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Public Utilities Commission
GUAM

# BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

| | |
|---|---|
| IN THE MATTER OF: THE APPLICATION OF THE GUAM POWER AUTHORITY TO APPROVE THE CONTRACT WITH TRISTAR TERMINALS GUAM, INC. FOR THE DOCK FACILITY USER AGREEMENT, PIPELINE AGREEMENT, AND FUEL STORAGE AGREEMENT FOR GPA | GPA DOCKET 13-11<br><br>PUC COUNSEL REPORT |

## INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Petition of the Guam Power Authority ["GPA"] for contract review and approval of the Contract with Tristar Terminals Guam Inc., for the Dock Facility User Agreement, Pipeline Agreement, and Fuel Storage Agreement for GPA.[1]

## BACKGROUND

2. GPA is requesting that the PUC approve three agreements related to the delivery and storage of fuel: the Dock Facility User Agreement, Pipeline Agreement, and Fuel Storage Agreement.

3. Tristar is the current manager of the Dock Facility, owned by the Port Authority of Guam.[2]

4. GPA is requesting that the above Agreements be approved for a five year period from September 1, 2013, to August 31, 2018.[3]

5. The Dock Facility User Agreement allows GPA to discharge or load fuel from and to GPA's vessels that the F-1 Dock Facility. The Agreement sets forth the terms and conditions pursuant to which GPA may utilize the Dock Facility.[4]

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

[2] Id. at p. 1.

[3] Id. at p. 2.

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

6. As indicated, Tristar operates the facility known as the F-1 Dock. Tristar has pipelines which run through the Port Authority leases and easements from the F-1 Dock to a point of intersection referred to as the Navy Valve Pit. GPA's pipelines run from the Navy Valve Pit to storage and power generating facilities of GPA in Cabras, Guam.[5]

7. Under the Pipeline Agreement, Tristar grants GPA the non-exclusive use of the B Pipeline for fuel resupply from the F-1 Dock to the Navy Valve Pit for further transfer by GPA from the Navy Valve Pit through the GPA controlled pipelines through the GPA storage and power generating facilities at Cabras.[6]

8. Tristar maintains and operates a facility known as the Agat Terminal. Tristar holds a perpetual pipeline easement granted by the US DoD which extends from the Navy Valve Pit to the Tristar Facilities at the Agat Terminal. The B Pipeline also transmits oil from the F-1 Dock to GPA's line at the Navy Valve Pit and to the Agat Terminal.[7]

9. GPA resupplies its Piti storage facility using fuel stored at the Agat Terminal. In the Storage Agreement GPA will use storage tanks of Tristar with a total storage capacity of 422,150 barrels for the storage of fuel oil. GPA sells the excess fuel stored at the Agat Terminal to third parties for fuel oil bunkering purposes; it also resupplies its Piti storage facility using fuel oil stored at the Agat Terminal.[8]

10. On June 25, 2013, the Guam Consolidated Commission on Utilities approved Resolution No. 2013-38, which authorizes Management of GPA to petition the PUC to enter into Agreements with Tristar Terminals Guam for fuel delivery and storage through the Dock Facility, Pipeline and Fuel Storage Agreements.[9]

11. According to the CCU, Tristar "is the **sole service provider** of the Dock Facility, Pipeline, and Fuel Storage Services…".[10]

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[5] See Pipeline Agreement, attached to GPA Petition for Review and Approval of the Contract with Tristar Terminals Guam, Inc., GPA Docket 13-11, filed July 12, 2013.
[6] Id.
[7] See Storage Agreement, attached to the GPA Petition for Review and Approval of the Contract with Tristar Terminals Guam, Inc., GPA Docket 13-11, filed July 12, 2013.
[8] Id.
[9] CCU Resolution No. 2013-38, adopted on June 25, 2013.
[10] Id.

12. The CCU indicates that GPA and Tristar have negotiated a new five-year contract period for the three agreements the new contract cost for which are set forth in exhibits to the Resolution.[11]

13. The estimated total expenses for renewal of the three agreements for the five-year period are: $7,375,440.00 for the Dock Agreement; $2,252,342.16 for the Pipeline Agreement; and $9,165,390.88 for the Storage Agreement.[12]

14. The CCU submits that the three Agreements will serve the best interests of GPA ratepayers by insuring an uninterrupted supply of fuel to GPA through the use of Tristar's fuel handling facilities.[13]

## ANALYSIS

15. GPA has provided a "CONTRACT FEE COMPARISON", attached as Exhibit "A" to the CCU Resolution, which indicates comparison between the current contract prices (which expire August 31, 2013) and the New Contract prices from September 2013 to August 2018.[14] Attached to the CCU Resolution as Exhibit "B" are the "NEW CONTRACT EXPENSES (ESTIMATED)".[15] Copies of Exhibits "A" and "B" are attached hereto.

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

17. However, under the Pipeline Agreement, there is a 20% increase in the first year of the new contract (SEP.2013-AUG.2014). In the prior contract the yearly pipeline rental fee was $323,485.44. Under the new contract, the first year fee is $418,182.00. In addition, for each of the four succeeding years under the Pipeline Agreement, the Pipeline Rental Fee increases by 4%. By the fifth year of the contract (SEP.2017-AUG.2018) the yearly rental fee is $484,071.24.[17]

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[11] Id.
[12] Id.
[13] Id.
[14] See Exhibit "A" to CCU Resolution No. 2013-38.
[15] See Exhibit "B" to CCU Resolution No. 2013-38.
[16] CCU Resolution No. 2013-38, adopted June 25, 2013, at p. 1.
[17] See Exhibit A attached hereto.

18. Thus, the five year total for the new Pipeline Agreement is $2,252,342.16. The increase over the five year period is roughly $634,914.96.[18]

19. In his letter dated May 20, 2013, to the General Manager of GPA, the General Manager of Tristar states that the increase on the initial term of the Pipeline Rental Fee is "only a portion" of certain cost drivers. The cost drivers referenced are as follows:

    a) On February 2010, Port Authority of Guam Increased Easement Fees at 124% of the original easement rate of which Tristar has not passed on portions of the B line cost to GPA for 40 months.
    b) Tristar has taken the pipeline integrity testing done every 5 years as part of the routine maintenance cost on this renewal with annual amortization cost of $30,000.00 per year.
    c) Other operational cost increases on insurances and environmental considerations.[19]

20. Under the Storage Agreement, GPA previously leased tanks 1902, 1910, & 1911 at the Agat Terminal. However, under the new Storage Agreement GPA will only lease tank 1902. This results in a reduction is storage capacity of 75,000 barrels from 497,150 barrels to 422,150 barrels.[20]

21. Under the prior Storage Agreement, yearly rental for the three tanks was $1,386,720.00. On a prorated basis, this would equate to a $1,117,519.56 annual lease fee for Tank 1902. However, there is a 20% increase in the first year. Thus, the lease fee for Tank 1902 for the first year will be $1,413,023.47, which is more than the previous charge for all three tanks.[21]

22. The first year increase in the Storage Agreement is 20%, or $235,503.91. There is also a 4% annual cost of living increase.[22]

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[18] Id.
[19] Letter from K. Vikraman, General Manager of Tristar, to Joaquin Flores, General Manager GPA, dated May 20, 2013.
[20] CCU Resolution No. 2013-38, adopted June 25, 2013, at p. 2.
[21] See Exhibit "A" attached hereto.
[22] See Exhibit "A" attached hereto.

23. With regard to the price escalation for the Storage Agreement, the General Manager of Tristar states as follows:

> The 20% increase on the initial term is only a portion of the expected tank refurbishment cost for Tank 1902 as per API 653 which is estimated to be about $0.79 annual contribution to the construction in progress (CIP).
>
> The 4% flat adjustment on the 4 years that follows is a result of allocation on the standard Consumer Price Index Changes and increased operational cost accorded by various regulating agencies.[23]

24. A further justification for the price increases in the Pipeline and Storage Agreements is attached hereto as Exhibit "C".[24]

## RECOMMENDATION

25. Counsel believes that the cost increases for the Pipeline and Storage Agreements are high. However, given that Tristar is a "sole source" provider, and GPA lacks viable options, it is not clear that GPA has much leverage for negotiation purposes. GPA has sought to negotiate with Tristar; at this point however, Tristar appears unwilling to negotiate further.

26. The costs to GPA in these Agreements will be passed on to ratepayers through the LEAC Factor.

27. The Dock Agreement pricing has remained the same; Counsel recommends that the Facility User Agreement F-1 Dock be approved.

28. While the increases in the Pipeline and Storage Agreements appear high, these Agreements are likely the best that GPA can achieve under the circumstances.

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

[24] See Exhibit C attached hereto

29. An Order is submitted herewith to the Commissioners for their consideration.

Dated this 24th day of July, 2013.

Frederick J. Horecky
PUC Legal Counsel

Amended 6/25/13

# EXHIBIT A – CONTRACT FEE COMPARISON

| Fee Schedule | | Current Contract Expires Aug 31, 2013 | New Contract Sep2013-Aug2018 | Variance | | |
|---|---|---|---|---|---|---|
| **A. Dock Agreement** | | | | | | |
| 1. Dock Operator O.T. Fee per Operator (Minimum of 3 Operators) Outside 0800H-1600H on Weekdays All hrs on weedays & holidays | per Hour | $38.00 | $38.00 | $0.00 | | |
| 2. Excess Laytime | per Hour | $0.00 | $0.00 | $0.00 | | |
| 0-36 hrs upon start of dicharge | per Hour | $1,000.00 | $1,000.00 | $0.00 | | |
| Over 36 hrs & less than 72 hrs | per Hour | $600.00 | $600.00 | $0.00 | | |
| Over 72 hrs | | | | | | |
| 3. Imports (RFO Receiving) | | | | | | |
| a. Thoughput Fee (PAG Fee) (RFO delivered-Gross) | $/bbl | $0.50 | $0.50 | $0.00 | | |
| 4. Exports (Bunkering) (RFO delivered-Gross) | | | | | | |
| a. Port Royalty Fee (PAG Fee) | $/bbl | $0.66 | $0.66 | $0.00 | | |
| b. Maritime Security Fee (PAG Fee) | $/bbl | $0.02 | $0.02 | $0.00 | | |
| **B. Pipeline Agreement** | | | | | | |
| 1. Pipeline Rental Fee | | | | | | |
| (Pipeline from Dock to Navy tie-in) | $/yr | $323,485.44 | | | | |
| Sep 2013- Aug 2014 | $/yr | | $418,182.00 | $94,696.56 | 29% | Increase |
| Sep 2014- Aug 2015 | $/yr | | $433,667.64 | $15,485.64 | 4% | Increase |
| Sep 2015- Aug 2016 | $/yr | | $449,814.36 | $16,146.72 | 4% | Increase |
| Sep 2016- Aug 2017 | $/yr | | $466,606.92 | $16,792.56 | 4% | Increase |
| Sep 2017- Aug 2018 | $/yr | | $484,071.24 | $17,464.32 | 4% | Increase |
| **C. Storage Agreement** | | Based on 497,150 bbls safe capacity (Tk1902/1910 &1911) | Based on 422,150 bbls safe capacity (Tk 1902) | | | |
| **1. Lease Fees** | $/yr | $1,386,720.00 | $1,177,519.56 (prorated) | | | |
| Sep 2013- Aug 2014 | $/yr | | $1,413,023.47 | $235,503.91 | 20% | Increase |
| Sep 2014- Aug 2015 | $/yr | | $1,469,544.41 | $56,520.94 | 4% | Increase |
| Sep 2015- Aug 2016 | $/yr | | $1,528,326.18 | $58,781.77 | 4% | Increase |
| Sep 2016- Aug 2017 | $/yr | | $1,589,459.23 | $61,133.04 | 4% | Increase |
| Sep 2017- Aug 2018 | $/yr | | $1,653,037.60 | $63,578.37 | 4% | Increase |
| **2. Bunkering Fee** (P/L Fee from storage to navy tie-in) (RFO delivered-Net) | $/bbl | $4.20 | $4.20 | $0.00 | | |

Amended 6/25/13

# EXHIBIT B – NEW CONTRACT EXPENSES (ESTIMATED)

| Fee Schedule | Parameters | | | New Contract Sep2013-Aug2018 | | |
|---|---|---|---|---|---|---|
| **A. Dock Agreement** | | | | | Annual | 5-Year Total |
| | | | | **$/Shipment** | **$/yr** | **$** |
| 1. Dock Operator O.T. Fee (Minimum of 3 Operators) | Outside 0800H-1600H on Weekdays All hrs on weekends & holidays | $38.00 | per manhour | $3,648.00 | $40,128.00 | $200,640.00 |
| | | 32 | hrs/shipment | | | |
| | | 11 | ships/yr | | | |
| 2. Excess Laytime | a. 0-36 hrs upon start of discharge | $0.00 | per Hour | | | |
| | b. Over 36 hrs & less than 72 hrs | $1,000.00 | per Hour | | | |
| | c. Over 72 hrs | $600.00 | per Hour | | | |
| | Excess hrs | 6 | hrs/shipment | $6,000.00 | $66,000.00 | $330,000.00 |
| | | 11 | shipment/yr | | | |
| 3. Imports (RFO Receiving) | | | | | | |
| a. Thoughput Fee PAG Fees | RFO bbls received | $0.50 | $/bbl | $120,000.00 | $1,320,000.00 | $6,600,000.00 |
| | | 240,000 | bbl/shipment | | | |
| | | 11 | shipment/yr | | | |
| 4. Exports (Bunkering) (PAG Fees) | | 3000 | bbl/shipment | | | |
| | | 24 | shipment/yr | | | |
| a. Port Royalty | RFO bbls delivered | $0.66 | $/bbl | $1,980.00 | $47,520.00 | $237,600.00 |
| b. Maritime Security | RFO bbls delivered | $0.02 | $/bbl | $60.00 | $1,440.00 | $7,200.00 |
| **SUB-TOTAL** | | | | **$131,686.00** | **$1,475,088.00** | **$7,375,440.00** |
| **B. Pipeline Agreement** | | | | | Annual | 5-Year Total |
| 1. Pipeline Rental (B-Line) | Pipeline Fee (Dock to Navy Tie-In) | | | **$/Month** | **$/yr** | **$** |
| Sep 2013- Aug 2014 | | | | $34,848.50 | $418,182.00 | |
| Sep 2014- Aug 2015 | | | | $36,138.97 | $433,667.64 | |
| Sep 2015- Aug 2016 | | | | $37,484.53 | $449,814.36 | |
| Sep 2016- Aug 2017 | | | | $38,883.91 | $466,606.92 | |
| Sep 2017- Aug 2018 | | | | $40,339.27 | $484,071.24 | |
| **SUB-TOTAL** | | | | **$37,539.04 avg** | **$450,468.43 avg** | **$2,252,342.16** |
| **C. Storage Agreement** | Based on 422,150 bbls capacity (Tk1902) | | | | Annual | 5-Year Total |
| **1. Lease Fees** | | | | **$/Month** | **$/yr** | **$** |
| Sep 2013- Aug 2014 | | | | $138,672.00 | $1,413,023.47 | |
| Sep 2014- Aug 2015 | | | | $144,218.87 | $1,469,544.41 | |
| Sep 2015- Aug 2016 | | | | $149,987.62 | $1,528,326.18 | |
| Sep 2016- Aug 2017 | | | | $155,987.11 | $1,589,459.23 | |
| Sep 2017- Aug 2018 | | | | $162,226.58 | $1,653,037.60 | $9,165,390.88 |
| **2. Bunkering Fee** | Pipeline Fee Tanks to Navy Tie-in RFO delivered (Net) | $4.20 | $/bbl | $12,600.00 | $302,400.00 | $1,512,000.00 |
| **SUB-TOTAL** | | | | **$108,397.10 avg** | **$1,325,965.12 avg** | **$9,165,390.88** |
| | | | OVER-ALL COSTS | **$277,624.13** | **$3,251,521.58** | **$18,793,173.04** |
| | | | | **$/Month (avg)** | **$/yr (avg)** | **Total for 5 Yrs** |

***Schedule of Price Escalation***

**Schedule I. Pipelines Fees**

| | | | | | | |
|---|---|---|---|---|---|---|
| | | New Agreement | | 388,182.53 | | |
| | | Old Agreement | | (323,485.44) | | |
| | | Variance (Increase) | | 64,697.09 | | |
| | | | | 20% | | 20% |
| **A** 1st Year of Escalation: | 20% | 64,697.09 | | 64,697 | | |
| **a1** Easement Lease | Current | 16,496.79 | | | | |
| Started in February 01, 2010 | Old | (7,373.05) | | | | |
| | Increase | 9,123.74 | -124% | | | |
| No. of Pipeline functional laid on at Easement Lease | | 3.00 | | | | |
| **GPA Share** | | **3,041.25** | | | | |
| No. of Month TTGI did not pass on to GPA | | 12.00 | | | | |
| **Total Easement Cost** | | **36,494.96** | | (36,495) | 56% | -11% |
| | | | | 28,202 | | |
| **a2** Actual cost of insurnce during Shell's time is not available. Operating cost on the reapirs and maintenance of the pipelines have gone up of of more than 12% of which 9% is the only cost that is pass along to GPA. Expenses such as staff & mgt, insurnace directly relatd to the operation of F1, repairs & maint. of pipelines has bee increased. | | | | (28,202) | 44% | -9% |
| | | | | (0.00) | 100% | 0% |
| **B** Average for 2nd Year to 5th Year | 4% | | | 60,003.53 | | |
| 2nd Year Agreement | | | | 403,709.83 | | |
| 1st Year Agreement | | | | (388,182.53) | | |
| Variance (Increase) | | | | 15,527.30 | | |
| Based on Consumer Price Index Allocation | | | | **4%** | | |

**Consumer Price Index**

| | | | |
|---|---|---|---|
| 2005 | 544.5 | | |
| 2006 | 576.4 | | |
| 2007 | 604.289 | | |
| 2008 | 630.047 | | |
| 2009 | 633.315 | | |
| 2010 | 646.589 | | |
| 2011 | 670.684 | 126.18 | (2011-2005) |
| 2012 | | 5.00 | year |
| | | 25.24 | |
| | | 7.00 | year |
| | | 4% | CIP Average Increase |

Exhibit "C"

**Schedule II. Storage Fees**

| | Annual Storage Cost | No. Of Contracted BBls | Rates Per Barrels | |
|---|---|---|---|---|
| New Agreement | 1,413,023.47 | 422,150 | 3.35 | |
| Old Agreement | (1,177,519.56) | 422,150 | (2.79) | |
| Variance (Increase) | 235,503.91 | | 0.56 | |
| | 20% | | | 20% |

| | | | |
|---|---|---|---|
| 1st Year of Escalation: | 20% | $ | **235,503.91** |

**A** ***Operating Cost to Maintain the Facility in Operational Standards***

| | |
|---|---|
| Year 2012 | 8,672,356.68 |
| Year 2009 (Annualized) | (5,661,028.08) |
| Variance Increased in 3 years | **3,011,328.60** |
| % of Increase for 3 years | **53%** |
| Average Annual Increase in Operating Cost per year | **18%** |

***Note:***

For the past 3 years, the company has incurred around 53% increase on its operating cost to keep the facility to its standard operating condition and has pass along only 20% to GPA.

**B** Average for 2nd Year to 5th Year

| | |
|---|---|
| 2nd Year Agreement | 1,469,544.41 |
| 1st Year Agreement | (1,413,023.47) |
| Variance (Increase) | 56,520.94 |
| **% of Escalation** | **4%** |

**B1** ***Operating Cost to Maintain the Facility in Operational Standards***

| | |
|---|---|
| Year 2012 | 8,672,356.68 |
| Year 2009 (Annualized) | (5,661,028.08) |
| Variance Increased in 3 years | **3,011,328.60** |
| % of Increase for 3 years | **53%** |
| **Average Annual Increase in Operating Cost per year** | **18%** |

**NOTE: Only 4% out of the 18% annual average operating cost escalation has been passed on to GPA thereby TTGI is absorbing 14% of the cost.**

**B2** ***Cost of tank refurbishments - This cost was presented but was not considered part of the escalation cost and is solely being absorbed by TTGI.***

| | |
|---|---|
| Proposed Budget for Tank Repairs | $ 3,000,000.00 |
| Estimated Interest Rate | 6.50% |
| Depreciable Life S/L Method - 10yrs) | 120.00 |
| Annual Capital Outlay | $417,314.07 |