

**GUAM PUBLIC UTILITIES COMMISSION  
REGULAR MEETING  
January 27, 2022  
GCIC CONFERENCE ROOM, GCIC BUILDING, HAGATNA**



**MINUTES**

The Guam Public Utilities Commission [PUC] conducted a regular meeting commencing at 6:30 p.m. on January 27, 2022, pursuant to due and lawful notice. Commissioners Johnson, Montinola, Perez-Camacho, McDonald, Pangelinan, and McDonald 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 October 28, 2021 and December 2, 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 22-04, Petition for Approval of Contract for Supply of Diesel Fuel Oil to GPA, ALJ Report, and Proposed PUC Order Ratifying Chairman's Order. ALJ Horecky stated that the Commission previously authorized the Chairperson to sign an order approving the contract for supply of diesel fuel to GPA's Piti 7, 8, and 9 plants because the Commission was not meeting in December, 2021 and this contract would commence on January 1, 2022 and expires on December 31, 2023, that the contract costs over \$76 million for its first year, \$114 million for the second year for a total of \$190.3 million, that the Chairperson signed the contract after the Commission authorized him to do so, and that what the Commission would be approving and signing was an order ratifying the Commission's prior approval of the contract. Commissioner Montinola made a motion to approve the proposed order ratifying the Commissioner's prior approval of the contract, which motion was seconded by Commissioner Perez-Camacho, and the motion was approved unanimously.

The Chairperson announced that the next item of business was GPA Docket 22-05, Petition to Set the Levelized Energy Adjustment Clause (LEAC) Factor effective



February 1, 2022, ALJ Report, and Proposed Order. ALJ Horecky stated that the Commission previously approved a three-step increase in the LEAC and that GPA is asking the Commission to maintain the current LEAC without an increase and continue to under-recover its fuel cost for the upcoming LEAC period. ALJ Horecky stated that if the Commission granted GPA's request, the under-recovery would grow to \$23 million by July, 2022 due to current and projected rise in fuel prices and that the ratepayers would have to eventually have to absorb this cost via a larger LEAC rate. ALJ Horecky recommended that the Commission raise the LEAC by 1 cent which would maintain the under-recovery balance where it is now, that 1 cent LEAC increase would constitute an average monthly increase of \$9.38 on the average residential power bill, and increase of 3.49% in the total bill, and a 5.47 increase in the LEAC factor. GPA GM Benavente stated that due to the rise in fuel prices and he agreed that a 1 cent increase would stabilize GPA's under-recovery during the next LEAC period. A discussion ensued between the Commissioners, ALJ Horecky, GPA CFO Kim and GPA GM Benavente concerning whether the under-recovery would affect GPA's ability to obtain bond financing, whether a 1 cent increase would result in keeping the under-recovery at its current \$17 million amount throughout the next LEAC period, whether the KEPCO 60 mega-watt renewable plant coming online will reduce GPA's fuel costs, whether GPA will be asking for a higher LEAC amount before the end of the next LEAC period, oil prices during the next LEAC period in light of the growing conflict between Russia and Ukraine, contributions to GPA's Self-Insurance fund, the current amount of GPA's under-recovery, the reasons GPA could not use \$5 million of its excess CIP funds to lessen GPA's under-recovery amount, how GPA would pay for its fuel if the Commission retained the current LEAC rate, that a 1 cent LEAC increase would keep GPA's current \$20 million under-recovery amount and without any increase GPA's under-recovery would grow to \$23 million by the end of the LEAC period, GPA's projection that the KEPCO renewable plant coming online would decrease GPA's under-recovery from \$250-\$500 thousand, the projected increase in fuel for the next LEAC period, whether the Commission should impose an increase now or in August, 2022, and the potential adverse effects of waiting until August, 2022 to increase the LEAC. Commissioner Montinola moved to approve the proposed order raising the LEAC to 18 cents to maintain the under-recovery, which motion was seconded by Commissioner Perez-Camacho, the motion passed 4-1 with Commissioner Pangelinan casting the only vote against the motion.

### **3. Guam Waterworks Authority**

The Chairperson announced that the next item on the agenda was Guam Waterworks Authority [GWA] Docket 22-05, GWA's Petition to Procure an Indefinite Delivery, Indefinite Quantity, Design-Build Contract and an Indefinite Delivery, Indefinite Quantity Professional Project/Construction Management Contract for GWA's

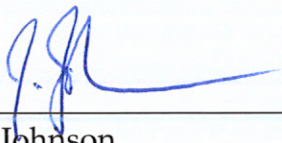


Island-wide Sewer Collection, Transmission System Repair, Rehabilitation, and Replacement Project, ALJ Report, and Proposed Order. ALJ Alcantara stated that GWA is requesting that the Commission approve an invitation for bid for design-build services [IFB] and a request for proposal for project and construction management services [RFP], both of which will support GWA's sewer collection transmission system repair project, that GWA estimates that these contracts will cost about \$13 million, and that he recommended that the Commission approve these solicitations because the sewer system is in need of repair and because the cost for the contracts that GWA is soliciting for is reasonable. GWA GM Bordallo stated that the reason these contracts will be indefinite delivery and quantity is because there are multiple sites that GWA needs to address, and GWA would also like to have the capability to use the contractors awarded these contracts to work on emergency repairs that may arise, and that the contracts GWA is soliciting for are critical to GWA's ability to meet the U.S. EPA's wastewater collection system requirements. A discussion ensued between the Chairperson, Commissioners Montinola, Perez-Camacho, and McDonald, ALJ Alcantara, GWA GM Bordallo, and GWA Legal Counsel Rojas concerning a cap on the amounts spend on these contracts, the project amounts stated in the petition, whether the companies that get these contracts will have these projects indefinitely, whether there will be competition between the bidders for the IFB and the offerors for the RFP, the terms of the contracts being solicited, whether the Commission should impose a cap in the price of these contracts, the scope of the contracts being solicited for, the various projects the contractors will be working on, the status of the court-ordered projects in the consent decree, the funding source for the contracts, CCTV inspection of pipes, and whether GWA personnel could perform this work without the expense of obtaining private contractors. Commissioner Montinola moved to approve the proposed order granting GWA's petition, which motion was seconded by Commissioner McDonald, and the motion passed unanimously.

#### **4. Administrative Matters**

The Chairperson announced that the next item on the agenda was the FY 2021 PUC Annual Report. ALJ Horecky stated that this was for the PUC's information.

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

  
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Jeffrey 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 January 27, 2022, Suite 202, GCIC Building, 414 W. Soledad Ave., Hagatna.

The following business will be transacted:

**Agenda**

- 1. Call to Order**
- 2. Approval of Minutes of October 28, 2021, and December 2, 2021**
- 3. Guam Power Authority**
  - **GPA Docket 22-04, Petition for Approval of Contract for Supply of Diesel Fuel Oil to GPA, ALJ Report, Proposed PUC Order****Ratifying Chairman's Order**
  - **GPA Docket 22-05, Petition to Set the Levelized Energy Adjustment Clause (LEAC) Factor effective February 1, 2022, ALJ Report, and Proposed Order**
- 4. Guam Waterworks Authority**
  - **GWA Docket 22-05, Petition of Guam Waterworks Authority to Procure an Indefinite Delivery/Indefinite Quantity Design-Build Contract and an Indefinite Delivery/Indefinite Quantity Professional Project/Construction Management Contract for GWA's Islandwide Sewer Collection/Transmission System Repair, Rehabilitation, and Replacement Project, ALJ Report, and Proposed Order**
- 5. Administrative Matters**
  - **FY 2021 PUC Annual Report**
- 6. Adjournment**

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 for Approving the Contract for  
Supply of Diesel Fuel Oil to GPA.

GPA DOCKET 22-04

ORDER



This matter comes before the Chairman of the Guam Public Utilities Commission [PUC], Jeffrey C. Johnson, upon the Administrative Law Judge [ALJ] Report dated December 15, 2021. GPA has filed a Petition for Approving the Contract for Supply of Diesel Fuel Oil to GPA.

Said Report indicates that the new Ultra Low Sulfur Diesel Fuel Oil Bulk Supply Contract between GPA and Mobil Oil Guam, Inc., which will provide the essential fuel supply to run the Piti 7, 8 & 9 units, will commence on January 1, 2022 and expire on December 31, 2023, subject to three 1-year extension options.

The PUC will not have a monthly meeting during December, 2021, and will not meet again until January 27, 2022. Thus, the PUC Commissioners will not be able to address the matter until after the time at which the Contract would commence.

The Chairman adopts the ALJ Report in this matter dated December 15, 2021 and finds that a supply of ULSD is necessary for GPA to maintain its electric power generation capacity at the Piti 7, 8, & 9 plants.

Since the new ULSD Fuel Supply Contract is scheduled to commence on January 1, 2022, it is necessary for the Chairman to take interim, emergency action to approve the commencement of the Fuel Supply Contract.




The Chairman hereby certifies that GPA's request for Approval of the Contract for Supply of Diesel Fuel Oil for the Piti 7, 8 & 9 plants, cannot await Commission action at the next scheduled meeting in January 2022. The Commissioners have approved the proposed action by the Chairman.

Pursuant to 12 GCA §12105(b), the PUC, through its Chairman, hereby approves the Petition of the Guam Power Authority to Contract with Mobil Oil Guam, Inc., for the supply of diesel fuel oil to the Piti 7, 8, & 9 plants.

**WHEREFORE, PUC ORDERS that:**

1. GPA's Petition to proceed with the Contract for Supply of ULSD to GPA for the Piti 7, 8, & 9 plants it is approved.
2. In accordance with the Contract, GPA is authorized to expend up to the amounts of \$76,117,000 for the first year of the Contract, and \$114,175,500 for the second year of the contract, for a total of \$190,292,500 for the 2-year contract base period.
3. This Order is subject to ratification by the PUC at its next meeting.

Dated this 24th day of December, 2021.

  
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Jeffrey C Johnson  
Chairman



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



IN THE MATTER OF: )

) GPA DOCKET 22-04

The Application of the Guam Power  
Authority for Approving the Contract for  
Supply of Diesel Fuel Oil to GPA. )

) ORDER OF RATIFICATION

This matter comes before the Guam Public Utilities Commission [PUC], upon the ORDER signed herein by Chairman Jeffrey C. Johnson on December 24, 2021. A true and correct copy of said ORDER is attached hereto as Exhibit "1". The ORDER authorized GPA to award a Diesel Fuel Oil Contract to Mobil Oil Guam Inc. effective January 1, 2022, for the supply of ULSD to the Piti 7,8, and 9 plants.

The ALJ REPORT dated December 15, 2021, recommended that the PUC approve GPA's Petition to proceed with the Contract for Supply of ULSD to GPA for the Piti 7, 8, and 9 plants. In accordance with the Contract, GPA should be authorized to expend up to the amounts of \$76,117,000 for the first year of the contract with Mobil Oil Guam, Inc., and \$114,175,500 for the second year of the Contract, for a total of \$190,292,500 for the 2-year contract base period. The Contract commenced on January 1, 2022 and would expire on December 31, 2023. There would also be three 1-year extension options, renewable annually, upon mutual agreement of the parties.<sup>1</sup>

The PUC did not have a monthly meeting during December, 2021. The Chairman determined that it was necessary to take interim, emergency action to approve the commencement of the Fuel Supply Contract. He further certified that GPA's Petition for Approval of the Contract could not await Commission action at the scheduled

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<sup>1</sup> Guam Consolidated Commission on Utilities, GPA Resolution No. FY2022-04, Authorizing Management to Award the Contract for the Bulk Supply of Ultra Low Sulfur Diesel (ULSD) Fuel Oil, adopted and approved on November 23, 2021.



meeting for January 2022. The Commissioners authorized the Chairman to approve the Contract.

The Commission has reviewed the ALJ Report dated December 15, 2021, and the Order of the Chairman dated December 24, 2021. The Commission binds that it was necessary for the Chairman to approve the Contract for Supply of ULSD to GPA for the Piti 7, 8 & 9 plants, for the reason stated in the Order and the ALJ Report.

The Chairman's Order is hereby ratified and approved.

**SO ORDERD** this 27<sup>th</sup> day of January 2022.

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Jeffrey C. Johnson  
Chairman

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Rowena E. Perez-Camacho  
Commissioner

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Joseph M. McDonald  
Commissioner

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Michael A. Pangelinan  
Commissioner

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Peter Montinola  
Commissioner

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Doris Flores Brooks  
Commissioner

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Pedro S.N. Guerrero  
Commissioner



**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF:	)	GPA DOCKET 22-04
	)	
The Application of the Guam Power	)	
Authority for Approving the Contract for	)	ORDER
Supply of Diesel Fuel Oil to GPA.	)	
<hr/>	)	

This matter comes before the Chairman of the Guam Public Utilities Commission [PUC], Jeffrey C. Johnson, upon the Administrative Law Judge [ALJ] Report dated December 15, 2021. GPA has filed a Petition for Approving the Contract for Supply of Diesel Fuel Oil to GPA.

Said Report indicates that the new Ultra Low Sulfur Diesel Fuel Oil Bulk Supply Contract between GPA and Mobil Oil Guam, Inc., which will provide the essential fuel supply to run the Piti 7, 8 & 9 units, will commence on January 1, 2022 and expire on December 31, 2023, subject to three 1-year extension options.

The PUC will not have a monthly meeting during December, 2021, and will not meet again until January 27, 2022. Thus, the PUC Commissioners will not be able to address the matter until after the time at which the Contract would commence.

The Chairman adopts the ALJ Report in this matter dated December 15, 2021 and finds that a supply of ULSD is necessary for GPA to maintain its electric power generation capacity at the Piti 7, 8, & 9 plants.

Since the new ULSD Fuel Supply Contract is scheduled to commence on January 1, 2022, it is necessary for the Chairman to take interim, emergency action to approve the commencement of the Fuel Supply Contract.



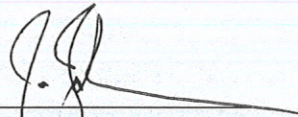
The Chairman hereby certifies that GPA's request for Approval of the Contract for Supply of Diesel Fuel Oil for the Piti 7, 8 & 9 plants, cannot await Commission action at the next scheduled meeting in January 2022. The Commissioners have approved the proposed action by the Chairman.

Pursuant to 12 GCA §12105(b), the PUC, through its Chairman, hereby approves the Petition of the Guam Power Authority to Contract with Mobil Oil Guam, Inc., for the supply of diesel fuel oil to the Piti 7, 8, & 9 plants.

**WHEREFORE, PUC ORDERS** that:

1. GPA's Petition to proceed with the Contract for Supply of ULSD to GPA for the Piti 7, 8, & 9 plants it is approved.
2. In accordance with the Contract, GPA is authorized to expend up to the amounts of \$76,117,000 for the first year of the Contract, and \$114,175,500 for the second year of the contract, for a total of \$190,292,500 for the 2-year contract base period.
3. This Order is subject to ratification by the PUC at its next meeting.

Dated this 24th day of December, 2021.

  
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Jeffrey C. Johnson  
Chairman



**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF:	)	GPA DOCKET 22-04
	)	
The Application of the Guam Power	)	
Authority for Approving the Contract for	)	ORDER
Supply of Diesel Fuel Oil to GPA.	)	
	)	

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This matter comes before the Chairman of the Guam Public Utilities Commission [PUC], Jeffrey C. Johnson, upon the Administrative Law Judge [ALJ] Report dated December 15, 2021. GPA has filed a Petition for Approving the Contract for Supply of Diesel Fuel Oil to GPA.

Said Report indicates that the new Ultra Low Sulfur Diesel Fuel Oil Bulk Supply Contract between GPA and Mobil Oil Guam, Inc., which will provide the essential fuel supply to run the Piti 7, 8 & 9 units, will commence on January 1, 2022 and expire on December 31, 2023, subject to three 1-year extension options.

The PUC will not have a monthly meeting during December, 2021, and will not meet again until January 27, 2022. Thus, the PUC Commissioners will not be able to address the matter until after the time at which the Contract would commence.

The Chairman adopts the ALJ Report in this matter dated December 15, 2021 and finds that a supply of ULSD is necessary for GPA to maintain its electric power generation capacity at the Piti 7, 8, & 9 plants.

Since the new ULSD Fuel Supply Contract is scheduled to commence on January 1, 2022, it is necessary for the Chairman to take interim, emergency action to approve the commencement of the Fuel Supply Contract.




The Chairman hereby certifies that GPA's request for Approval of the Contract for Supply of Diesel Fuel Oil for the Piti 7, 8 & 9 plants, cannot await Commission action at the next scheduled meeting in January 2022. The Commissioners have approved the proposed action by the Chairman.

Pursuant to 12 GCA §12105(b), the PUC, through its Chairman, hereby approves the Petition of the Guam Power Authority to Contract with Mobil Oil Guam, Inc., for the supply of diesel fuel oil to the Piti 7, 8, & 9 plants.

**WHEREFORE, PUC ORDERS that:**

1. GPA's Petition to proceed with the Contract for Supply of ULSD to GPA for the Piti 7, 8, & 9 plants it is approved.
2. In accordance with the Contract, GPA is authorized to expend up to the amounts of \$76,117,000 for the first year of the Contract, and \$114,175,500 for the second year of the contract, for a total of \$190,292,500 for the 2-year contract base period.
3. This Order is subject to ratification by the PUC at its next meeting.

Dated this 24th day of December, 2021.

  
Jeffrey C. Johnson  
Chairman



**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION  
REGULAR MEETING  
SUITE 202, GCIC BUILDING  
414 W. SOLEDAD AVE., HAGATNA, GUAM  
6:30 p.m., January 27, 2022**

**Agenda**

- 1. Call to Order**
- 2. Approval of Minutes of October 28, 2021, and December 2, 2021**
- 3. Guam Power Authority**
  - **GPA Docket 22-04, Petition for Approval of Contract for Supply of Diesel Fuel Oil to GPA, ALJ Report, Proposed PUC Order Ratifying Chairman's Order**
  - **GPA Docket 22-05, Petition to Set the Levelized Energy Adjustment Clause (LEAC) Factor effective February 1, 2022, ALJ Report, and Proposed Order**
- 4. Guam Waterworks Authority**
  - **GWA Docket 22-05, Petition of Guam Waterworks Authority to Procure an Indefinite Delivery/Indefinite Quantity Design-Build Contract and an Indefinite Delivery/Indefinite Quantity Professional Project/Construction Management Contract for GWA's Islandwide Sewer Collection/Transmission System Repair, Rehabilitation, and Replacement Project, ALJ Report, and Proposed Order**
- 6. Administrative Matters**
  - **FY 2021 PUC Annual Report**
- 7. Adjournment**



**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF: ) GPA Docket 22-05  
)  
Guam Power Authority Levelized Energy )  
Adjustment Clause (LEAC) ) **ORDER**  
)  
)  
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**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 February 1, 2022, for the next six-month period.<sup>1</sup> In its Petition, GPA seeks to maintain the Fuel Recovery Factor at \$.171458/kWh effective for meters read on or after February 1, 2022. The change would reflect "no increase" in the LEAC factor and no increase for a residential customer utilizing an average of 1,000 kilowatt hours per month.<sup>2</sup>

If the current LEAC Factor is maintained at \$.171458/kWh for the next six-months, GPA projected in its Petition that there would be an under-recovery of \$17.6M by July 31, 2022.<sup>3</sup>

**BACKGROUND**

In GPA Docket 21-14, GPA had requested an increase in the LEAC Factor from \$0.11000/kWh to \$0.167564 effective for meters read on or after August 1, 2021.<sup>4</sup> However, the PUC determined that : "Ratepayers will be able to accommodate...gradual increases more readily than one substantial increase which

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<sup>1</sup> GPA LEAC Filing, GPA Docket 22-05, dated December 2, 2021.

<sup>2</sup> Id., at p. 1.

<sup>3</sup> Id.

<sup>4</sup> PUC Order, GPA Docket 21-14, dated July 29, 2021, at p. 1.



raised the LEAC Factor over 50% and the total Bill by over 30%...][T]he immediate raising of the LEAC Factor to \$0.167564...would be too great a financial impact on ratepayers given economic conditions caused by the COVID pandemic.”<sup>5</sup>

The PUC ordered three phased-in increases for the LEAC Factor: \$0.130400/kWh effective for meters read on or after August 1, 2021; \$0.150800/kWh effective for meters read on or after October 1, 2021; and \$0.171458/kWh effective for meters read on or after December 1, 2021.<sup>6</sup> The LEAC Factor of \$0.171458/kWh has been in effect from December 1, 2021, to the present time.

GPA implemented the phased-in increases for the LEAC from the periods of August 2, 2021, through January 31, 2022, as ordered by the Public Utilities Commission.<sup>7</sup>

The average market price of residual fuel oil and diesel used in GPA's filing for the current LEAC period was approved at \$77.36/bbl for the six-month period ending January 31, 2022. The projected average price of residual fuel oil and diesel for the period ending July 31, 2022, is expected to reach \$87.48/bbl.<sup>8</sup> GPA proposes to maintain the current LEAC Factor for the upcoming six-month period even though “...the most recent Morgan Stanley market projections indicate rising fuel prices...”<sup>9</sup>

GPA has also included an estimated \$1.5 million for costs associated with the Demand Side Management rebate program for the upcoming LEAC period.<sup>10</sup>

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<sup>5</sup> Id., at p. 5.

<sup>6</sup> Id. and Exhibit “1” to the Order.

<sup>7</sup> Consolidated Commission on Utilities GPA Resolution No.: FY2022-05, Authorizing the Management of the Guam Power Authority to Petition the Guam Public Utilities Commission to Maintain the Levelized Energy Adjustment Clause, adopted and approved on November 23, 2021, at p. 1.

<sup>8</sup> Id. at p. 2.

<sup>9</sup> Id.

<sup>10</sup> Id.



The CCU authorized GPA to petition the PUC for the proposed secondary voltage LEAC rate of \$0.171458/kWh effective for the period from February 1, 2022, to July 31, 2022.<sup>11</sup>

### **DETERMINATIONS**

**I. FUEL OIL PRICES AND THE LEAC UNDER-RECOVERY HAVE RISEN DURING THE PAST SIX MONTH LEAC PERIOD; THE LEAC UNDER-RECOVERY BALANCE HAS ALSO GROWN**

Since the LEAC Factor of \$0.130400/kWh was approved for meters read on and after August 1, 2021, fuel prices have been erratic. Early in the LEAC period prices rose substantially, and then declined considerably. More recently prices have again increased. Overall, there has been an increase in the prices of residual fuel oil and diesel fuel over the past six months. Morgan Stanley fuel oil pricing figures indicate the following:

	8/2/21	10/5/21	12/1/21	1/12/22	1/20/22
SING HSFO 180 CST (per metric ton)	\$429.36	\$503.76	\$399.60	\$463.69	\$501.43
SING Gasoil 10 PPM (per barrel)	\$80.71	\$92.43	\$79.16	\$96.89	\$102.12 <sup>12</sup>

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<sup>11</sup> Id.

<sup>12</sup> These prices are compiled from the Morgan Stanley Asia Morning Call Price Indications dated August 1, 2021, October 5, 2021, December 1, 2021, January 4, 2022, and January 15, 2022.



During the present LEAC period, SING HSFO 180 CST prices increased by 16.8%. SING Gasoil 10 PPM increased by 26%.

Even though there were three successive increases in the LEAC Factor over the past six months, the LEAC under-recovery balance has increased considerably during the current LEAC period. In July 2021, GPA estimated that the LEAC under-recovery balance would be \$7M as of December 1, 2021.<sup>13</sup> However, the actual under-recovery balance as of December 1, 2021, was \$19.7M.<sup>14</sup> The likely reason for the under-recovery was that the two LEAC price increases on August 1, 2021, and October 1, 2021, were not sufficient to allow GPA to fully recover its fuel prices. As shown by the above chart of Morgan Stanley pricing, there was a large increase in fuel prices between August 2, 2021, and October 5, 2021.

## II. GPA'S FILING IN EARLY DECEMBER 2021 PREDICTED THAT THE LEAC UNDER-RECOVERY WOULD BE \$17.6M AS OF JULY 31, 2022

In its Petition, based upon November 2021 fuel oil prices, GPA anticipated that the LEAC under-recovery would be \$20.6M as of January 31, 2022. However, the projected under-recovery was expected to be approximately \$17.6M by July 31, 2022.<sup>15</sup>

By maintaining the LEAC factor at \$.171458/kWh for the upcoming LEAC period, it was anticipated, based upon the original Petition, that the under-recovery would drop from \$20.6M to \$17.6M, a decrease of \$3M. Progress would have been made by GPA in reducing the LEAC under-recovery.

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<sup>13</sup> PUC Order, GPA Docket 21-14, Exhibit 1, dated July 29, 2021.

<sup>14</sup> Phone Conference between PUC ALJ Fred Horecky and GPA CFO John Kim on January 6, 2022. The \$19.7M figure does not include a \$5M offset from GPA's CIP Funds.

<sup>15</sup> GPA LEAC Filing, GPA Docket 22-05, dated December 2, 2021, at p. 1.



While the LEAC under-recovery balance would still be at a very high, and undesirable level, the reduction in the under-recovery anticipated for the upcoming LEAC period was potentially encouraging and the under-recovery balance seemed to be headed in the right direction.

III. GPA'S UPDATED FUEL OIL PRICING IN JANUARY 2022 INDICATES THAT FUEL PRICES HAD INCREASED MORE RAPIDLY THAN ANTICIPATED IN GPA'S PETITION, AND THAT THE LEAC UNDER-RECOVERY WILL BE \$23.4M BY JULY 31, 2022

The updated Morgan Stanley fuel oil pricing for January 10, 2022, through January 14, 2022, indicated that fuel prices had increased considerably since GPA filed its Petition on December 2, 2021. Based upon the Morgan Stanley fuel oil pricing from November 8, 2021, through November 12, 2021, GPA had initially estimated in its Petition that the average price per Bbl-RFO in the upcoming LEAC period (Feb.-July 22) would be \$82.76, and \$95.93 as the average price per Bbl-Diesel. As a result of the increase in fuel prices, the updated Morgan Stanley fuel oil prices for the LEAC period (Feb.-July 22) are now projected to be \$84.40 per Bbl-RFO and \$101.79 per Bbl-Diesel. See GPA Proposed LEAC Rate, attached to the ALJ Report as "Exhibit A".<sup>16</sup>

While it appeared when GPA's Petition was filed in December 2021 that the LEAC under-recovery would decrease from Feb. 22 to July 22 in the amount of \$3M, it now appears that the LEAC under-recovery will increase by \$2.6M to \$23,210,000 as of July 31, 2022.<sup>17</sup> Where a LEAC under-recovery balance increases by \$2M during the six-month levelized period, GPA may readjust the Fuel Recovery Charge to recover such deficit, subject to PUC approval.<sup>18</sup>

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<sup>16</sup> Email from John Kim, GPA CFO, to Fred Horecky, PUC ALJ, dated January 19, 2022.

<sup>17</sup> Id.

<sup>18</sup> GOA Schedule "Z", Levelized Energy Adjustment Clause, Tariff FY 2016.



In addition, in GPA Docket 21-14, the PUC ordered that GPA apply \$10M from the SIP Fund and \$5M from CIP Funds as of August 1, 2021, to offset the LEAC under-recovery Balance.<sup>19</sup> GPA has applied the \$10M from the SIP Fund. However, GPA now takes the position that it cannot apply actual CIP funds to offset the under-recovery balance. This is also a reason for the deficit in the under-recovery balance.

#### IV. THERE ARE THREE OPTIONS REGARDING THE LEAC FACTOR FOR THE NEXT SIX-MONTH PERIOD THAT THE PUC COMMISSIONERS CAN CONSIDER

##### A. No Increase in the LEAC Factor (maintain at \$.171458/kWh)

The problem with this option is that the LEAC under-recovery will increase by \$2.6M to \$23,210,000 as of July 31, 2022. The LEAC under-recovery balance would still be at the highest levels ever in July 2022, in the \$20-30M range. If there is no increase, the Commission would very likely have to increase the factor for the 6-month period after August 1, 2022. At some point GPA must recover the under-recovery balance. A huge under-recovery balance could also negatively affect GPA's credit rating at some point.

##### B. Full Recovery (raise the Factor to \$0.209582)

The LEAC under-recovery balance would be \$0 as of July 31, 2022. The value of this approach is that GPA will be "made whole" for the amounts that it has expended for fuel. However, a full recovery factor would set a rate which would be difficult for ratepayers to bear—a nearly four cent increase in the current price of fuel per kWh, which would constitute a \$38.12 monthly increase in the average residential bill. The

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<sup>19</sup> PUC Order, GPA Docket 21-14, dated July 28, 2021, at p.7.



increase would be a 14.17% increase in the total bill and a 22.24% increase in the LEAC factor.<sup>20</sup>

C. Factor to Prevent further Growth of the Under Recovery Balance  
(\$0.180837)

The LEAC under-recovery balance is roughly \$17.6M as of January 31, 2022. If the LEAC factor is set at \$0.180837, the LEAC under-recovery balance will remain the same as of August 31, 2022, roughly \$17.6M.<sup>21</sup> This approach is most consistent with Tariff Z, under which the PUC is supposed to determine the price of fuel for the next LEAC period and set a factor which will fully recover the price of the fuel used during that period. It is advantageous to prevent further growth in the under-recovery balance. Setting the LEAC factor at this level will also possibly prevent the need for a further LEAC increase effective August 1, 2022. Otherwise, a larger increase will be necessary at that time to recover the growing under-recovery balance. This increase, roughly one cent per kWh, would constitute an average monthly increase of \$9.38--a 3.49% increase in the total bill and a 5.47% increase in the LEAC factor.<sup>22</sup>

### 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 January 27, 2022, 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:

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<sup>20</sup> See Exhibit "B" attached to the ALJ Report, LEAC Comparison of Three Possible Scenarios (Email from John Kim, GPA CFO, to Fred Horecky, PUC ALJ, dated January 21, 2022.

<sup>21</sup> Id.

<sup>22</sup> Id.



1. The secondary Fuel Recovery Factor of \$0.180837/kWh shall be effective for meters read on or after February 1, 2022.
2. The current singular LEAC factors are hereby adjusted, effective February 1, 2022, as shown in the following table:

LEAC

Delivery Classification	\$ per kWh
Secondary -	\$0.180837
Primary – 13.8 KV	\$0.175404
Primary – 34.5 KV	\$0.174898
Transmission – 115 KV	\$0.172745

For the entire LEAC period, these changes represent an increase in the total bill of the average residential customer of 3.49%.

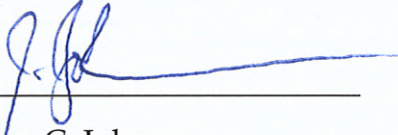
3. GPA should file for a change in the LEAC factors to be effective August 1, 2022, on or before June 15, 2022.
4. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. 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's LEAC  
GPA Docket 22-05  
January 27, 2022

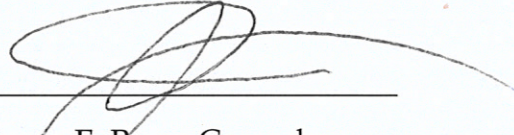
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Dated this 27th day of January 2022.



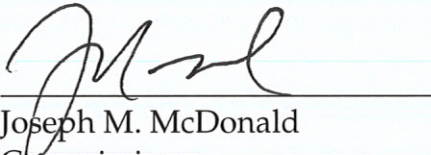
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Jeffrey C. Johnson  
Chairman



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Rowena E. Perez-Camacho  
Commissioner



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Joseph M. McDonald  
Commissioner

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Michael A. Pangelinan  
Commissioner



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Peter Montinola  
Commissioner

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Doris Flores Brooks  
Commissioner

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Pedro S.N. Guerrero  
Commissioner



	)	GWA DOCKET 22-05
PETITION OF GUAM WATERWORKS	)	
AUTHORITY TO PROCURE AN	)	
INDEFINITE DELIVERY/INDEFINITE	)	
QUANTITY DESIGN-BUILD CONTRACT)	)	
AND AN INDEFINITE DELIVERY/	)	ORDER
INDEFINITE QUANTITY	)	
PROFESSIONAL PROJECT/	)	
CONSTRUCTION MANAGEMENT	)	
CONTRACT FOR GWA'S ISLANDWIDE	)	
SEWER COLLECTION/TRANSMISSION )	)	
SYSTEM REPAIR, REHABILITATION,) )	)	
AND REPLACEMENT PROJECT	)	
	)	



This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the January 6, 2022 Petition to Procure an Indefinite Delivery/Indefinite Quantity Design-Build Contract and an Indefinite Delivery/Indefinite Quantity Professional Project/Construction Management Contract for GWA’s Islandwide Sewer Collection/Transmission System Repair, Rehabilitation, and Replacement Project (hereinafter referred to as the “Petition”) filed by the Guam Waterworks Authority (“GWA”). GWA seeks PUC approval of an invitation for bid (“IFB”) for design-build services, and a request for proposal (“RFP”) for project and construction management services, which will support GWA’s Sewer Collection/Transmission System Repair, Rehabilitation, and Replacement Project.

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recommendations based on the administrative record before the PUC. The ALJ found the following.

### **DETERMINATIONS**

Back in 2018, GWA issued its Water Resources Master Plan Update. Therein, GWA consultants identified a number of sites in need of repair, which include: the Barrigada Pump Station Pipe Rehabilitation/Replacement; Route 1 Piti Pipe Rehabilitation/Replacement; Finile Drive Rehabilitation (Agat); and Route 1 Asan Force Main Rehabilitation/Replacement. GWA now intends on completing these projects, along with other sites island-wide, based on “priority and funding.”<sup>1</sup> The subject IFB and RFP seek contractors to complete these projects.

#### **A. Contract Review Protocol**

Pursuant to 12 G.C.A. §12105, GWA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. Additionally, pursuant to GWA’s Contract Review Protocol issued in Administrative Docket 00-04, “[a]ll professional service procurements in excess of \$1,000,000” require “prior PUC approval under 12 G.C.A. §12004, which shall be obtained before the procurement process is begun . . . .”<sup>2</sup>

#### **B. GWA’s Petition to Procure Services Related to Sewer System Repair**

In the Petition, GWA requests that the PUC approve the procurement of contracts related to its Sewer Collection/Transmission System Repair, Rehabilitation, and

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<sup>1</sup> Petition, p. 2.

<sup>2</sup> GWA’s Contract Review Protocol (“GWA CRP”), Administrative Docket 00-04, p. 1 (Oct. 27, 2005).



Replacement Project. Specifically, GWA intends on issuing an IFB for design build services, and an RFP for project and construction management services that will support GWA's Sewer Collection/Transmission System Repair, Rehabilitation, and Replacement Project.<sup>3</sup>

GWA submitted that these contracts are necessary “[i]n anticipation of a consent decree with the United States Environmental Protection Agency (U.S. E.P.A.), and for the protection of human and environmental health.”<sup>4</sup> GWA further submitted that its wastewater system, which consists of gravity mains, manholes, laterals, and force mains, is in need of repair and rehabilitation; and in some instances, replacement.<sup>5</sup> Moreover, according to GWA, this system is in “occasional need” of design-build services “to address emergency repairs that exceed in-house resources.”<sup>6</sup>

In this instance, the project sites will be islandwide, which may include the Route 10 Barrigada gravity sewer, Route 1 Piti gravity sewer, Finile Drive Agat gravity sewer, and Route 1 Asan force main.<sup>7</sup> GWA highlights that “[t]hese services are needed to augment GWA's resources and will assist to ensure continuity of sewer service to customers,” while “minimizing adverse impacts to the island.”<sup>8</sup>

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<sup>3</sup> Petition, p. 2.

<sup>4</sup> Petition, p. 2.

<sup>5</sup> Petition, Exhibit A-01 (CCU Board Resolution, Jan. 26, 2022).

<sup>6</sup> Petition, Exhibit A-01.

<sup>7</sup> Petition, Exhibit A-05.

<sup>8</sup> Petition, p. 3.



C. **Scope of Services**

1. **IFB for Indefinite Delivery/Indefinite Quantity (IDIQ) Design-Build Services for Islandwide Sewer Collection/Transmission System Repair, Rehabilitation, and Replacement**

Based on the draft IFB submitted by GWA, it intends on conducting a multi-step bid for Indefinite Delivery/Indefinite Quantity (IDIQ). Specifically, GWA seeks contractors to provide complete design and construction services necessary to design, obtain certain permits, and repair, rehabilitate, or replace GWA's sewer collection and transmission system in various locations island-wide.<sup>9</sup>

According to the draft IFB, the bid items include: mobilization; sewer cleaning; CCTV inspections and assessments; bypass pumps and sewer flow control; point repairs; cured-in-place pipe installation; new pipe installation; new manhole installation; and manhole removal, among a host of other tasks.<sup>10</sup>

2. **RFP for Indefinite Delivery/Indefinite Quantity (IDIQ) for Professional Project and Construction Management Services for Islandwide Sewer Collection/Transmission System Repair, Rehabilitation, and Replacement**

Based on the draft RFP submitted by GWA, it intends on soliciting proposals from qualified firms to provide Indefinite Delivery/Indefinite Quantity (IDIQ) Professional Project/Construction Management services to support the IDIQ Design-Build for the Islandwide Sewer Collection/Transmission System Repair, Rehabilitation, and Replacement projects. Specifically, GWA's procurement will seek qualified firms that

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<sup>9</sup> Draft IFB, Bid Submission Requirements, p. 2.

<sup>10</sup> Draft IFB, Price Proposal Form, pp. 4-10.



have experience in the management of construction activities related to wastewater projects, survey work, and preparation of required reports.<sup>11</sup>

With respect to project management services, such work includes: participation in project management design meetings to discuss the overall plan, requirements, constraints, expectations, outcomes, design features, and other project specific elements; site visits will be required to completely comprehend the scope of work, the design needs, and the data collection.<sup>12</sup>

Construction management services include pre-construction work, such as: reviewing the construction contractor's schedule for sequencing, meeting the performance deadline; reviewing contract material and design submittals for conformance with the specifications; reviewing construction contractor's safety and traffic control plans, Storm Water Pollution Prevention Plan, and all permits required for construction.<sup>13</sup>

With respect to activities during construction, the consultant will: monitor daily construction activities in compliance with the technical provisions of the contract and drawings, and applicable codes and regulations; perform daily site inspections during the course of the project to monitor construction related activities; maintain a log book throughout the construction period containing daily entries of notable activities consistent with project schedule; review progress payment requests; issue directives dealing with quality of workmanship, non-compliance, and performance, just to name a few.

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<sup>11</sup> Draft RFP, p. 14.

<sup>12</sup> Draft RFP, pp. 15-16.

<sup>13</sup> Draft RFP, pp. 16-17.



Such consultant will also: schedule and coordinate all inspection, surveys and material testing; analyze and participate in negotiating claims and contract change requests; recommend action deemed appropriate; provide weekly construction reports; conduct monthly project meetings with the construction contractor and GWA to discuss work progress; and verify workmanship.<sup>14</sup>

With respect to activities post construction, the consultant is expected to participate in a pre-final inspection and prepare a list of incomplete work to be completed before substantial completion; participate in a final inspection and prepare a punch list of deficiencies to be completed before final acceptance and final payment; ensure debris removal and clean-up; provide to GWA all records, documents, submittals, log books, files, test results; review contract required warranties, O&M manuals, and verify full compliance by the contractor; and provide a final review of construction contractor's as-built drawings and transmit the as-built drawings to GWA.<sup>15</sup>

#### **D. Projected Funding Source and Estimated Cost**

According to GWA, it estimates that the total cost of the design-build work for the projects identified in GWA's 2018 Water Resources Master Plan Update, alone, is about \$13 million.<sup>16</sup> In addition, GWA anticipates that the cost for the project and construction management work will likely exceed \$1 million based on GWA's current contract for the Asan-Adelup-Hagatna Route 1 Sewerline Repair project.<sup>17</sup> GWA submits that the

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<sup>14</sup> Draft RFP, pp. 17-18.

<sup>15</sup> Draft RFP, p. 18.

<sup>16</sup> Petition, Exhibit A-03.

<sup>17</sup> Petition, Exhibit A-03.



projected source of funding for this contract will be through bond proceeds, grants, and System Development Charge funds.<sup>18</sup>

Based on the documentation provided by GWA, the ALJ found that GWA's sewer system, which consists of gravity mains, manholes, laterals, and force mains, is in need of repair, and rehabilitation; and some instances, replacement.<sup>19</sup> As indicated by GWA, its system is in "occasional need" of design-build services "to address emergency repairs that exceed in-house resources."<sup>20</sup>

Indeed, according to GWA's 2018 Water Resources Master Plan Update, the Barrigada Pump Station's "original pipeline is blistering and separating from the pipe," and will need to be replaced.<sup>21</sup> In addition, regarding the Route 1 Piti Pipe, "[t]he original liner . . . is in poor condition."<sup>22</sup> "The crowns of the pipes are deteriorated and . . . that jetting the pipe for routine maintenance could cause a failure."<sup>23</sup>

Further, regarding Finile Drive (Agat), which is comprised of approximately 1,540 feet of graving piping, a field investigation has confirmed that the piping is "in very poor condition and requires rehabilitation or replacement."<sup>24</sup> Moreover, regarding the Route 1

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<sup>18</sup> Petition, Exhibit A-06.

<sup>19</sup> Petition, Exhibit A-01.

<sup>20</sup> Petition, Exhibit A-01.

<sup>21</sup> Petition, Exhibit A-08 (2018 Water Resources Master Plan Update).

<sup>22</sup> Petition, Exhibit A-09 (2018 Water Resources Master Plan Update).

<sup>23</sup> Petition, Exhibit A-09 (2018 Water Resources Master Plan Update).

<sup>24</sup> Petition, Exhibit A-10 (2018 Water Resources Master Plan Update).



Asan Force Main, this force main is “exposed” due to “coastline erosion” and requires more permanent repairs.<sup>25</sup>

GWA has further indicated these contracts are necessary “[i]n anticipation of a consent decree with the U.S. E.P.A., and for the protection of human and environmental health”<sup>26</sup>; and that “[t]hese services are needed to augment GWA’s resources and will assist to ensure continuity of sewer service to customers,” while “minimizing adverse impacts to the island.”<sup>27</sup>

The ALJ, therefore, found the subject procurement of these contracts reasonable, given that the improvement and repair of GWA’s sewer collection and transmission system is necessary for the protection of human and environmental health, and in order to retain access to service providers who can perform emergency repairs.

Based on the foregoing, the ALJ recommended that the PUC approve GWA’s Petition. Accordingly, GWA should be authorized to issue an IFB for design build services, and a RFP for project and construction management services, which will support GWA’s Sewer Collection/Transmission System Repair, Rehabilitation, and Replacement Project.

The Commission hereby adopts the findings in the January 24, 2022 ALJ Report and therefore issued the following.

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<sup>25</sup> Petition, Exhibit A-11 (2018 Water Resources Master Plan Update).

<sup>26</sup> Petition, p. 2.

<sup>27</sup> Petition, p. 3.



### **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.
2. GWA 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]

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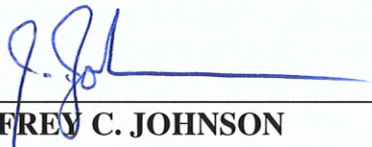
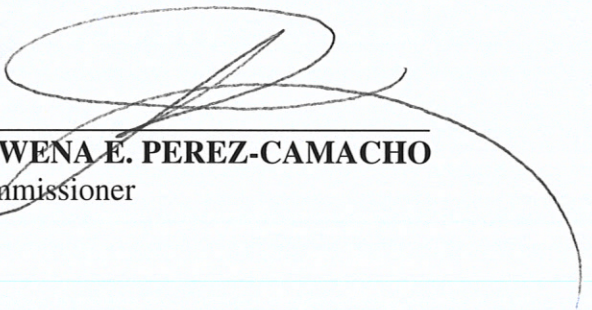
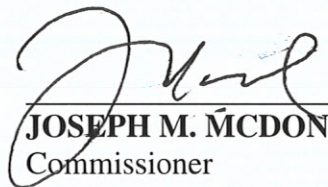
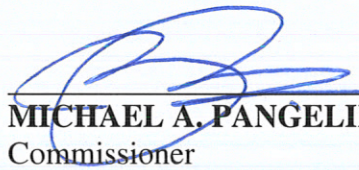

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**SO ORDERED** this 27<sup>th</sup> day of January, 2022.

  
**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

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