

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:)	GPA DOCKET 16-14
)	
THE PETITION OF THE GUAM)	
POWER AUTHORITY FOR APPROVAL)	ORDER
OF INSURANCE INVITATION FOR)	
BID)	
_____)	

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Guam Power Authority ["GPA"] Petition for Approval of Insurance Invitation for Bids.¹
2. GPA seeks to obtain Property Insurance for the policy period beginning November 1, 2016. The current GPA Property Insurance Policy will expire on November 1, 2016.² The policy contains two one-year options for renewal.

BACKGROUND

3. GPA's Bond Indenture Agreement requires GPA to "secure and maintain property insurance on all facilities constituting the system against risks of loss or damage to the extent that such insurance is obtainable at reasonable cost...". The Indenture further requires GPA to carry insurance "of a scope and nature as that usually carried in the industry...".³
4. The insurance coverages for which GPA seeks to issue an IFB are: Property and Boiler & Machinery, Earthquake, Flood, Typhoon and Tsunami, Terrorism, All Risk, Business Income, and Extra Expense.⁴
5. On May 28, 2013, the PUC approved GPA's last property insurance procurement.⁵ The insurance coverage proposed was for a three-year term plus two (2) One (1) year options to extend upon the mutual agreement of the parties.⁶

¹ GPA Petition for Approval for Insurance Invitation for Bids, GPA Docket 16-14, filed September 8, 2016.
² Id. at p. 1.
³ Guam Consolidated Commission on Utilities Resolution No. 2016-30, issued May 24, 2016.
⁴ Attachment to the Petition of the Guam Power Authority for Approval of Insurance Invitation for Bids, GPA Docket 16-14, filed on September 8, 2016.
⁵ PUC Order, Docket 13-04, GPA Petition for Approval of Insurance IFB, dated May 28, 2013.
⁶ Id. at p. 1.

6. On October 29, 2013, the PUC approved GPA's contract for Property Insurance with AM Insurance for the period of November 1, 2013 through November 1, 2016.⁷
7. As its current Property Insurance Policy will expire on November 1, 2016, GPA now seeks to obtain property insurance for the policy period beginning November 1, 2016.
8. On May 24, 2016, the Consolidated Commission on Utilities adopted Resolution No. 2016-30, which approves the GPA draft Invitation for Bids for Property Insurance to include Boiler and Machinery and Terrorism coverage. It determined that GPA was required to rebid its property insurance policies under Guam Procurement Regulations.⁸
9. Along with its Petition, GPA has also submitted the format for its proposed Invitation for Bids for Property Insurance.

DETERMINATIONS

10. The CCU approved the Property Insurance IFB on May 24, 2016; however, GPA's Petition for Insurance IFB was not submitted to PUC until September 8, 2016.
11. PUC Counsel sent GPA a letter regarding this Docket on September 16, 2016, a copy of which is attached to the PUC Counsel Report as Exhibit "A". To date, no response has been received to Counsel's letter.
12. On the same day that GPA sent the Petition to PUC for approval of the Insurance IFB, it publicly announced a Multi-Step Insurance Brokerage Services and Casualty Insurance Bid with 74 pages of documentation.⁹ A copy of the Procurement Notice is attached to the PUC Counsel Report as Exhibit "B".
13. On the same day that GPA filed its request that the PUC approve its IFB for Insurance Services, GPA had already announced the IFB to the public and was requesting bids on the IFB.

⁷ PUC Order, GPA Docket 13-04, GPA Petition for Approval of Insurance Contract with AM Insurance, dated October 29, 2013.

⁸ Guam Consolidated Commission on Utilities Resolution No. 2016-30, at pg. 2.

⁹ See www.guampowerauthority.com at the Procurement tab.

14. In the Petition filed on September 8, 2016, the GPA Acting General Manager requested that PUC authorize GPA to advertise the bid prior to final approval from the PUC: “because this bid document is so similar to prior bid documents that have been approved by the PUC, we are requesting authorization to advertise the bid prior to final approval from the PUC.”¹⁰
15. Neither the PUC nor the Administrative Law Judge authorized GPA to issue the IFB for Property Insurance prior to approval by the PUC.
16. PUC authorization for GPA to issue an IFB prior to PUC approval would be in direct violation of the CONTRACT REVIEW PROTOCOL FOR GUAM POWER AUTHORITY. Section 1 of the Protocol provides that certain GPA contracts and obligations, which would include the Property Insurance IFB, “**require prior PUC approval under the 12GCA 12004, which shall be obtained before the procurement process is begun...**”¹¹
17. The CONTRACT REVIEW PROTOCOL FOR GUAM POWER AUTHORITY is a procedure stipulated to by GPA and PUC for the review of GPA contracts by PUC. There is no authority that would allow PUC to disregard, waive, or ignore provisions of the Protocol. The Protocol is a PUC Order.
18. In addition, the timeline for implementing the IFB is compressed; in order to select and implement a new Insurance Provider by November 1, 2016, GPA has also requested that PUC not undertake any final review of the bid award and the cost of the insurance policy.¹²
19. In general, the PUC does require a “second look” at GPA procurements because the ultimate price of the contract is not known until GPA receives bids and awards the contract. That is why the PUC must again review the selected bid prior to award. Otherwise, PUC would have no opportunity to determine if the amount of the bid awarded is reasonable or whether such award could impact rates.

¹⁰ Letter dated September 2, 2016, from Acting GPA General Manager Melinda R. Camacho, to ALJ Frederick Horecky, Re: Invitation for Bids for Property Insurance Policies [attached to GPA’s Petition], dated September 2, 2016, and received by the PUC on September 8, 2016.

¹¹ CONTRACT REVIEW PROTOCOL FOR GUAM POWER AUTHORITY, Administrative Docket, dated February 15, 2008, at Section 1.

¹² Letter dated September 2, 2016, from Acting GPA General Manager Melinda R. Camacho, to ALJ Frederick Horecky, Re: Invitation for Bids for Property Insurance Policies [attached to GPA’s Petition], dated September 2, 2016, and received by the PUC on September 8, 2016, at p. 2.

20. If PUC agreed to a procedure with no “second look”, GPA could theoretically award a Property Insurance contract for any price, even over \$8M, with no review or determination by the PUC as to the reasonableness of the amount of the award.
21. Attached as Exhibit “C” to the PUC Counsel Report is a letter received by the PUC on September 13, 2016, from Mark Grennan, who is the Insurance Risk Consultant of GPA.¹³ The PUC has previously relied upon the opinion of Mr. Grennan in approving the current Property Insurance contract with AM Insurance.¹⁴ The PUC adopted the recommendations of Grennan & Associates.¹⁵
22. In his letter, Mr. Grennan raises serious concerns about the IFB issued by GPA, including the fact that it would choose a bidder based upon a firm price for only 20% of the technical insurance product. Prior GPA Insurance IFBs required a firm price for 80% of the insurance product. In Mr. Grennan’s opinion, a requirement for only 20% of the firm insurance price could result in the selected bidder being unable to obtain 100% of the required coverage.¹⁶
23. Based upon the lack of a response in the record to Mr. Grennan’s concerns, Counsel was unable to recommend a finding to the PUC that the proposed IFB is reasonable, prudent, or necessary. The PUC is similarly unable to find that the proposed IFB is reasonable, prudent, or necessary.
24. Disapproval of this IFB will not leave GPA without a remedy or means of obtaining Property Insurance. GPA does have the option of renewing the existing policy for one or two years. If GPA subsequently proposes the IFB in a procedurally correct manner, PUC can reconsider the issuance of such procurement for property insurance in the future.
25. GPA should have submitted its Petition to PUC in a timely manner so that the PUC could have reviewed the proposed IFB prior to its Announcement. It was inappropriate for GPA to issue a notice of the IFB before the procurement has been approved by PUC under the Contract Review Protocol.

¹³ Said letter is now a part of the record in this Docket.

¹⁴ PUC Order, GPA Docket 13-04, dated October 29, 2013, at pgs. 2-3.

¹⁵ Id. at p. 3.

¹⁶ Exhibit “C” at p. 2.

ORDERING PROVISIONS

After review of the record herein, GPA's Petition for Approval of Insurance Invitation for Bids, and the PUC Counsel Report, for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY ORDERS** that:

1. GPA's Petition for approval of Insurance Invitation for Bids for GPA Property Insurance Policy is hereby denied.
2. PUC Approval of the IFB would violate the Contract Review Protocol.
3. PUC may not lawfully abrogate its responsibility to determine whether the final cost of the insurance bid is reasonable or impacts rates.
4. 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.

Order
GPA Petition for Approval of
Insurance Invitation for Bid
GPA Docket 16-14
September 29, 2016

Dated this 29th day of September, 2016.



Jeffrey C. Johnson
Chairman

Rowena E. Perez
Commissioner



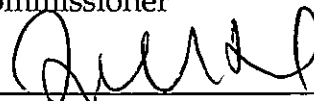
Michael A. Pangelinan
Commissioner



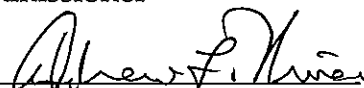
Filomena M. Cantoria
Commissioner



Joseph M. McDonald
Commissioner



Peter Montinola
Commissioner



Andrew E. Niven
Commissioner