

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF:

)
) GPA Docket 21-01
)

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

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) 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 Request Review and Approval by PUC for an increase in the Stanley EPCM Contract.¹

BACKGROUND

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

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

² Id.

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

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

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

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

⁵ Id., at p. 2.

⁶ Id., at p. 2.

⁷ Id., at p. 3.

⁸ Id.

⁹ Id., at p. 4.

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

¹¹ Id., at p. 2.

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

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

DETERMINATIONS

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

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

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

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

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

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

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

¹⁵ Id., at pgs. 1-2.

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

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

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

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

¹⁹ Id., at pgs. 1-14.

²⁰ Id., at pgs. 13-14.

²¹ Id., at p. 15.

²² Id., at pgs. 18-23.

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

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

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

²⁴ Id.

²⁵ Id.

²⁶ Id.

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

²⁸ Petition, at Attachment A.

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

ORDERING PROVISIONS

After careful review and consideration of the above determinations, the Petition of GPA, the Report of the Administrative Law Judge, and the record herein, for good cause shown, on motion duly made, seconded, and carried by the undersigned Commissioners, the Guam Public Utilities Commission hereby **ORDERS** that:


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

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


expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

Dated this 29th day of October 2020.



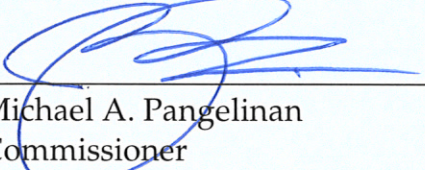
Jeffrey C. Johnson
Chairman



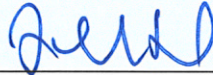
Rowena E. Perez-Camacho
Commissioner



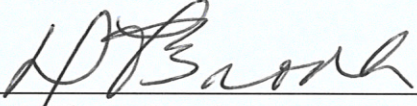
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