

**GUAM PUBLIC UTILITIES COMMISSION
REGULAR MEETING
July 29, 2021
GCIC CONFERENCE ROOM, GCIC BUILDING, HAGATNA**



MINUTES

The Guam Public Utilities Commission [PUC] conducted a regular meeting commencing at 6:36 p.m. on July 29, 2021, pursuant to due and lawful notice. Commissioners Johnson, Perez-Camacho, 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 27, 2021. Upon motion duly made, seconded, and unanimously carried, the Commission approved the minutes subject to corrections.

2. Guam Power Authority

The Chairperson announced that the next item of business on the agenda was Guam Power Authority [GPA Docket] 21-11, Petition to Approve the Contract Extension for Professional Printing, Mailing, Processing and Other Services, Legal Counsel Report, and Proposed Order. Legal Counsel Camacho stated that Graphic Center has this contract prints about 50,000 electric power billings per month, that the contract's initial one-year term and three of its one-year renewal options have expired, that GPA is in its fourth and final one-year renewal option, and that GPA has expended a total amount of \$1.42 million on the contract over this almost five-year period. Legal Counsel Camacho stated that GPA solicited for a new contract for these services in December, 2020, that GPA only received one bid which was not responsive, that, as a result, GPA entered into an eight-month contract extension with Graphic Center on this contract that will cost an extra \$300,000.00, which GPA intends to pay with its revenue funds, and he recommended that the PUC approve the contract extension because its cost was reasonable, and that it was prudent and necessary for GPA to enter into the contract extension so that its billing can continue without disruption while GPA issue a second solicitation and awards a new contract for these services. A discussion ensued between Commissioner Flores-Brooks, Commissioner McDonald, Commissioner Guerrero, Commissioner Pangelinan, Legal Counsel Camacho, GPA's Kim, and GPA GM Benavente, concerning the length of the contract with Graphic Center, the status of the GPA employees who used to do the work that Graphic Center was doing for GPA,

the cost saving GPA incurred from outsourcing this work, the cost of mailing a paper statement to a customer compared to the cost of sending electronic billing statements via email, the number of GPA customers who receive their billing statements via email, the saving that could be incurred by encouraging more GPA customers to receive their bills via email, the procedure for a GPA customer to switch from receiving a paper billing statement to an electronic statement, whether the existing contract terms permitted the extension, whether the PUC should put a cap on the amount it could spend on the contract extension, and why GPA found the bid it received to be nonresponsive. Commissioner McDonald moved to approve the proposed order granting the petition which motion was seconded by Commissioner Flores-Brook, and the motion passed unanimously.

The Chairperson announced that the next item of business was GPA Docket 21-13, Petition Requesting Approval of the Procurement of Engineering Services, ALJ Report, and Proposed Order. ALJ Alcantara stated that GPA has an existing contract for engineering services with Stanley Consultants whose contract will expire soon, that GPA will continue to need professional engineering services to complete the new northern power plant project and other infrastructure projects, that the contract GPA is soliciting for will have a three-year initial term with an option to renew the contract for two additional two-year terms which contains all the usual contract provisions, that GPA will use its revenue funds to pay for this contract, that the procurement for this contract is reasonable and necessary at this time, and he recommended that the PUC approve the petition. GPA GM Benavente stated that its existing contract with Stanley Consultants will expire in March, 2022 and GPA must solicit for a new contract to provide these services which GPA requires to get through the construction of the new power plant project and that the services being solicited are for an Engineering Procurement Construction Management consultant that helps GPA's support team. A discussion ensued between Commissioner Flores-Brooks and GPA GM Benavente concerning the current status of the construction of the new power plant at Ukudu, the new power plant's target completion date, and the status of the U.S. EPA case against GPA. Commissioner Perez-Camacho moved to approve the draft order approving the petition which motion was seconded by Commissioner Flores-Brooks, the motion was approved unanimously.

The Chairperson announced that the next item of business was GPA Docket 21-15, Petition to Approve a Bond Issuance to Refinance a Portion of the Outstanding Revenue Bonds, ALJ Report, and Proposed Order. ALJ Horecky stated that GPA is seeking the PUC's approval for a bond issuance to refinance a portion of their outstanding 2012 Series A revenue bonds to reduce the interest of rates payable on the bonds resulting in savings to the ratepayers. ALJ Horecky stated that the Guam legislature has not

approved a bond issuance as had been past practice and that GPA had only submitted a draft bill with their application which has not been approved by the legislature and the governor, he recommended that the PUC follow its existing precedent in PUC Docket 17-20, and not address the proposed bond issuance until the legislature has approved it, and he recommended that the PUC deny the petition for this reason. GPA GM Benavente stated that GPA was seeking the PUC's approval because if it went to the legislature first, the legislature would ask whether the bond issuance was approved by the PUC, and he stated that there is an opportunity for GPA to save money by refinancing its bonds while interest rates are very low and potentially will be rising. A discussion ensued between Commissioner Flores-Brooks, Commissioner Perez-Camacho, ALJ Horecky, and GPA GM Benavente concerning the PUC's role in approving the bond issuance, the normal procedure for a bond issuance to be approved by the legislature, the governor, and the PUC, and whether there was a senator who would sponsor the bill. Commissioner Guerrero moved to approve the draft order denying the petition which motion was seconded by Commissioner McDonald, and the motion was approved unanimously.

The Chairperson announced that the next item of business was GPA Docket 21-14, Petition to Adjust the Current Levelized Energy Adjustment Clause (LEAC) Factor effective August 1, 2021, ALJ Report, and Proposed Order. ALJ Horecky stated that every six-months the PUC must consider what the LEAC factor should be for the next six months by determining what price per kilowatt-hour should be charged to the customers on their bills so that GPA can recover the costs that it pays for fuel, that GPA proposes to increase the LEAC factor from 11 cents a kilowatt-hour to about 16.7 effective for meters read on or after August 1, 2021, that GPA states that the proposed increase in the factor was necessary to adjust for an increase in the price of fuel. So, that is the proposal that is now before you, that GPA anticipates using \$15 million of its self-insurance and CIP funds to prevent a greater increase to the LEAC factor, and that if the PUC approved GPA's proposal, there would likely be an under-recovery of \$7.5 million by January 31, 2022. ALJ Horecky stated that the LEAC under-recovery balance has increased from \$13 million on January 31, 2021, to an estimated \$30.4 million on July 31, 2021 and he discussed several possible increases to the LEAC factor and what their effect on the under-recovery balance would likely be, and he recommended that the PUC approve an increase to the factor to 0.171458 cents because anything less than that would likely grow the under-recovery balance to \$22 million. GPA GM Benavente stated that GPA would likely receive \$15 million from the governor from Guam's allotment of federal pandemic assistance funds and he recommended that instead of raising the LEAC factor to 17.1 on August 1, 2021, that the PUC phase in this increase over the next six months, which would allow time for GPA to receive the \$15 million from the governor. CCU Chairman Duenas stated that the \$15 million from GPA's self-insurance fund and deferred CIP projects was meant to assist the ratepayers and would be repaid to GPA over time, and that the potential \$15 million from the governor should

not be considered until it is actually received. GPA's Kim stated that it would propose phasing in a higher LEAC factor by increasing the factor to 13.4 cents from August to September, increasing the factor to 15.08 cents from October to November, and increasing the factor to 17.1458 for December to January, and the estimated under-recovery by January 31, 2022 would be about \$22 million dollars, and that this estimate does not include the \$15 million dollars promised by the governor.

A discussion ensued between the Commissioners, ALJ Horecky, CCU Chairman Duenas, GPA GM Benavente, and GPA's Kim concerning how GPA would implement this phased process, whether the phased process would include the \$15 million from GPA's self-insurance and CIP funds, GPA's projections concerning the price of oil for the next LEAC period, the amount of the under-recovery using different LEAC factors, the current under-recovery balance of \$32 million, the likelihood of the governor transferring \$15 million to GPA and the effect that would have on the LEAC rate, whether the PUC had approved a phased in LEAC factor in the past, the risks of approving a phased in LEAC factor for the next six months, whether GPA has enough cash to sustain itself for the next six months of the phased-in LEAC factor were approved, alternate LEAC factor amounts that could be used during the phase-in period, and whether GPA should revise its base rates. Commissioner McDonald moved to increase the LEAC factor using a phased-in process by setting the factor to 13.04 cents from August 1 to September 30, 15.08 cents from October 1 to November 30, and 17.1 cents for December 1, 2021 to January 31st, 2022., which motion was seconded by Commissioner Perez-Camacho, and the motion was approved unanimously.

3. Administrative Matters.

The Chairperson announced that the next item of business was Bookkeeping Services for PUC. PUC's Palomo stated that the PUC was still seeking another proposal and that there will be another update at the next meeting.

The Chairperson announced that the next item of business was the FY2020 PUC Citizen Centric Report. ALJ Horecky stated that this report was an annual legal obligation for the PUC, that the PUC's Palomo and he put the report together, that they still had to file the report, and that the report has the figures for the PUC's FY 2020 in terms revenues, expenses, and major actions. Commissioner Flores-Brooks recommended several amendments to the report which the PUC's Palomo stated would be made.

The Chairperson announced that the next item of business was the Scanning by PUC Staff of 34,000 Pages of Records in a Digital Form. ALJ Horecky commended the PUC's Palomo and Brown who completed the scanning of these records so they could be in digital form. A discussion ensued between the Commissioners about how long the PUC should retain the hard copies of the documents and ALJ Horecky stated that he would look at any applicable laws requiring the retention of those records.

The Chairperson announced that the next item of business was Public Law No. 36-34 and Implementation of Meeting Broadcast Requirements P.L. 36-34. The Commissioners commended Mr. Garcia, who set up and operated the equipment making the PUC's first live broadcast meeting, which was this meeting, possible.

The Chairperson announced that the next item of business was the Budget Review. ALJ Horecky stated that this review would be postponed to the PUC's next meeting.

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

A handwritten signature in black ink, appearing to read 'J. Johnson', written over a horizontal line.

Jeffrey C. Johnson
Chairperson

ATTACHMENT A
THE GUAM PUBLIC UTILITIES COMMISSION
NOTICE OF PUBLIC MEETING

NOTICE IS HEREBY GIVEN that the Guam Public Utilities Commission [PUC] will conduct a regular business meeting, commencing at 6:30 p.m. on July 29, 2021, Third Floor, GCIC Building, 414 W. Soledad Ave., Hagatna.

The following business will be transacted:

Agenda

- 1. Approval of Minutes of May 27, 2021**
- 2. Guam Power Authority**
 - GPA Docket 21-11, Petition to Approve the Contract Extension for Professional Printing, Mailing, Processing and Other Services, PUC Counsel Report, and Proposed Order
 - GPA Docket 21-13, Petition Requesting Approval of the Procurement of Engineering Services, ALJ Report, and Proposed Order
 - GPA Docket 21-14, Petition to Adjust the Current Levelized Energy Adjustment Clause (LEAC) Factor effective August 1, 2021, ALJ Report, and Proposed Order
 - GPA Docket 21-15, Petition to Approve a Bond Issuance to Refinance a Portion of the Outstanding Revenue Bonds, ALJ Report, and Proposed Order
- 3. Administrative Matters**
 - Bookkeeping Services for PUC
 - FY2020 PUC Citizen Centric Report
 - Scanning by PUC Staff of 34,000 pages of Records
 - Public Law No. 36-34 and Implementation of Meeting Broadcast Requirements
 - Budget Review
- 4. 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. The meeting will be broadcast live on the PUC website at

guampuc.com. 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

NOTICE IS HEREBY GIVEN that the Guam Public Utilities Commission [PUC] will conduct a regular business meeting, commencing at 6:30 p.m. on July 29, 2021, Third Floor, GCIC Building, 414 W. Soledad Ave., Hagatna.

The following business will be transacted:

Agenda

- 1. Approval of Minutes of May 27, 2021**
- 2. Guam Power Authority**
 - **GPA Docket 21-11, Petition to Approve the Contract Extension for Professional Printing, Mailing, Processing and Other Services, PUC Counsel Report, and Proposed Order**
 - **GPA Docket 21-13, Petition Requesting Approval of the Procurement of Engineering Services, ALJ Report, and Proposed Order**
 - **GPA Docket 21-14, Petition to Adjust the Current Levelized Energy Adjustment Clause (LEAC) Factor effective August 1, 2021, ALJ Report, and Proposed Order**
 - **GPA Docket 21-15, Petition to Approve a Bond Issuance to Refinance a Portion of the Outstanding Revenue Bonds, ALJ Report, and Proposed Order**
- 3. Administrative Matters**
 - **Bookkeeping Services for PUC**
 - **FY2020 PUC Citizen Centric Report**
 - **Scanning by PUC Staff of 34,000 pages of Records**
 - **Public Law No. 36-34 and Implementation of Meeting Broadcast Requirements**
 - **Budget Review**
- 4. 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. The meeting will be broadcast live on the PUC website at guampuc.com. 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

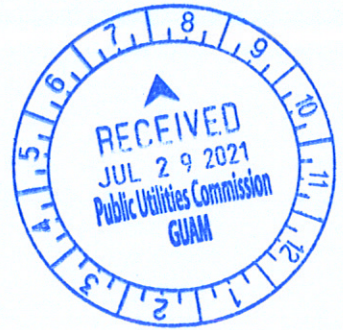
BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:

THE APPLICATION OF THE GUAM
POWER AUTHORITY TO APPROVE
THE CONTRACT EXTENSION FOR
PROFESSIONAL PRINTING,
MAILING, PROCESSING, AND
OTHER SERVICES

GPA DOCKET 21-11

ORDER



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. The GPA-Graphic Center, Inc., ["Graphic Center"] Contract for Professional Printing, Mailing, Processing, and Other Services was set to expire on or about April 18, 2021.²
3. GPA requests that the PUC approve an eight-month extension of the contract which will cost \$300,000.³

BACKGROUND

4. On April 6, 2016, GPA entered into a five (5) year contract, which had a one (1) year initial term with four (4) one (1) year options to renew with Graphic Center to provide Professional Printing, Mailing, Processing, and Other Services. Under the contract, Graphic Center provided GPA with professional printing, mailing, and processing services for approximately fifty-thousand (50,000) electric power billings each month.⁴

¹ GPA Petition to Approve the Contract Extension for Professional Printing, Mailing, Processing, and Other Services, GPA Docket 21-11, dated May 20, 2021 [GPA Petition].

² GPA Petition at 3. NOTE: The page numbers in GPA's Petition and its exhibits are not continuous and the page numbers cited herein refer to the page number of the PDF version of the PDF which is continuous.

³ Id., at 2.

⁴ Id., at 1 and 3.

5. The contract's initial one (1) year term has expired, and GPA has exercised all four (4) of its one (1) year options to renew. GPA has expended the total amount of \$1.42 million on the contract over this five (5) year period.⁵
6. Prior to the expiration of the contract's last one (1) year option to renew, GPA solicited for a new contract for professional printing, mailing, processing, and other services by issuing an Invitation for Bids ["IFB"] in December, 2020. GPA received one (1) bid in response to the IFB and GPA had to issue a second IFB due to the bid not meeting the IFB's requirements.⁶
7. As a result of the need to issue a second IFB and the expiration of the contract, GPA negotiated an eight-month extension of the contract so that the professional printing, mailing, processing, and other services GPA requires, especially for the billing of its fifty-thousand (50,000) customers, will continue without interruption until GPA procures a new contract. GPA estimates that the eight (8) month contract extension will cost \$300,000 which GPA intends to pay for using its revenue funds.⁷
8. On April 27, 2021, the Guam Consolidated Commission on Utilities ["CCU"] issued CCU Resolution No. 2021-10 authorizing GPA's management to exercise the month-month contract extension up to eight (8) months or until a new contract is awarded, whichever comes first, subject to the PUC's approval.⁸
9. On June 18, 2021 PUC Legal Counsel submitted his report

DETERMINATIONS

10. GPA must obtain the PUC's approval for the eight (8) month extension of the contract. Generally, a multi-year procurement with fixed terms and fixed annual costs, GPA must obtain PUC approval if the total costs over the entire procurement term exceed the review threshold of one-million-five-hundred-thousand-dollars

⁵ Id., at 3 and email from Graham Botha, Esq., to Anthony R. Camacho, Esq., dated June 16, 2021 [June 16, 2021 Email].

⁶ GPA Petition at 1.

⁷ Id., at 3 and June 16, 2021 Email.

⁸ GPA Petition at 4.

(\$1,500,000).⁹ Here, GPA did not obtain the PUC's approval of the contract because the total cost of the contract for its initial one (1) year term, and four (4) one (1) year renewal periods did not exceed the review threshold of \$1.5 million. However, GPA must obtain the PUC's approval for the eight (8) month contract extension because adding the three-hundred-thousand-dollar (\$300,000) cost of the contract extension to the existing \$1.42 million cost of the contract would increase the contract's total cost to \$1.72 million which is in excess of the review threshold.

11. The cost of the contract extension is reasonable. The average monthly cost of the original contract was approximately twenty-three-thousand-six-hundred-sixty-six-dollars ($\$1,420,000 / 60 \text{ months} = \$23,666.67 \text{ per month}$). Here, the average monthly cost of the contract extension is thirty-seven-thousand-five-hundred-dollars per month ($\$300,000 / 8 \text{ months} = \$37,500 \text{ per month}$). Although the average monthly cost of the contract extension is approximately thirteen-thousand-eight-hundred-thirty-three-dollars ($\$37,500 - \$23,666 = \$13,833$) higher than the average monthly cost of the contract over the five-year term, these calculations do not consider any price or cost increases in the contract over its five-year term. Further, considering such price increase coupled with the current increases in costs of materials and shipping created due to shortages or conditions related to the global pandemic emergency, the increase in average monthly costs is reasonable. Nonetheless, GPA should seek to mitigate the monthly increase in prices by awarding a new contract for professional printing, mailing, processing, and other services as soon as possible and prior to the expiration of the eight (8) month contract extension.
12. The contract extension is prudent. GPA's plan to use the contract extension is a good one because it will prevent a gap in the professional printing, mailing, processing, and other services from occurring as a result GPA having to issue a second IFB for these services.
13. The contract extension is necessary. GPA's ability to bill its customers as required will be adversely affected by a gap in its professional printing, mailing, processing, and other services. Specifically, without a contractor to provide these services, GPA's likely does not have the capability to print, mail, and process the fifty-thousand (50,000) or so electric power bills it sends out each month in a timely manner. Hence, a gap in these services will have an adverse effect on GPA's

⁹ Paragraph 4(c), Order dated February 15, 2008, GPA Contract Review Protocol.

revenue stream and the contract extension is necessary to prevent this from occurring.

14. Based on the foregoing, GPA's contract extension with Graphic Center and the extension's \$300,000 cost are reasonable, prudent, and necessary, and the extension will prevent a gap occur in the professional printing, mailing, processing, and other services GPA relies on to print, mail, and process the fifty-thousand (50,000) or so electric power bills it sends out every month.

ORDERING PROVISIONS

After careful review and consideration of the above determinations, GPA's Petition to approve the eight-month extension of the GPA-Graphic Center Contract, the Report of PUC Legal Counsel, and the record herein, for good cause shown, and on motion duly made, seconded, and carried by the undersigned Commissioners, the Guam Public Utilities Commission HEREBY ORDERS that:

1. The extension of the GPA-Graphic Center Contract is approved and GPA may exercise the month-month contract extension up to eight (8) months or until a new contract is awarded, whichever comes first.
2. 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 §§12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

///

///


///

///

///

Order
GPA's Application to Approve the
Contract Extension for Professional
Printing, Mailing, Processing, and
Other Services
GPA Docket 21-11
July 29, 2021

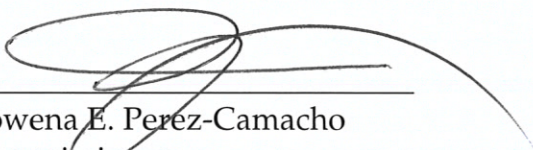
Dated this 29th day of July, 2021.



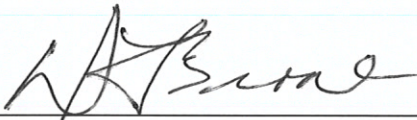
Jeffrey C. Johnson
Chairman



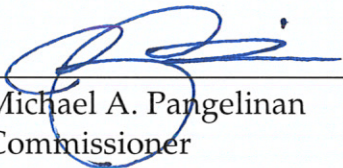
Joseph M. McDonald
Commissioner



Rowena E. Perez-Camacho
Commissioner

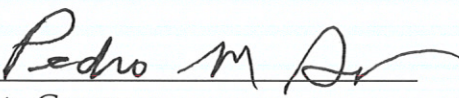


Doris Flores Brooks
Commissioner



Michael A. Pangelinan
Commissioner

Peter Montinola
Commissioner



Pete Guerrero
Commissioner

BEFORE THE PUBLIC UTILITIES COMMISSION

IN RE: PETITION REQUESTING) APPROVAL OF THE) PROCUREMENT OF) ENGINEERING SERVICES BY) GUAM POWER AUTHORITY) _____)	GPA DOCKET 21-13 ORDER
--	---



INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the June 10, 2021 Petition for approval of the procurement of an Engineering, Procurement and Construction Management (“EPCM”) contract (the “Petition”), filed by the Guam Power Authority (hereinafter referred to as “GPA”).

On July 26, 2021, 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

As indicated in GPA Docket 21-01, the PUC has a “history of involvement with the EPCM contract.”¹ Back in GPA Docket 15-05, the PUC authorized 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”²

¹ PUC Order, GPA Docket 21-01, p. 6 (Oct. 29, 2020).

² PUC Order, GPA Docket 15-05, p. 9 (Oct. 27, 2016).

In GPA Docket 18-09, the PUC approved a request for an increase in the EPCM contract with Stanley Consultants. The PUC highlighted the depth of the contractor's work, which included the preparation of the procurement of the 180MW power plant, assistance with the land acquisition for the new plant, including rezoning efforts.³ The PUC further recognized that the contractor had been "involved in every aspect of the administration of the IPP Contract."⁴ Again in GPA Docket 18-09, the PUC approved the extension of two years on the EPCM contract, to include work related to the "project management" for the new power plant during the term of the construction, plus all regulatory support, which included the preparation of a rate impact study.⁵

In October 2020, the PUC approved another increase in the EPCM contract with Stanley Consultants, noting that "[t]he environmental and construction permitting for the new power plant and pipeline have proven to be more complex than originally anticipated"⁶ The PUC further highlighted that such work "is extremely important to ensure the commissioning of a safe and efficient plant"; and that "shortchanging the funding for such services would be highly risky."⁷ In addition, with the current EPCM contract ending in March 2022, the PUC has been aware that GPA will need to solicit a brand new contract in August 2021.⁸

³ PUC Order, GPA Docket 18-09, p. 2 (Mar. 29, 2018).

⁴ PUC Order, GPA Docket 18-09, p. 2 (Mar. 29, 2018).

⁵ PUC Order, GPA Docket 18-09, pp. 5-6 (Nov. 29, 2018).

⁶ PUC Order, GPA Docket 21-01, p. 6 (Oct. 29, 2020).

⁷ PUC Order, GPA Docket 21-01, p. 6 (Oct. 29, 2020).

⁸ PUC Order, GPA Docket 21-01, p. 6 (Oct. 29, 2020).

1. GPA's Contract Review Protocol

Pursuant to 12 G.C.A. §12105, GPA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC's express approval. Accordingly, GPA's Contract Review Protocol requires that "[a]ll professional service procurements in excess of \$1,500,000" require "prior PUC approval . . . which shall be obtained before the procurement process is begun."⁹

2. Petition

In its Petition, GPA indicates that it has a "need for assistance with engineering consulting services for implementing the U.S. E.P.A. compliance plan."¹⁰ GPA submits that "[t]his procurement is necessary to assist GPA with consulting services regarding the construction and commissioning of the new power plant, and to develop procurement for the infrastructure required to receive [liquefied natural gas] LNG for the new power plant."¹¹

3. Scope of Work and Proposed Contract

a. Scope of Work

Based on the proposed Request for Proposal ("RFP"), the scope of work for the EPCM is comprised of three components: work related to the New Generation contract and Owner's Engineer support; LNG infrastructure; and LNG supply. In particular, the contractor would assist GPA in evaluating and managing contract requirements, including design review for compliance of the new power plants, new supply fuel pipelines and

⁹ GPA's Contract Review Protocol ("GPA CRP"), Administrative Docket 00-04, p. 1 (Feb. 15, 2008) (emphasis in original).

¹⁰ Petition, p. 1 (June 10, 2021).

¹¹ Petition, p. 2.

electrical interconnections; project schedule review; construction inspections and monitoring; commissioning support and performance evaluation.¹² With respect to LNG infrastructure, the contractor would assist GPA in developing a business model and procurement specifications for such LNG infrastructure to support fuel supply to the new generation facility and for other uses that GPA determines.¹³ And with regard to LNG supply, the contractor will assist GPA with developing a fuel contract and procurement for such LNG fuel supply.¹⁴

Accordingly, the EPCM contractor shall be responsible for the provision of engineering and design services; shall procure contracts with suppliers and contractors as GPA's agent; and shall manage the construction phase of the project, serving as GPA's Construction Manager, inasmuch as it shall supervise and coordinate all of the suppliers, construction contractors and other contractors.¹⁵

Further, as part of its qualifications, the EPCM contractor will be required to demonstrate experience in the design, evaluation, permitting, and construction of combined cycle combustion turbine and diesel generator technologies to support construction of the Ukudu Power Plant and its reserve facility.¹⁶ The EPCM contractor should also demonstrate experience in design, evaluation, permitting, and construction of fuel systems including piping, supply and treatment system and storage.¹⁷

¹² Proposed RFP, p. 22.

¹³ Proposed RFP, pp. 22-23.

¹⁴ Proposed RFP, p. 23.

¹⁵ Proposed RFP, p. 21.

¹⁶ Proposed RFP, p. 26.

¹⁷ Proposed RFP, p. 26.

According to the proposed RFP, the EPCM would further be required to demonstrate experience in LNG infrastructure and gas piping, fuel sourcing, and feasibility studies; and provide or demonstrate experience with regulatory support such as testimony submittals for Public Utilities Commission or other regulatory bodies.¹⁸ The EPCM contractor would additionally be required to demonstrate experience in training program development and execution; and demonstrate experience in other related areas to support permitting and construction activities and evaluation of plant performance.¹⁹

b. Contract Term and Other Provisions

Based the proposed RFP, GPA submits that this contract shall have a three-year initial term with an option to extend the contract for two additional year-long terms.²⁰ Further, the proposed contract includes the requirement that the contractor obtain all relevant insurance required during the course of the work.²¹ The proposed contract also contains an indemnity provision requiring the contractor to indemnify and hold GPA harmless from any claim, lawsuit, or liability related to its services.²² The proposed contract also prohibits the assignment of the contract absent GPA's consent.²³

c. Funding

GPA submits that the funding for this contract will be through its revenue funds.

¹⁸ Proposed RFP, p. 26.

¹⁹ Proposed RFP, p. 26.

²⁰ Proposed RFP, p. 9.

²¹ Proposed RFP, p. 17.

²² Proposed RFP, p. 9.

²³ Proposed RFP, p. 10.

4. Board Approval

In Resolution No. 2021-14, the Consolidated Commission on Utilities (the “CCU”) found that “GPA still requires consulting support for the new power plant contract for Owner’s Engineer support and other technical assistance for the construction and commissioning of the new power plant targeted for completion by end of 2023 and no later than April 2024,” which is beyond the expiration of the current contractor’s term.²⁴ In addition, the CCU further found that GPA also “requires services to assist in developing and supporting the procurement for the infrastructure required to receive Liquefied Natural Gas to Guam and to supply natural gas to the new power plant.”²⁵ Accordingly, the CCU authorized GPA to petition the PUC for approval of the procurement for engineering and technical consulting services related to the commissioning of the Ukudu Power Plant and its use of liquefied natural gas.²⁶

Based on the record before the Commission, the ALJ found that the subject procurement is reasonable, prudent, and necessary. Based on the history outlined above, the EPCM seems vital to GPA’s successful commissioning of the new power plant. Indeed, this Commission has previously determined that the work of an experienced EPCM “is extremely important to ensure the commissioning of a safe and efficient plant”; and that “shortchanging the funding for such services would be highly risky.”²⁷

Further, the record reflects that “GPA still requires consulting support for the new power plant contract for Owner’s Engineer support and other technical assistance

²⁴ Resolution No. 2021-14, Consolidated Commission on Utilities, pp. 1-2 (May 25, 2021).

²⁵ Resolution No. 2021-14, p. 2.

²⁶ Resolution No. 2021-14, p. 2.

²⁷ PUC Order, GPA Docket 21-01, p. 6 (Oct. 29, 2020).

for the construction and commissioning of the new power plant targeted for completion by end of 2023 and no later than April 2024,” which is beyond the expiration of the current contractor’s term.²⁸ In addition, the CCU further found that GPA also “requires services to assist in developing and supporting the procurement for the infrastructure required to receive Liquefied Natural Gas to Guam and to supply natural gas to the new power plant.”²⁹

Accordingly, based on this record, the ALJ recommended that the PUC approve the Petition and, accordingly, authorize GPA to procure an Engineering Procurement and Construction Management contractor for engineering and technical consulting services related to the commissioning of the Ukudu Power Plant and its use of liquefied natural gas. However, with regard to any provision in the scope of work related to PUC regulatory support, the ALJ recommended the elimination of such work as GPA is able to perform such work itself.

The Commission hereby adopts the findings in the July 26, 2021 ALJ Report and therefore issued 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. That the instant Petition is hereby APPROVED.

²⁸ Resolution No. 2021-14, Consolidated Commission on Utilities, pp. 1-2 (May 25, 2021).

²⁹ Resolution No. 2021-14, p. 2.

2. That GPA is authorized to procure an Engineering Procurement and Construction Management contractor for engineering and technical consulting services related to the commissioning of the Ukudu Power Plant and its use of liquefied natural gas.

3. GPA 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]

/ /

/ /

/ /

/ /

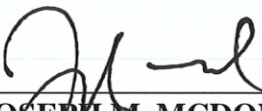
SO ORDERED this 29th day of July, 2021.



JEFFREY C. JOHNSON
Chairman




ROWENA E. PEREZ-CAMACHO
Commissioner



JOSEPH M. MCDONALD
Commissioner

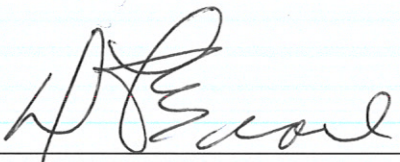


PEDRO GUERRERO
Commissioner



MICHAEL A. PANGELINAN
Commissioner

PETER MONTINOLA
Commissioner



DORIS FLORES BROOKS
Commissioner

P213048.JRA

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:) GPA Docket 21-14
)
Guam Power Authority Levelized Energy)
Adjustment Clause (LEAC)) **ORDER**
)
)
_____)



INTRODUCTION

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, 2021, for the next six-month period.¹ In its Petition, GPA sought to increase the Fuel Recovery Factor from \$0.11000/kWh to \$0.167564/kWh effective for meters read on or after August 1, 2021.² The change would reflect a 52.33% increase in the LEAC Factor and a 28.13% increase in the Total Bill.³

GPA states that “[T]he basis for the LEAC filing is due primarily to the continuing increase in worldwide fuel prices. GPA believes that the market will increase to the \$77.36/bbl. range during the period.”⁴

BACKGROUND

From February 1, 2021, through July 31, 2021, the PUC established the current LEAC Factor of \$0.110000/kWh.⁵

¹ GPA LEAC Filing, GPA Docket 21-14, dated June 10, 2021.

² Id., at p. 1.

³ Guam Consolidated Commission on Utilities, Resolution No. 2021-12, Authorizing the Management of the Guam Power Authority to Petition the Guam Public Utilities Commission for a Change in the Levelized Energy Adjustment Clause, adopted and approved on May 25, 2021, Exhibit “A”.

⁴ Id.

⁵ PUC Order, GPA Docket 21-04, dated January 28, 2021, at p. 9.

On January 28, 2021, the PUC authorized GPA to withdraw \$10M from the Self Insurance Fund to offset against the LEAC Under-Recovery.⁶ The PUC also authorized GPA to withdraw \$5M from the internally funded Capital Improvement Project Funds and to offset such amount against the LEAC Under-Recovery.⁷

For the upcoming LEAC period, GPA intends to apply the \$10M and \$5M for self-insurance and CIP funds to the LEAC Under-Recovery. Thus, the under-recovery balance as of August 1, 2021, will be \$15M. If the PUC raises the LEAC rate from \$0.11000/kWh to \$0.167564/kWh effective August 1, 2021, the estimated Under-Recovery as of January 31, 2022, would be \$7.5M.⁸

In Resolution No. 2021-12, the Guam Consolidated Commission on Utilities authorized the General Manager of the Guam Power Authority to petition the PUC for the proposed secondary voltage LEAC rate of \$0.167564/kWh effective for the period from August 1, 2021, to January 31, 2022.⁹

The ALJ filed his Report herein dated June 26, 2021.¹⁰

DETERMINATIONS

- I. An Increase in the LEAC Factor is justified because of the Drastic Rise in Fuel Oil Prices.

⁶ Id., at p. 3.

⁷ Id., at p. 4.

⁸ GPA LEAC Filing, GPA Docket 21-14, dated June 10, 2021, at p. 1.

⁹ Guam Consolidated Commission on Utilities, Resolution No. 2021-12, Authorizing the Management of the Guam Power Authority to Petition the Guam Public Utilities Commission for a Change in the Levelized Energy Adjustment Clause, adopted and approved on May 25, 2021.

¹⁰ ALJ Report, GPA Docket 21-14, dated July 26, 2021.

The present LEAC Factor of \$0.11000/kWh has not been adequate to pay for GPA's full fuel costs. As of January 31, 2021, the Under-Recovery balance was \$13,230,995. At the time GPA filed its Petition, the Under-Recovery Balance has risen to approximately \$30,379,234 as of July 31, 2021.¹¹

The following chart shows the dramatic increase in fuel oil pricing reflected by the Morgan Stanley pricing figures over the past nine months:

	November 4, 2020	February 1, 2021	April 5, 2021	May 12, 2021	July 16, 2021
SING HSFO 180 CST (per metric ton)	\$266.48	\$329.73	\$371.40	\$388.69	\$413.64
SING Gasoil 10 PPM (per barrel)	\$43.91	\$60.89	\$67.80	\$73.84	\$78.54

It appears that there has been a roughly 25%-28% increase in fuel prices during the present LEAC period. In terms of prices paid by GPA for RFO per barrel, prices rose from \$57.28 per barrel in November 2020 to \$59.15 per barrel in January 2021, and to \$74.92 per barrel in May 2021.¹² GPA anticipates that the average price barrel for RFO for the upcoming LEAC period from August 2021 through January 2022 will be \$75.14 per barrel; the average price per Bbl for Diesel will be \$83.93.¹³

¹¹ CCU Resolution No. 2021-12, Exhibit "A", at LEAC Update-Historical LEAC Over/(Under) Recovery.

¹² CCU Resolution No. 2021-12, Exhibit "A" [LEAC Update-GPA RFO Purchases (per Barrel)].

¹³ Id.

That fuel prices have been rapidly rising is also evident from the spike in gasoline prices experienced by the automobile drivers of Guam. Attached to the ALJ Report as Exhibit "3" is a chart indicating illustrative gas prices per gallon for regular gas. Since January of this year, gas prices have risen over \$.84 per gallon.

II. Based upon its Petition, GPA has established that the LEAC Factor should be increased.

Under the proposal in GPA's Petition, the \$15M of Capex and Self-Insurance Funds would be applied as of February 1, 2021, to leave a \$15M Under-Recovery.¹⁴ The LEAC Factor of \$0.167564 would result in a remaining under-recover of \$7.5M as of January 31, 2022, thus constituting a 50% recovery of the under-recovery balance. GPA viewed such proposal as a middle ground which would reduce the under-recovery balance and mitigate ratepayer impact.

To assist ratepayers, GPA will be utilizing non-fuel revenues of \$15M to offset the ratepayer impact. There is no solution under which GPA can avoid an increase in LEAC.

III. Updated Fuel Pricing indicates that there has been an additional increase in fuel prices since May 2021.

¹⁴ When GPA withdraws \$10M from the Self Insurance Funds, it will be required to reinstitute the Ratepayer Self Insurance Surcharge, effective August 1, 2021. Protocol IX of the SIPP states: "The Self Insurance Surcharge will remain in effect until the amount in the SIP Reserve reaches the SIP Reserve Cap and shall be reinstituted at any time the balance in the SIP Reserve thereafter falls to less than \$18,000,000." Effective August 1, 2021, according to GPA CFO John Kim, ratepayers using 1,000 kWh will be charged \$2.90 per month under the Self Insurance Surcharge, and higher amounts to Commercial and Government classes based upon usage. The Surcharge would remain in effect from August 1, 2021, to March 31, 2024.

Since May 12 alone, fuel prices for HSFO and Diesel have increased by roughly 6.4%.

In accordance with the established PUC LEAC procedure, GPA CFO John Kim submitted the updated Morgan Stanley Fuel Pricing to PUC on July 20, 2021.¹⁵ The updated fuel prices result in an estimated fuel price increase for the next six months from \$75.14 per Bbl-RFO to \$77.16, and from \$83.93 per Bbl-Diesel to \$89.35.

GPA also submitted an alternate calculation, which would set a LEAC Factor of \$0.171458 (see Exhibit "5" attached to the ALJ Report); such a Factor would result in an Under-Recovery of \$10M as of January 31, 2021.¹⁶ The change would reflect a 56% increase in the LEAC Factor and a 30.04% increase in the Total Bill.

IV. The PUC will adopt the Three Step LEAC Proposal submitted by GPA at the July 29 PUC Meeting.

At the July 29, 2021, PUC Meeting, GPA submitted a three step LEAC Factor increase proposal to the PUC. Copies of such Proposal are attached hereto as Exhibit "1".

Ratepayers will be able to accommodate such gradual increases more readily than one substantial increase which raises the LEAC Factor over 50% and the total Bill by over 30%. The PUC finds that the immediate raising of the LEAC Factor to \$0.167564 or \$0.171458/kWh would be too great a financial impact on ratepayers given economic conditions caused by the COVID pandemic.

¹⁵ Emails from GPA CFO John Kim to PUC ALJ Fred Horecky dated July 20, 2021.

¹⁶ Proposed LEAC Rate, Exhibit 5 attached to the ALJ Report (Email from GPA CFO John Kim to PUC ALJ Fred Horecky dated July 22, 2021).

GPA General John Benavente confirmed that GPA is comfortable with the implementation of this three step LEAC proposal. Governor of Guam Lou Leon Guerrero has stated that she plans to give \$15M in pandemic cash relief to GPA.¹⁷ These funds could be used to reduce GPA's fuel cost Under-Recovery Balance. The payment of \$15M to GPA would result in a lowering of the Under-Recovery Balance to \$7M.¹⁸ Based upon these factors, the PUC believes that the three-step proposal should supply sufficient revenues to GPA for fuel costs.

The secondary Fuel Recovery (LEAC) Factor of \$0.130400/kWh shall be effective for meters read on or after August 1, 2021. The secondary Fuel Recovery (LEAC) Factor of \$0.150800/kWh shall be effective for meters read on or after October 1, 2021. The secondary Fuel Recovery (LEAC) Factor of \$0.171458/kWh shall be effective for meters read on or after December 1, 2021.

For the increase effective August 1, 2021, it represents a monthly increase in the total bill of the average residential customer of \$20.40 and 10%. For the increase effective October 1, 2021, it represents a monthly increase in the total bill of the average residential customer of \$20.40 and 9.1%. For the increase effective December 1, 2021, it represents a monthly increase in the total bill of the average residential customer of \$20.66 and 8.4%.¹⁹

¹⁷ Pacific Daily News, July 29, 2021.

¹⁸ See Exhibit "1".

¹⁹ Id.

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 29, 2021, 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 (LEAC) Factor of \$0.130400/kWh shall be effective for meters read on or after August 1, 2021. The secondary Fuel Recovery (LEAC) Factor of \$0.150800/kWh shall be effective for meters read on or after October 1, 2021. The secondary Fuel Recovery (LEAC) Factor of \$0.171458/kWh shall be effective for meters read on or after December 1, 2021.
2. The current singular LEAC factors are hereby adjusted, commencing on August 1, 2021, and thereafter as shown in the following table:

	First 2 months	Second 2 months	Third 2 months
Secondary - 13.8 KV	0.130400	0.150800	0.171458
Primary - 13.8 KV	0.126501	0.146291	0.166332
34.5 KV	0.126137	0.145870	0.165853
115 KV	0.124584	0.144074	0.163811

3. GPA shall apply \$10M from the SIP Fund and \$5M from CIP Funds as of August 1, 2021, to off-set the LEAC Under-Recovery Balance.

4. 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, 2021, through January 31, 2022.
5. GPA reserves the right, under Tariff Z, to modify the rates ordered herein should the LEAC under-recovery balance increase or decrease by more than \$2M.
6. GPA should file for a change in the LEAC factors to be effective February 1, 2022, on or before December 15, 2021.
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.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

3 Step Increase - \$0.171458

Updated Fuel Price 7.12.21 - 7.16.21

Effective Date	2/1/2021	8/1/2021	10/1/2021	12/1/2021
Current LEAC		Step 1	Step 2	Step 3

LEAC Rate \$ 0.110000 \$ 0.130400 \$ 0.150800 \$ 0.171458

LEAC Under Recovery Ending (in million)	7/31/2021	9/30/2021	11/30/2021	1/31/2022
Beginning \$	13.2	\$ 17.1	\$ 21.7	\$ 23.8
Increase	18.9	4.6	2.13	
Decrease	(15.0)	-	-	(1.9)
Total \$	17.1	\$ 21.7	\$ 23.8	\$ 22.0

(After \$5 Capex & \$10 Self Insurance)

GovGuam Contributed \$15

Residential Bill Impact	2/1/2021	8/1/2021	10/1/2021	12/1/2021
-------------------------	----------	----------	-----------	-----------

(Consumption at 1,000 kWh)

Non-Fuel \$	94.61	\$ 94.61	\$ 94.61	\$ 94.61
Fuel \$	110.00	\$ 130.40	\$ 150.80	\$ 171.46
Total Bill \$	204.61	\$ 225.01	\$ 245.41	\$ 266.07

\$ Increase	\$	\$ 20.40	\$ 20.40	\$ 20.66
% Increase		10.0%	9.1%	8.4%
			10.0%	10.1%

\$ 61.46
27.5%
30.0%

3 Step Increase - \$0.171458

Updated Fuel Price 7.12.21 - 7.16.21

Effective Date	2/1/2021	8/1/2021	10/1/2021	12/1/2021
	Current LEAC	Step 1	Step 2	Step 3

LEAC Rate \$ 0.110000 \$ 0.130400 \$ 0.150800 \$ 0.171458

LEAC Under Recovery Ending (in million)	7/31/2021	9/30/2021	11/30/2021	1/31/2022
Beginning \$	13.2	\$ 17.1	\$ 21.7	\$ 8.8
Increase	18.9	4.6	2.13	
Decrease	(15.0)	-	(15.00)	(1.9)
Total \$	17.1	\$ 21.7	\$ 8.8	\$ 7.0

(After \$5 Capex & \$10 Self Insurance)

GovGuam Contributed \$15

Residential Bill Impact


(Consumption at 1,000 kWh)

	2/1/2021	8/1/2021	10/1/2021	12/1/2021
Non-Fuel \$	94.61	\$ 94.61	\$ 94.61	\$ 94.61
Fuel \$	110.00	\$ 130.40	\$ 150.80	\$ 171.46
Total Bill \$	204.61	\$ 225.01	\$ 245.41	\$ 266.07
\$ Increase		\$ 20.40	\$ 20.40	\$ 20.66
% Increase		10.0%	9.1%	8.4%
			10.0%	10.1%

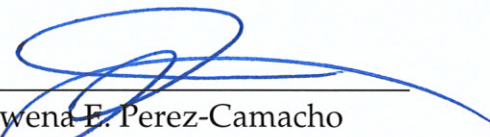
\$ 61.46
27.5%
30.0%

Order
GPA's LEAC
GPA Docket 21-14
July 29, 2021

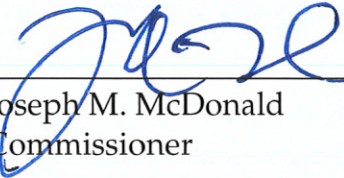
Dated this 29th day of July 2021.



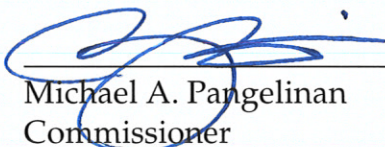
Jeffrey C. Johnson
Chairman



Rowena E. Perez-Camacho
Commissioner

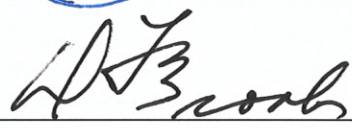


Joseph M. McDonald
Commissioner



Michael A. Pangelinan
Commissioner

Peter Montinola
Commissioner



Doris Flores Brooks
Commissioner

Pedro S.N. Guerrero
Commissioner

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:) GPA Docket 21-15
)
The Application of the Guam Power)
Authority to Approve a Bond Issuance to) **ORDER REPORT**
Refinance a Portion of the Outstanding)
Revenue Bonds.)
_____)



INTRODUCTION

This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Guam Power Authority's ["GPA"] Application for PUC Approval of a Bond Issuance to Refinance a Portion of the Outstanding 2012 Series A Revenue Bonds.¹

BACKGROUND

GPA indicates that it has worked with Barclays, GPA Bond Counsel, and GEDA to pursue strategies for reducing debt service payments.² The Petition states that, "as a result of historically low interest rates, GPA may be able to refund a portion of GPA's 2012 Series A Revenue Bonds for interest rate savings.³ GPA "expects that opportunities will arise from time to time to refund all or a portion of its then outstanding revenue bonds for debt service savings, which is expected to result in potential savings to ratepayers."⁴

¹ GPA Petition to Approve a Bond Issuance to Refinance a Portion of the Outstanding Revenue Bonds, GPA Docket 21-15, dated June 11, 2021.

² Id., at p. 1.

³ Id., at p. 1.

⁴ Id.

GPA has attached to its Petition Guam Consolidated Commission on Utilities Resolution No. 2021-08, which authorizes the approval of a bond issuance to refund the outstanding revenue bonds.⁵

Also attached to the Petition is a draft Bill by which the Guam Legislature would authorize the bond issuance; however, the “Bill” is only a draft, has not actually been introduced in the Guam Legislature, has no indicated Sponsors, and has not been approved by the Legislature or signed into law by the Governor. No GEDA Resolution has been provided by GPA which indicates that GEDA has approved the proposed refinancing.

The Petition further does not include any specifics concerning a proposed bond refinancing. No timeline for the refinancing is indicated. Neither the amount nor value of the bonds to be refinanced is stated. There is no information provided concerning the proposed amount of interest savings, the interest rate for the bonds, or Total Interest Cost [TIC]. There is simply no proposal presented in the Petition that the PUC could evaluate.

After the Petition was filed, the ALJ contacted GPA CFO John Kim and indicated that there was no specific bond refunding proposal included in GPA’s Petition. In response, the CFO did provide the ALJ with additional information concerning the Bond Refunding which had been provided to the CCU at its April 27, 2021, Meeting; however, such material was not included in the Petition. Also, the CCU Resolution did

⁵ Guam Consolidated Commission on Utilities Resolution No. 2021-08, Authorizing the Approval of a Bond Issuance to Refund the Outstanding Revenue Bonds, adopted and approved on April 27, 2021.

not approve any specific bond refunding proposal, nor was the information provided by the CFO attached to the CCU Resolution or referenced therein.

The ALJ filed his Report herein dated July 26, 2021.⁶

DETERMINATIONS

- A. IN ACCORDANCE WITH THE PUC ORDER IN GPA DOCKET 17-20, IT WOULD BE PREMATURE FOR THE PUC TO ADDRESS GPA'S PETITION FOR BOND REFINANCING. THE PROPOSED REFINANCING HAS NOT BEEN APPROVED BY THE GUAM LEGISLATURE, GEDA, OR THE GOVERNOR OF GUAM.

Attached as Exhibit "1" to the ALJ Report is the PUC Order in GPA Docket 17-20, dated September 28, 2017. There, as in the instant case, GPA sought PUC approval to refinance a portion of an outstanding Series of Revenue Bonds (2010). The PUC concluded that it would be illegal for the PUC to approve the bond refunding without prior authorization from the Legislature, GEDA, and the Governor of Guam. The same reasoning adopted by the PUC in GPA Docket 17-20 is directly applicable to GPA's present request for approval of such refinancing.

GPA is only authorized to issue bonds and obligations through the agency of the Guam Economic Development Authority ["GEDA"]. GEDA is not authorized to sell any bonds **without the approval by I liheslaturan Guahån of the terms and conditions of the bonds.** 12 GCA §50103(k). GEDA can only authorize the issuance of GPA revenue

⁶ ALJ Report, GPA Docket 21-15, dated July 26, 2021.

bonds “under the terms and conditions as the Guam Legislature, by appropriate legislation, may prescribe.”

GPA also has no authority to issue revenue bonds without the prior approval of the Governor. 12 GCA §8203.

The PUC has always taken the position that it should not approve any bond refunding by the utilities until all approvals required have been first obtained, including approval through Public Law and issuance by GEDA of an appropriate resolution approving the issuance. GPA has previously confirmed that “legislative authority is required before going to market, and that the PUC “has the discretion to wait for such legislation to become law...”⁷ In discussing bond refunding in GPA Docket 17-20 on September 28, 2017, the PUC Commissioners agreed that the PUC needed the Legislature’s prior approval and the Governor’s approval to act upon a proposed bond refinancing.

Requesting PUC approval of a proposed bond refinancing prior to approval by the Legislature and the Governor was placing “the cart before the horse.” Commissioner Pangelinan presented the rationale for requiring prior Legislative approval. If the PUC approved the bond refinancing, and then the Legislature subsequently changed the conditions and terms of the refinancing, the PUC would again be asked to review the matter and approve it. It was not the position of the PUC “to convince the Legislature to do something on the bond refinancing.” The PUC should not undertake an action

⁷ GPA’s Response to PUC’s Data Requests, GPA Response No. 23, GPA Docket 17-20, dated August 17, 2017.

which was “potentially unlawful by approving a bond refinancing which lacks Legislative approval.”⁸

B. BASED UPON THE PETITION FILED, THE PUC DOES NOT HAVE
SUFFICIENT FACTS TO MAKE A DETERMINATION ON BOND
REFUNDING AT THE PRESENT TIME.

As indicated the Petition does not contain any specifics concerning the proposed refunding. However, even if the supplemental information supplied by the CFO provided a refunding plan, PUC should not act upon it until the refunding is approved by the Legislature, the Governor, and GEDA. Within its discretion, and pursuant to its past precedent, the PUC is fully authorized to deny the refunding request pending Legislative authorization.

ORDERING PROVISIONS

Upon consideration of the record herein, the Petition of GPA, and the ALJ Report, and for good cause shown, on motion duly made, seconded, and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby **ORDERS** that:

1. GPA’s Petition for Approval of Bond Issuance to Refinance a portion of the 2012 Revenue Bonds is denied at the present time. The PUC declines to consider GPA’s proposed refunding any further at present. Further consideration at present would be premature, unless and until there is legislation authorizing the refunding and approval by both the Governor and GEDA.

⁸ Minutes of PUC Regular Meeting of September 28, 2017, at pg. 16.

2. 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
Request for Approval
of a proposed
Bond Refinancing
GPA Docket 21-15
July 29, 2021

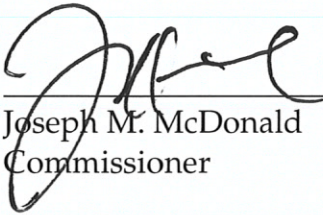
Dated this 29th day of July 2021.



Jeffrey C. Johnson
Chairman



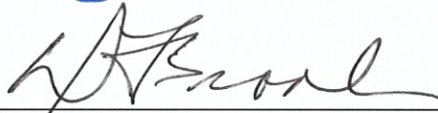
Rowena E. Perez-Camacho
Commissioner



Joseph M. McDonald
Commissioner

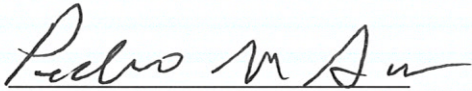


Michael A. Pangelinan
Commissioner



Doris Flores Brooks
Commissioner

Peter Montinola
Commissioner



Pedro S.N. Guerrero
Commissioner