's authorization to enter into the GPA-Hyundai Contract to supply Residual Fuel Oil No. 6 for its Baseload Power Generating Plants because GPA estimates that the contract cost will be approximately \$276,779,088 for its initial three-year term which exceeds the \$1.5 million review threshold.<sup>8</sup>
10. The contract complies with the PUC's Order in Docket No. 20-11 because it has an initial term of three years commencing September 1, 2020 and ending on August 31,

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<sup>4</sup> Id.

<sup>5</sup> Id., at 2-3.

<sup>6</sup> GPA Petition at 4.

<sup>7</sup> Contract Review Protocol for GPA, Order dated February 15, 2008, Administrative Docket at 1.

<sup>8</sup> GPA Petition at 3.

2023 with two additional one-year extension options, upon the mutual agreement of the parties.

11. The contract for the supply of Residual Fuel Oil No. 6 to GPA's Baseload Power Generating Plants, which is part of the solicitation, contains all the standard contract clauses, including quantity and quality assurances, security of supply, permits and responsibilities, force majeure, disputes, default, and termination for convenience.<sup>9</sup>
12. The contract defines the minimum quantity of fuel oil to be delivered to the plant annually as one million barrels and the maximum amount to be delivered as two million barrels.<sup>10</sup> This is an acceptable range because GPA estimates that its baseload plants will consume a total of two million barrels of Residual Fuel Oil No. 6 for the first two years of the initial contract term, and one-million-five-hundred-thousand barrels of Residual Fuel Oil No. 6 for the third year of the initial contract term.<sup>11</sup> Further, GPA's estimates indicate a decreasing need for High Sulfur Fuel Oil [HSFO] over the contract's initial three year term. This trend is a positive one because GPA will be utilizing more of the less environmentally harmful Low Sulfur Fuel Oil over the initial contract term.
13. The contract's \$276,779,088 cost for its initial three-year term is higher than GPA's prior contract with Mobil. Specifically, although Hyundai submitted the lowest bid of the three bids GPA received in response to the IFB, it's fixed premium fee of \$105.417/MT (\$16.575/bbl) for the contract's three-year initial term is approximately 44% higher than the GPA's existing contract with Mobil, and would result in an approximate \$27,837,264 cost increase over the GPA-Hyundai Contract's initial three-year term.<sup>12</sup> However, this increase reflects the expected increase in the cost of supplying fuel to Guam, and these cost increases were one of the reasons why Mobil did not want to agree to exercising any of the option terms of its existing contract with GPA.
14. GPA will pay for the estimated \$276,779,088 cost of the contract's initial three-year term out of GPA's fuel revenue funds.<sup>13</sup>

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<sup>9</sup> Id., at 13-14.

<sup>10</sup> Id., at 19.

<sup>11</sup> PUC Order in Docket No. 20-11 at 3.

<sup>12</sup> GPA Petition at 3-4.

<sup>13</sup> Id., at 11.

15. GPA's request is reasonable, prudent and necessary.

### **ORDERING PROVISIONS**

After review of the record herein, GPA's Petition to Approve the Contract for Residual Fuel Oil No. 6 for the Baseload Power Generating Plants, the PUC Counsel Report, and 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 Petition to Approve the GPA-Hyundai Contract for Residual Fuel Oil No. 6 for the Baseload Power Generating Plants and its estimated \$276,779,088 cost for the contract's initial three-year term is hereby approved.
2. GPA shall petition the PUC for approval of the exercise of any of the contract's two additional one-year extension options.
3. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

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Order  
GPA's Application to Approve  
the Contract for the Supply of  
Residual Fuel Oil No. 6 for the  
Baseload Generating Plants  
GPA Docket 20-17  
July 30, 2020

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Dated this 30th day of July, 2020.


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Jeffrey C. Johnson  
Chairman



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Rowena E. Perez-Camacho  
Commissioner




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Michael A. Pangelinan  
Commissioner



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Pete Guerrero  
Commissioner



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Joseph M. McDonald  
Commissioner



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Doris Flores Brooks  
Commissioner



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Peter Montinola  
Commissioner





**BEFORE THE PUBLIC UTILITIES COMMISSION**

IN RE: )  
PETITION FOR APPROVAL )  
OF ADDITIONAL \$800,000.00 )  
FOR PAG OWNER'S AGENT )  
ENGINEER SERVICES )  
\_\_\_\_\_ )

**PAG DOCKET 20-05**

**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 June 23, 2020, whereby PAG requests review and approval of an additional \$800,000.00 to its Owners/Agent Engineering Services contract with WSP USA, Inc. formerly known as Parsons Brinckerhoff (hereinafter referred to as "WSP").

On July 27, 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**

The Owners/Agent Engineering Services ("OAE") contract was procured back in 2015. The RFP for the contract sought professional services and technical support in the areas of design and engineering services, program management, financial consulting and analysis, and other related services for PAG. In general, the RFP sought services related to the following: assistance with PAG's 5-Year Tariff Petition before the PUC; assistance with PAG's Capital Program, to include assistance with issuance of revenue bonds; implementation of a new Terminal Operating System by assisting with the TOS contract and task order negotiations;

assistance with studies related to rate adjustments and PUC petitions; and technical services during the construction phase of the Marine Service Life Extension Project at the Port's wharfs.<sup>1</sup>

In addition, the RFP further sought services related to assisting with MARAD/PMT sponsored projects, which include renovations to building spaces, linking all communications infrastructure, automating the Gate Complex, maintenance programs, securing security grants, and various infrastructure projects; as well as other tasks required by the Port.<sup>2</sup> Eventually, Parsons Brinckerhoff, now WSP, was awarded the contract. On August 27, 2015, the PUC authorized PAG to enter into a contract with WSP.<sup>3</sup>

Recently, on January 16, 2020, PAG sought approval of about \$1.574 million in additional funding for its OAE contract. This amount included an \$800,000.00 grant from the federal Office of Economic Adjustment. About \$774,000.00 was allocated to H-Wharf projects, such as coral removal and relocation. And the money from the federal grant would fund certain projects, which included program management and coordination, updates to PAG's Master Plan, certain feasibility studies, and certain architectural and design services.<sup>4</sup> On January 30, 2020, the PUC approved the additional cost to PAG's OAE contract.<sup>5</sup>

In February of this year, PAG submitted a grant application to the Office of Economic Adjustment requesting additional funding.<sup>6</sup> In March, PAG was notified from the

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<sup>1</sup> Petition, PAG Docket 15-05, RFP, "Attachment 1," pp. 1-3 (Aug. 11, 2015).

<sup>2</sup> Petition, PAG Docket 15-05, RFP, "Attachment 1," pp. 4-5.

<sup>3</sup> Order, PAG Docket 15-05, p. 8 (Aug. 27, 2015).

<sup>4</sup> Order, PAG Docket 20-03, pp. 5-6 (Jan. 30, 2020).

<sup>5</sup> Order, PAG Docket 20-03, p. 6.

<sup>6</sup> PAG Board Resolution No. 2020-03, p. 1 (June 9, 2020).

Office of Economic Adjustment that it had been awarded \$800,000.00 in additional funds to supplement the original grant.<sup>7</sup>

**A. Regulatory Review**

Under 12 G.C.A. §12105, 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 . . . ."<sup>8</sup>

**B. Petition**

In its Petition, PAG requested that the PUC review and approve the additional \$800,000.00 contract amount for the Professional Services Agreement between PAG and WSP.<sup>9</sup> This amount, which is wholly federally funded, supplements an original grant award, and covers services for calendar years 2020 and 2021.

According to the "Special Conditions" indicated in the new grant award, the additional funds "is not severable from the original OEA award . . . ."<sup>10</sup> Therefore, according to PAG, it intends on utilizing all of the grant money, both the original award and the supplement award, "to retain WSP" in order to "continue the implementation of the PAG's Port Modernization Program . . . ."<sup>11</sup>

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<sup>7</sup> PAG Board Resolution No. 2020-03, p. 1.

<sup>8</sup> Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).

<sup>9</sup> Petition, PAG Docket 20-05, p. 1 (June 23, 2020).

<sup>10</sup> Petition, PAG Docket 20-05, p. 1.

<sup>11</sup> Petition, PAG Docket 20-05, p. 1.

PAG submitted that utilizing the federal funding in this way will “ensure”: the progress of its modernization projects; that its operations are sustainable for both near and long-term; and that “the Department of Defense assistance is soundly sustained.”<sup>12</sup>

PAG further submitted that the \$800,000.00 supplemental funding will be used for ten (10) subtasks: Program Management and Coordination; a 2020 Master Plan update; Wharf Service Life Extension; STS Crane Program Support; Future Tariff Analysis; IT Support; Environmental Programs; CIP Program Support; Health and Safety Programs; and a Deep Draft Wharf and Fill Improvements Project Feasibility Study.<sup>13</sup>

A list of the services and deliverables are provided in the Petition. For instance, with regard to the 2020 Master Plan Update, \$3,288.00 of the supplemental assistance will fund a shortfall.<sup>14</sup> With regard to Wharf Service Life Extension, one item includes developing scopes of work for conducting inspections and design work for any repairs.<sup>15</sup>

With regard to STS Crane Program Support, the contractor will continue to work with the Port to improve crane maintenance and procedures.<sup>16</sup> With respect to Future Tariff Analysis, the contractor will be required to provide an annual update to the financial modeling related to tracking the Port’s financial performance; it will also assist in preparing the necessary material and engagement for any new tariff petitions.<sup>17</sup>

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<sup>12</sup> Petition, PAG Docket 20-05, p. 1.

<sup>13</sup> Petition, PAG Docket 20-05, p. 2.

<sup>14</sup> Petition, PAG Docket 20-05, p. 3.

<sup>15</sup> Petition, PAG Docket 20-05, p. 3.

<sup>16</sup> Petition, PAG Docket 20-05, p. 3.

<sup>17</sup> Petition, PAG Docket 20-05, p. 3.



With respect to CIP Program support, in addition to assisting with various construction projects, the target deliverables include providing written procurement recommendations, scopes of works, and bid item and bid evaluation sheets.<sup>18</sup> With respect to health and safety, the contractor will be required to provide mentorship to key Port personnel, provide training to employees, and to conduct job hazard analyzes, to name a few.<sup>19</sup>

Several tasks were identified with respect to the Deep Draft Wharf and Fill Improvement Project. The primary task would be to perform a feasibility study on the financial and operational impact of this particular project on the Port.<sup>20</sup> This project concerns the construction of a 15,500 linear feet deep-draft wharf along the Glass breakwater in Apra Harbor and to fill approximately 17 acres of reclaimed land in three shallow embayments within Apra Harbor.<sup>21</sup> The contractor will also be engaged to consider performing a new Environmental Impact Statement.<sup>22</sup> Further, there are tasks that include providing the Port with support for its cyber security project; introduction of management reporting systems; and developing a Resource Conservation and Recovery Act contingency plan.<sup>23</sup>

In response to a Request for Information issued by the ALJ, the Port has indicated that the proposed budgets are estimates and that the budgets related to the tasks may be revised pending the Port's negotiations with its contractor. Further, as further indicated in its grant application, PAG's estimates were derived from its recent estimates and negotiations with WSP.

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<sup>18</sup> Petition, PAG Docket 20-05, p. 4.

<sup>19</sup> Petition, PAG Docket 20-05, p. 5.

<sup>20</sup> Petition, PAG Docket 20-05, p. 5.

<sup>21</sup> Petition, PAG Docket 20-05, p. 5.

<sup>22</sup> Petition, PAG Docket 20-05, p. 5.

<sup>23</sup> Petition, PAG Docket 20-05, p. 4.

**C. Board Resolution**

On June 9, 2020, PAG's Board of Directors issued Resolution No. 2020-03. In the Resolution, the Board authorized PAG to petition the PUC for approval of the use of the \$800,000.00 supplemental OEA program assistance for the WSP contract.<sup>24</sup>

**CONCLUSION**

In its grant application materials, PAG has indicated that with the Office of Economic Adjustment's assistance, "[t]o date, the Port continues to make major advances in the implementation of the Port Modernization Program, with the assistance of the professional and technical services of its OAE" and that the funding assistance to pay for this contractor "has been instrumental to the Port's progress and accomplishments . . . ."

In PAG Docket 20-03, this Commission has highlighted the significance of the WSP OAE contract and has noted that it "has been a very important contract for PAG because the scale, complexity, and challenges imposed by completing PAG's Port Improvement Program are unprecedented for PAG and require considerable technical expertise, capacity, and capability that is currently not present in PAG's organic staff and resources."<sup>25</sup>

Indeed, in a Memorandum of Agreement between the Governor's Office and PAG related to the subject contract ("MOA"), which this Commission has previously reviewed, the parties have noted that PAG is presently "undertaking a major Modernization Program"; and that "the scale and complexity of this effort is unprecedented" and "requires considerable technical expertise."<sup>26</sup> The grant allows PAG to retain "professional consultants, in the form of an

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<sup>24</sup> PAG Board Resolution No. 2020-03, p. 1 (June 9, 2020).

<sup>25</sup> Order, PAG Docket 20-03, p. 2 (Jan. 30, 2020).

<sup>26</sup> Petition, PAG Docket 15-05, MOA, p. 1 (Aug. 11, 2015).

‘Owner’s Agent Engineer’ to obtain the expertise in a number of different engineering and management disciplines to deal with challenges associated with the military buildup and port modernization.”<sup>27</sup>

In addition, such funding relieves ratepayers of any negative impact related to PAG’s modernization efforts. Accordingly, based on the record before the Commission in the instant docket, and for the other reasons set forth herein, the ALJ found that the projects outlined in the Petition are reasonable, prudent, and necessary; and that the use of the supplemental funding for the subject contract is reasonable, prudent, and necessary.

The ALJ thereby recommended that the PUC approve an additional \$800,000.00 to its Owners/Agent Engineering Services contract.

The Commission hereby adopts the findings made in the July 27, 2020 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. PAG's Petition for review and approval of an additional \$800,000.00 to its Owners/Agent Engineering (“OAE”) Services contract is hereby approved.
2. PAG is hereby authorized to expend an additional \$800,000.00 for its OAE Services contract solely for the projects itemized in its Petition.

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<sup>27</sup> Petition, PAG Docket 15-05, MOA, p. 1 (Aug. 11, 2015).



3. PAG shall adhere to the conditions and requirements set forth in the notices of award corresponding to the federal grants awarded to it by the Office of Economic Adjustment.

4. 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 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]

**SO ORDERED** this 30<sup>th</sup> day of July, 2020.

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**JEFFREY C. JOHNSON**  
Chairman

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**ROWENA E. PEREZ-CAMACHO**  
Commissioner

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**JOSEPH M. MCDONALD**  
Commissioner

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**PEDRO GUERRERO**  
Commissioner

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**MICHAEL A. PANGELINAN**  
Commissioner

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**PETER MONTINOLA**  
Commissioner

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**DORIS FLORES BROOKS**  
Commissioner

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