

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
LEASE OF AN ADDITIONAL
STORAGE TANK FOR DIESEL FUEL

GPA DOCKET 21-16

PUC COUNSEL REPORT



INTRODUCTION

1. This matter comes before the Public Utilities Commission ["PUC"] pursuant to the Guam Power Authority's ["GPA"] Petition for Contract Review.¹
2. GPA must ensure that it has an adequate inventory of Ultra Low Sulphur Diesel fuel oil for its Piti 8 & 9, and Ukudo plants and must obtain an additional 196,000 barrels of storage capacity to do so.²
3. GPA has an existing contract with Tristar Terminals Guam, Inc., ["Tristar"] for handling and receiving GPA's fuel oil import deliveries into GPA's storage facilities [Contract] and GPA requests that the PUC approve an amendment to the Contract wherein GPA will lease a 196,000 barrel storage tank from Tristar for a term of up to three years with an estimated cost total cost of \$4,410,000.³

BACKGROUND

4. On March 1, 2008 GPA entered into an agreement with Shell Guam, Inc., for the lease of fuel storage tanks with a total nominal capacity of 500,000 of fuel oil and the tanks are located at the Agat Terminal Facility.⁴
5. On May 20, 2009, GPA and Shell Guam, Inc., agreed that the contract would be assigned to Tristar.⁵

¹ GPA Petition to Approve the Contract with Tristar Terminals Guam, Inc., for the Lease of an Additional Storage Tank for Diesel Fuel, GPA Docket 21-11, dated August 6, 2021 [GPA Petition].

² Id., at 3. NOTE: the page numbers cited herein are the PDF page numbers and not the numbers of GPA's Petition or its exhibits which are not continuous.

³ Id., at 3.

⁴ PUC Counsel Report dated December 6, 2010, GPA Docket No. 10-10 at 2.

⁵ Id., at 3.

6. The initial term of the storage agreement expired on February 28, 2011 and the PUC approved a two-year extension of the agreement that expired on February 28, 2013.⁶
7. On September 24, 2013, the PUC authorized GPA to enter into a new storage agreement with Tristar for a five-year period starting on September 1, 2013 and ending on August 31, 2018, and noted that Tristar's storage costs were high and escalated an additional 4% each year, that Tristar had submitted sufficient evidence justifying its 4% annual escalation rate, and that GPA had little choice but to enter into the storage agreement because there were no other storage alternatives on Guam for its fuel.⁷
8. On September 28, 2017, the PUC authorized GPA to lease an additional 196,000 barrel capacity storage tank from Tristar for its ULSD fuel oil for a five year term that would expire on December 31, 2022, giving GPA a thirty-day operating and an additional thirty-day reserve of ULSD fuel oil that would cost GPA an additional \$1,176,000 annually.⁸ GPA subsequently entered into the Contract with Tristar.
9. On August 31, 2018, the PUC authorized GPA to extend its fuel storage agreement with Tristar for a four-year period from September 1, 2018 to August 31, 2022 which included an annual 4% increase but warned GPA that it would not approve any future contracts between GPA and Tristar containing an automatic annual CPI increase and that GPA and Tristar could include actual Tristar costs in the pricing or negotiate increases based upon actual CPI increases in the prior year.⁹
10. The contract extension also reduced GPA's leased storage capacity from 422,150 barrels to 315,500 barrels that would cost GPA an average annual cost of \$1,366,322.76 for the Contract's four- year term.¹⁰
11. On June 4, 2021, GPA contacted Tristar and requested to lease Tristar's Tank No. 1907 for additional ULSD fuel oil storage and requesting to extend the existing ULSD fuel oil storage agreement on a month-to-month basis beyond its existing

⁶ PUC Order dated December 15, 2010, GPA Docket No. 10-10 at 2.

⁷ PUC Order dated September 24, 2013, GPA Docket No. 13-11 at 2-3.

⁸ PUC Order dated September 28, 2017, GPA Docket No. 17-23 at 1-4.

⁹ PUC Order dated August 30, 2018, GPA Docket No. 18-10 at 1-4.

¹⁰ PUC Legal Counsel Report dated March 24, 2018, GPA Docket No. 18-10 at 3.

December 31, 2022 expiration date and in response, Tristar provided GPA with a draft Amendment No. 2 for the Contract.¹¹

12. On July 27, 2021, the Guam Consolidated Commission on Utilities issued Resolution No. 2021-18 authorizing GPA to enter into the Amendment No. 2 of the Contract subject to the PUC's approval.¹²

ANALYSIS

13. GPA must obtain the PUC's approval of Amendment No. 2 to the Contract. Generally, GPA must obtain PUC approval for any contract or obligation which exceeds the review threshold of one-million-five-hundred-thousand-dollars (\$1,500,000).¹³ Here, GPA must obtain the PUC's approval for Amendment No. 2 of the Contract because the amendment would increase the Contract's costs by \$4,410,000 and it would extend the term of the contract on a month-to-month basis beyond its December 31, 2022 expiration date previously approved by the PUC.
14. The cost of Amendment No. 2 to the Contract is reasonable. Although the amendment does not contain the automatic annual CPI increases that the PUC prohibited in GPA from having in its fuel storage contracts with Tristar, GPA will be paying more for the additional tank for 2022 and 2023 than it is paying for its existing tank that it is leasing from Tristar. Specifically, under the existing contract between GPA and Tristar, GPA is renting a 196,000-barrel ULSD fuel storage tank from Tristar at a cost of about \$1,176 million for 2022, which is the last year of the contract. However, the amendment's additional fuel storage tank will cost GPA \$1,764,000 for that same year which is \$588,000 more than the tank that GPA is currently renting which appears to be the same capacity and it will be \$288,000 more than the lease for the existing tank in 2023, if GPA extends the lease for this tank in that year. GPA was queried as to the difference in costs and responded by submitting Tristar's statements in response to this query. Tristar states it is not able to match the 2022 and 2023 lease cost of the amendment's additional tank with its existing leased tank because doing so is not economically viable due to: (1) The

¹¹ Letter from John Benavente to Kazhakuttam Vikraman dated June 4, 2021, GPA Petition at 5.

¹² Id., at 3-4.

¹³ Paragraph 4(e), Order dated February 15, 2008, GPA Contract Review Protocol.

need to refurbish the additional tank to enable it to meet API Standards and GPA's quality requirements for the ULSD; (2) Tristar needs the \$1,764 million amount for the amendment's one-year contract term to recoup the costs of the refurbishment; (3) The existing contact term has a five-year term resulting in a revenue \$30 per barrel for the full contract term compared to only the \$9 per barrel revenue that Tristar will earn from the amendment's one-year term after it recovers the cost of the refurbishment. This appears to be true, as the amendment's storage fee would be \$9 per barrel for the initial year, \$7.50 per barrel for the second year, and \$6 per barrel for the third year and any extension year, resulting in a total estimated cost of \$1,764,000 for the first year, \$1,470,000 for the second year, and \$1,176,000 for the third year and any extension year thereafter.¹⁴ Hence, the \$4,410,000 cost of the amendment is reasonable, considering the necessary refurbishment costs which must be recouped in the first and second years of the amendment.

15. The amendment is prudent and necessary. GPA will require an increased supply of ULSD fuel to operate Piti 8 & 9 and the new Ukudu power plant for the next three years.¹⁵ Additionally, GPA requires the increased supply of ULSD by February, 2022 and seeking the approval of Amendment No. 2, at this time will ensure sufficient time to refurbish and additional storage tank and begin using it by that time.¹⁶
16. Based on the foregoing, Amendment No. 2 to the Contract GPA's and its \$4,410,000 cost are reasonable, prudent, and necessary, and will enable GPA to meet its ULSD needs for Piti 8 & 9 and the Ukudu plant for the next three years.

RECOMMENDATION

17. Counsel recommends that the PUC approve Amendment No. 2 to the Contract for the amount of \$4,410,000.

¹⁴ GPA Petition at 6.

¹⁵ Id., at 3.

¹⁶ Id., at 5.

18. A Proposed Order is submitted herewith for the consideration of the Commissioners.

Dated this 26th day of September, 2021.

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