

**GUAM PUBLIC UTILITIES COMMISSION
REGULAR MEETING
June 16, 2022
GCIC CONFERENCE ROOM, GCIC BUILDING, HAGATNA**



MINUTES

The Guam Public Utilities Commission [PUC] conducted a special meeting commencing at 6:35 p.m. on June 16, 2022, pursuant to due and lawful notice. Commissioners Johnson, Perez-Camacho, McDonald, Pangelinan, Flores-Brooks, and Guerrero were in attendance. The following matters were considered at the meeting under the agenda included as *Attachment "A"* hereto.

1. Port Authority of Guam

The Chairperson announced that the first item of business on the agenda was Port Authority of Guam [PAG] Docket 22-04, Petition for Approval of the Award to AIC International, Inc. for the Construction of Agat Marina Dock B, IFB-PAG-CIP-022-004, ALJ Report, and Proposed Order. ALJ Alcantara stated PAG has secured federal funding for improving Dock B at the Agat Marina, PAG issued an IFB soliciting design and construction work for the project whereby two firms submitted bids, that PAG determined AIC International to be the lowest responsive and responsible bidder, he reviewed the project's scope of work for this particular project and this contract requires AIC to obtain the services of an engineering consultant to develop plans, provide load computations and specifications with respect to the design that's necessary for the fabrication and installation of the new Dock B facility, and this will include new main gangways, finger slips, gussets, stainless steel connectors, marine grade aluminum frames, floatation units, new steel pile rollers, mooring cleats, utilities among other designs, and electrical designs for feeder circuits, ship Port cables, circuit breakers, and water-type fittings and connectors, and the total cost for the project is \$1,494,750.00 that will be funded by a \$500,000.00 federal grant and the remainder of a cost of the project will be internally funded by PAG, which is about \$995,000.00. ALJ Alcantara stated that he recommends approval of the contract at a cost of \$1,494,750.00, \$500,000.00 of which will be funded by the U.S. Fish and Wildlife Service with the remaining \$994,750.00 to be funded internally by PAG. PAG General Manager Respicio stated that PAG will create 48 new slips for 25-footer-type small boat operators, mostly sustenance fishing, that \$500,000 is being funded by this Port's fishing fund, and the balance is being funded by our Port unrestricted funds, and that PAG received \$15 million dollars allocation from the Governor for the American Rescue Plan money. A discussion ensued between Commissioners Doris-Flores Brooks, Pangelinan, and PAG General Manager Respicio concerning the number of slips that will be improved and be made available, the amount that PAG will be charging for the additional slips, and the date

the notice of award for the project was issued. Commissioner Guerrero moved to approve the draft order granting the petition which motion was seconded by Commissioner Pangelinan, and the motion carried unanimously.

The Chairperson stated that the next item of business on the agenda was PAG Docket 22-05, Petition for Approval of the Award to Sumitomo Mitsui Construction Company for the Rebid of Construction Rehabilitation of Hotel Wharf and Highway 1 Roadway Reconstruction, IFB-PAG-CIP-022-002, ALJ Report, an Proposed Order. ALJ Horecky stated that PAG's petition concerned the procurement contract award to Sumitomo Mitsui Construction Company [SMCC] for the rehabilitation of Hotel Wharf and Highway 11 roadway reconstruction, that SMCC submitted the only bid \$59,683,065.00, which PAG negotiated down, that the project is broken down into three phases, that Phase 1 includes the procurement of all steel piling work materials for the wharf, sheet plans, king piles, tie rods, deadman piles, compression and tension piles, and other associated miscellaneous steel connections, that Phase 2, includes the installation of the west and east wall piles and other marine structures such as bulkhead concrete works. Phase 2 includes the installation of the west and east wall piles and other marine structures such as the bulkhead concrete works, east, west, and south walls, on-shore bollards, bulkhead mooring, cleat and bollard, and cell fenders, and that Phase 3 includes the highway reconstruction, Highway 11 Roadway construction and other offsite works as an option, that the entire project is supposed to take a little over two years, 735 calendar days from the issuance of the notice to proceed, that PAG has clearly established that there is a need for the Hotel Wharf construction rehabilitation project, that the Guam Legislature has approved of this project, that \$10,000.00 for the project comes from the TIGER Grant, that's the federal Maritime Administration and bond funding of \$10,277,000, that \$15 million comes from the Government of Guam's American Rescue Plan Act funds, that PAG intends to allocate \$3 million in their CIP budgets for FY 23 and 24, and the Port board has already approved the use of local revenue funds for this purpose, and with a bond capital improvement reserve of \$5 million, PAG has sufficient funds to fund the \$46 million for the project, and ALJ Horecky recommends that the PUC approve the contract award to Sumitomo in the amount of \$46,331,895.00. PAG GM Respicio stated that this project will assist PAG in further modernizing the Port infrastructure and facilities, that Hotel Wharf is the linchpin of the Port modernization project, that PAG has the funds to pay that cost, and he asked the PUC to approve the petition. A discussion ensued between Commissioners McDonald, Johnson, Flores-Brooks, Pangelinan, Perez-Camacho, and PAG GM Respicio concerning the project's timeline, the extent of the road improvements, the improvements to Hotel Warf's Administration Building, the extent the Buy American Act applies to this project, the funding for Phase 2 of the project, whether Hotel Wharf would still be functional without phase 2, the extent of the savings from PAG's negotiations with SMCC. Commissioner Perez-Camacho moved to

approve the proposed order granting the petition which motion was seconded by Commissioner Guerrero, the motion passed unanimously.

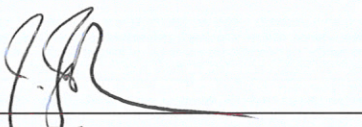
2. Guam Power Authority

The Chairperson announced that the next item of business on the agenda was Guam Power Authority [GPA] Docket 22-15, Petition for Levelized Energy Adjustment Clause [LEAC] Adjustment for the Period from July-December 2022, ALJ Report, and Proposed Order. ALJ Horecky stated that this was for the LEC Period from July to December of 2022, that not surprisingly fuel prices increased during the prior LEAC period and are expected to increase during the next LEACM Period, that the under-recovery at the end of this month is going to be \$35 million because of the steep increases, that GPA is proposing a LEAC increase of 0.251638 cents effective July 1st, then September 1st, 0.296043 cents, and then up to over 34 cents effective November 1st, 2022, that his recommendation is that the PUC reject GPA's proposal because it would gut the self-insurance fund, and it's not protecting the long-range interests of the ratepayers of Guam, that the LEAC must be increased because fuel prices have gone up 70%, that the PUC should approve an increased LEAC as a result of the consent decree because GPA has to buy low-sulfur fuel or shortly have to be buying more expensive ultra-low sulfur diesel, that if the PUC takes no action GPA's under-recovery will increase to the 20 to 25 million range, that the larger LEAC is necessary prevent the larger forecast under-recovery, the he recommends the PUC approve the second step increase of 0.296043 per kilowatt-hour for meters read on or after September 1st, and that at the October meeting maybe the PUC would further consider a possible Step 3 increase, and that the PUC reject GPA's use of self-insurance funds to purchase fuel. GPA's Melinda Camacho stated that fuel prices are just off the charts right now and it's affecting GPA's operations but GPA is sensitive to the hardship that it provides our ratepayers, and we're still working with the lieutenant governor, the governor, the lawmakers to see if there's any kind of resources they can provide us to help alleviate our under-recovery and what we're passing on to our ratepayers. A discussion ensued between the Chairperson, Commissioners Flores-Brooks, and GPA's Melinda Camacho concerning the current prices of high-sulfur fuel and the ultra-low sulfur diesel fuel, the average power consumption rates of GPA's non-commercial ratepayers, and the amount of the LEAC increase on the average non-commercial ratepayer. Commissioner Guerrero moved to approve the draft order granting an increase in the LEAC rate with the amendment of increasing the LEAC by 25 cents for the next two months and increasing the LEAC by 29 cents thereafter, which motion was seconded by Commissioner Perez-Camacho, and the motion passed with five affirmative votes and the only opposing vote being cast by Commissioner Flores-Brooks.

3. Administrative Matters

The Chairperson announced that the next item of business on the Agenda was the Approval of Hiring of part-time Assistant to the Administrator. The PUC thanked its part-time administrator Brown for her service and the commissioner's wished her well on her move to Hawaii where her husband is being relocated by his employer, the Federal Government. ALJ Horecky stated that the Civil Service Commission rules do not apply to the PUC to fill the part-time administrator position. Commissioner Pangelinan moved to approve the hiring of Colleen Charlson to replace the Cynthia Brown for the part-time administrator position which motion was seconded by Commissioner Guerrero, and the motion passed unanimously.

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



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 special business meeting, commencing at 6:30 p.m. on June 16, 2022, Suite 202, GCIC Building, 414 W. Soledad Ave., Hagatna.

The following business will be transacted:

Agenda

1. Port Authority of Guam

- **PAG Docket 22-04, Petition for Approval of the Award to AIC International, Inc. for the Construction of Agat Marina Dock B, IFB-PAG-CIP-022-004, ALJ Report, and Proposed Order**
- **PAG Docket 22-05, Petition for Approval of the Award to
Sumitomo Mitsui Construction Company for the Rebid of
Construction Rehabilitation of Hotel Wharf and Highway 11
Roadway Reconstruction, IFB-PAG-CIP-022-002, ALJ Report, and
Proposed Order**

2. Guam Power Authority

- **GPA Docket 22-15, Petition for Levelized Energy Adjustment Clause (LEAC) Adjustment for the Period from July-December 2022, ALJ Report, and Proposed Order**

3. Administrative Matters

- **Approval of Hiring of parttime Assistant to the Administrator**

Further information about the meeting may be obtained from the PUC's Administrator Lou Palomo at 671-472-1907. 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 PUBLIC UTILITIES COMMISSION



**IN RE: PETITION FOR APPROVAL)
OF THE AWARD TO AIC)
INTERNATIONAL, INC. FOR)
THE CONSTRUCTION OF)
AGAT MARINA DOCK B)
BY PORT AUTHORITY)
OF GUAM)**

**PAG DOCKET 22-04
ORDER**

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the June 8, 2022 Petition for review and approval of the AIC International, Inc. (“AIC”) contract related to the Agat Marina Dock B project (the “Petition”), filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG” or the “Port”). PAG seeks PUC review and approval of the design and build contract with AIC.

On June 14, 2022, 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

The Agat Small Boat Marina (the “Agat Marina”) is comprised of four docks (Docks A through D), which provides berths for commercial and recreational boats, and live-aboard sailboats.¹ According to PAG, in 2013, the Agat Marina suffered extensive damage from Tropical Storm Wipha; and while Docks C and D, along with the Floating Dock, were repaired,

¹ “Determination of Need”, Construction of the Agat Marina’s Dock B, p. 1 (Feb. 24, 2022).

no repairs were made to Dock B due to a lack of funding.² However, according to PAG, Guam's Department of Agriculture assisted PAG in securing federal funding for the project.³

On March 18, 2022, PAG issued an Invitation for Bid ("IFB") to solicit construction work for the Agat Marina Dock B project.⁴ Two firms submitted bids in response to the IFB, which were evaluated by PAG's procurement personnel.⁵ PAG's procurement personnel thereafter determined AIC to be the lowest⁶ responsive and responsible bidder.⁷ On June 7, 2022, PAG issued a Notice of Intent to Award to AIC, which indicated that the award was subject to the approval of PAG's Board of Directors and the PUC.⁸

1. PAG's Contract Review Protocol

Pursuant to 12 G.C.A. §12105, PAG may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC's express approval. Accordingly, pursuant to PAG's current Contract Review Protocol, "[a]ll professional services contracts in excess of \$1,000,000" and "[a]ll externally funded loan obligations and other financial obligations, such as lines of credit, bonds, etc., in excess of \$1,000,000," "shall require prior PUC approval" Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).

² "Determination of Need", Construction of the Agat Marina's Dock B, p. 1.

³ "Determination of Need", Construction of the Agat Marina's Dock B, p. 1.

⁴ Petition, p. 1 (June 8, 2022).

⁵ Petition, p. 1.

⁶ The second offeror submitted a bid that was about \$1,000,000.00 more than AIC's bid.

⁷ Petition, p. 1.

⁸ Petition, p. 1.

2. Scope of Work

The scope of work requires AIC to obtain the services of an A/E engineering consultant to develop plans, provide load computations and specifications with respect to the design necessary for the fabrication and installation of a new “Dock B” facility, which includes main gangways, finger slips, gussets, stainless steel connectors, marine grade aluminum frames, floatation units, steel pile rollers, mooring cleats, and utilities, among others.⁹ The designs will include electrical designs for feeder circuits, shipboard cables, circuit breakers, watertight fittings/connectors, power pedestals and other electrical appurtenances; water lines, PVC conduits, control valves, connectors, fittings, clamps, hose bibs, steel brackets and other water appurtenances.¹⁰

The scope of work further provides that during the construction phase, AIC will provide all labor, materials, tools, and equipment necessary for the “Dock B” facility, which includes the fabrication of a main walkway, finger slips, as well as work related to electrical, plumbing, carpentry, fabrication, and installation.¹¹ AIC is required to assemble the new fabricated main walkway dock and finger slips on dry land, and when finished must lower the fabricated dock system to the water.¹²

AIC will also need to replace new circuit breakers, install new power pedestals, shipboard cables, cable clamps, stainless junction boxes, water proof cable fittings and other electrical accessories; and will further need to install a new flexible water line, as well as install

⁹ IFB, pp. 85-86 (Mar. 18, 2022).

¹⁰ IFB, p. 86.

¹¹ IFB, p. 87.

¹² IFB, p. 87.

one (1) unit power pedestal. AIC must also replace all corroded anchors or provide new holes for anchors on the concrete pad landing steel plate.¹³

3. Contract Term and Cost

According to PAG, the duration of the project is 243 days, or about eight (8) months from the issuance of the Notice to Proceed, beginning with the design and permitting process, and ending with the project construction.¹⁴ In addition, according to AIC's Bid, the total cost for the project is \$1,494,750.00, which is comprised of the following: \$145,821.00 for design work; \$66,110.00 for permit fees; and \$1,282,819.00 for construction costs.¹⁵

PAG has submitted that the "project is funded with Federal Funds and Port Local Funds . . .".¹⁶ Based on PAG's procurement record, the project will be funded by a \$500,000.00 federal grant awarded by the U.S. Fish & Wildlife Service; and the remainder of the cost of the project, specifically \$994,750.00, will be internally funded by PAG.

4. AIC

Based on its bid, AIC is certainly experienced with construction design-build projects. For instance, AIC was involved in designing and constructing a Tactical Missile Maintenance Facility located in Anderson Air Force Base, Guam; and which involved the construction of new offices, three high rise bays, and installation of three 10-ton cranes, high lightning protections systems, and large fire protection system, just to name a few. AIC was also involved with another design-build contract to restore Apra Harbor's wastewater treatment plant.

¹³ IFB, p. 88.

¹⁴ Petition, p. 1; IFB, p. 85.

¹⁵ AIC Bid ("Bid Schedule"), p. 43.

¹⁶ Petition, p. 1.

AIC's other design-build contracts include the repair of the heavy weather mooring at Alpha Wharf in Naval Base, Guam; and which involved the demolition of asphalt paving and reinforced concrete foundations and the installation of new bollards, deadman, and steel piles. Significantly, AIC was also involved in the improvement projects for the Agat Marina Docks C and D, which involved the dismantling of the existing docks and the assembly of new marine grade aluminum and stainless settle composite decking, installation of new marine cables, plumbing and painting.

RECOMMENDATION AND CONCLUSION

Based on the documents provided by PAG in this docket, and for the reasons set forth herein, the ALJ recommended that the PUC approve the proposed contract with AIC, at a cost of \$1,494,750.00. According to PAG, \$500,000.00 for the project was awarded a grant from the U.S. Fish & Wildlife Service, and \$994,750.00 will be internally funded by PAG.

The Commission hereby adopts the findings in the June 14, 2022 ALJ Report and therefore issues 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.
2. PAG is authorized to enter into the proposed contract with AIC International, Inc. for the construction of Agat Marina Dock B; and for a cost of up to \$1,494,750.00, of which \$500,000.00 will be funded by a grant from the U.S. Fish & Wildlife Service, and \$994,750.00 will be internally funded by PAG.

3. PAG 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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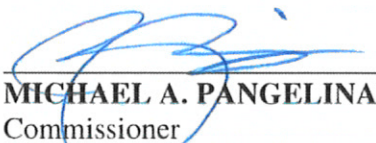
SO ORDERED this 16th day of June, 2022.



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

P223030.JRA

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:

PAG Docket 22-05

PETITION OF THE PORT AUTHORITY
OF GUAM FOR PUC REVIEW AND
APPROVAL OF THE INVITATION FOR
BID (IFB) PROCUREMENT CONTRACT
AWARD TO SUMITOMO MITSUI
CONSTRUCTION COMPANY FOR THE
REBID OF THE CONSTRUCTION
REHABILITATION OF HOTEL WHARF
AND HIGHWAY 11 ROADWAY
RECONSTRUCTION (CONSTRUCTION
PROJECT), IFB-PAG-CIP 022-002

ORDER



INTRODUCTION

This matter comes before the Guam Public Utilities Commission ["PUC"] pursuant to the June 9, 2022, Port Authority of Guam ["PAG"] Petition for Review and Approval of the Procurement Contract Award to Sumitomo Mitsui Construction Company for the Rehabilitation of Hotel Wharf and Highway 11 Roadway Reconstruction, IFB-PAG-CIP 022-002.¹

BACKGROUND

1. The Procurement Process for the Hotel Wharf Rehabilitation Project

The first bid on the Construction Rehabilitation of Hotel Wharf and Highway 11 Roadway Construction was issued on July 26, 2021. However, by the deadline,

¹ PAG Petition, PAG Docket 22-05, dated June 9, 2022.

Order
Petition for Approval of
Rehabilitation for
"H" Wharf and Access Road
PAG Docket 22-05
June 16, 2022

September 13, 2021, no bids had been submitted. The Port determined that it would rebid the IFB.²

On October 27, 2021, PAG issued the Rebid of the Construction Rehabilitation of Hotel Wharf and Highway 11 Roadway Reconstruction, IFB-PAG-CIP 022-002.³ At the bid opening on January 28, 2022, only one company submitted a bid: Sumitomo Mitsui Construction Company ["SMCC"]. PAG determined that the only responsible and responsive bidder with the lowest price was SMCC, with a submitted bid amount of \$59,683,065.00.⁴

Upon further review and consideration of the price, the Port General Manager determined that the Port would seek to negotiate the price, scope of work, specifications, and terms and conditions of the Project in accordance with Title 2 GARR, Division 4, Chapter 3, §§3102(c)(1)(C) and 3112(c) [Negotiation in Sole Source Procurement].⁵

On June 9, 2022, the Port and SMCC, after months of negotiation, agreed to "SMCC's Revised Price Proposal for Marine Structure Works." Attached to the ALJ Report as Exhibit "1" is the joint Letter of Acceptance/Notice of Intent to Award to SMCC for the Construction Rehabilitation of Hotel Wharf, which letter is signed by both parties.⁶

² Memorandum from General Manager to Procurement Record, Re: IFB-PAG-CIP-021 Construction Rehabilitation of Hotel Wharf and Highway 11 Roadway Reconstruction: Determination to Rebid.

³ PAG Petition, at p. 1.

⁴ Id.

⁵ Id.

⁶ Letter of Acceptance/Notice of Intent to Award [signed by Port GM and GM of SMCC] dated June 9, 2022, attached to the ALJ Report as Exhibit "1".

Therein the parties agreed to break the project up into three phases. Phase 1, 2, and 3. Phase 1 included the procurement of all steel piling works materials for the Wharf (sheet piles, king piles, tie rods, dead-man piles, compression and tension piles, and other associated miscellaneous steel connections), and installation of the piles for the south wall. Phase 2 would include the installation of the west and east wall piles and other marine structures such as bulkhead concrete works (east, west and south wall), on-shore bollards, bulkhead mooring-cleat and bollard, and cell fenders. The respective negotiated costs for Phase 1 and Phase 2 are \$39,485,672.00 and \$6,846,223.00, for a total of \$46,331,895.00.⁷

Phases 1 and 2 are mandatory scope requirements which must be completed "on or before the TIGER grant Period of Performance of May 31, 2024."⁸ Phase 2 is a mandatory Option to be awarded within one (1) year from the Notice to Proceed of Phase 1. Phase 3, which includes the Highway 11 Roadway Reconstruction and other "off-site" works, is "optional" and will be evaluated and awarded upon available funding.⁹

The parties agreed to a "performance period of seven hundred thirty-five (735) calendar days from the issuance of the Notice to Proceed."¹⁰

2. The Hotel Wharf Rehabilitation Project

The Construction Rehabilitation of Hotel Wharf involves "the repair and upgrade of Hotel Wharf with a new bulkhead with a modern mooring and fendering system, utilities and upland pavement...".¹¹

⁷ Id.

⁸ Id. at p. 2.

⁹ Id.

¹⁰ PAG Petition at p. 2.

Hotel Wharf was built between 1948-1953 and was used by the Navy as a munitions wharf during the Vietnam conflict until it was formally transferred to the Government of Guam in October 1989. The Government of Guam subsequently operated the wharf as a passenger vessel facility, and boat charter operators also used the wharf. The wharf was also used for the import of cars and light trucks, and the export of scrap metal. It stopped being used as a commercial wharf in December 2001.¹²

A good description of the scope of work for the construction rehabilitation by the contractor is set forth in the Hotel Wharf Technical Specifications:

"The proposed construction involves replacement of existing wharf structures and roadway in essentially their current locations. Wharf replacement involves construction of a new sheet pile bulkhead retaining wall and sheet pile cap with supporting structures and a new concrete surface while preventing the existing wharf from collapsing into Apra Harbor...

Both the wharf construction and the roadway construction will involve the construction of or replacement of underground utilities. Utilities under the roadway will include water line replacement, stormwater piping, and empty data transmission conduit. Utilities within the wharf area will include electrical for power and lighting, potable water with capped stub outs to support future construction, fire main with supporting tank and pump station, stormwater with oily water separator(s), sanitary lines with holding tank and manholes to support future construction, and empty data communications conduit terminating in handholes to support future construction...

¹¹ Letter to Leevin T. Camacho, Attorney General of Guam, from Rory J. Respicio, General Manager of the Port of Guam, Re: Notification of Procurement over \$500,000 (Form 12) for IFB-PAG-CIP-022-002 Rebid of the Construction Rehabilitation of Hotel Wharf and Highway 11 Roadway Reconstruction, dated October 14, 2021, at p. 1.

¹² William F. Jeffrey, Ph.D. (Maritime Archeologist and Assistant Professor, University of Guam), Final Technical Report (Underwater Archeology Survey for the Hotel Wharf and Access Road Maintenance and Repair project Cabras Island, Apra Harbor, Guam), July 2020, at p. 41.

Wharf structural components will include new sheet pile retaining wall bulkheads, sheet pile "deadmen" walls, better piles, and tie-rods. Additional structural components include mooring bollards on the wharf, two mooring bollards with concrete foundations supported by piles along the edge of the access roadway east and west of the wharf, and concrete decking/pavement for the first 100 feet adjacent to the pierhead line in the ship unloading zone. Structural fill will be placed in the area between the existing and new bulkheads.

Dredging is not a component of the current project but was a design consideration to allow for deeper draft vessels to utilize the wharf in the future. Sheet piling will be thicker and deeper than the original in order to allow for future dredging along the pierhead line.

The upland surface will be impervious with the area outside the 100 feet ship unloading zone consisting of asphalt pavement. Surface runoff will outfall to Apra Harbor after treatment by oil water separator and filtration systems. Surface runoff from the new access roadway will be collected in bioswales for natural filtration prior to outfalling to Apra Harbor through underground stormwater pipes.

Project demolition components include the removal of surface facilities (sheds and trailers) and dilapidated structure including fencing, cleats, rubber fenders, and mooring bollards. It also includes the removal of asphalt and concrete foundations and concrete pavements, and the partial demolition of existing bulkheads and concrete caps. Excavation to install new tied rods and utilities and make roadway drainage improvements is not currently expected to result in the disposal of unsuitable materials. However, in the event unsuitable materials are detected once construction gets underway, proper disposal and replacement with clean materials and structural fills would be a requirement."¹³

SMCC submitted a detailed Proposal as to how it intends to carry out the Construction Rehabilitation of Hotel Wharf. A portion of that proposal concerning Hotel Wharf is attached to the ALJ Report as Exhibit "2".¹⁴

¹³ WSP USA Inc., Port of Guam Hotel Wharf Technical Specifications, submitted on July 20, 2021.

¹⁴ Submission of Sumitomo Mitsui Construction Co., Ltd., for IFB-PAG-CIP-022-002, Rebid of the Construction of Hotel Wharf and Highway 11 Roadway Construction, dated January 28, 2022.

3. Action by the Port Board of Directors

The Port Authority Board of Directors plans to consider approval of the procurement contract award to Sumitomo Mitsui Construction Company for the Construction Rehabilitation of Hotel Wharf at its meeting on June 16, 2022. A draft resolution has been prepared that would approve the bid award. A PAG Board Resolution will be submitted to the PUC upon approval.¹⁵ If the PAG Board of Directors approves the procurement award and submits a Resolution to the PUC before its meeting on June 16, 2022, the PUC may appropriately consider the matter.

4. Administrative Law Judge Report

The ALJ submitted his Report dated June 14, 2022. The PUC adopts the conclusions and recommendations stated therein.¹⁶

DETERMINATIONS

1. PAG's Contract Review Protocol.

PAG has indicated that the revised cost of this project is \$46,331,895.00. As will be discussed, PAG intends to fund the project through Grant, Bond, and local revenue funds. Pursuant to PAG's current Contract Review Protocol, professional service

¹⁵ Phone Conversation between Port Authority General Manager Rory Respicio and PUC ALJ Fred Horecky on June 9, 2022.

¹⁶ ALJ Report, PAG Docket 22-05, dated June 14, 2022.

contracts in excess of \$1,000,000, and projects using bond funds, must be approved by the PUC.¹⁷ This contract award must be reviewed by the PUC.

2. PAG has established that there is a Need for the Hotel Wharf Construction Rehabilitation Project.

There is clearly a need for the Hotel Wharf construction rehabilitation project. Such need has been recognized by the Port for many years in its Master Plans.

On April 19, 2021, the Port issued its "Determination of Need" ["DON"] for the Hotel Wharf Rehabilitation Project.¹⁸ The DON indicates that the Port Authority operates the only commercial seaport in Guam, as the primary seaport in Micronesia, and serves as a trans-shipment hub for the entire Western Pacific Region. It currently handles over two (2) million tons of cargo per year.¹⁹ Continuity of commerce and the sustainment of uninterrupted marine transportation into Guam and the Micronesian region is contingent upon the dependability and resiliency of Port assets and infrastructure.²⁰

The DON states as follows regarding the rehabilitation and upgrade of Hotel Wharf:

"The rehabilitation and upgrade of Hotel Wharf and the repair of the access roadway that leads to the facility is a capital improvement project that will provide additional infrastructural support, expanded laydown area, and augmented operational capacity to the main container yard. The Port currently has three (3) berths to accommodate container ships, general and unitized cargo vessels, and passenger ships. With the anticipated 2023-2024 peak in military buildup construction, NAVFAC

¹⁷ Contract Review Protocol, PAG Docket 09-01, Par. 1(c) and (d), at p. 1.

¹⁸ Rory J. Respicio, General Manager, "Determination of Need", Hotel Wharf Rehabilitation and Access Roadway Repair Project, dated April 19, 2021.

¹⁹ Id.

²⁰ Id.

Marianas' forecast revealed that there will be a substantial increase in container and breakbulk cargo volume in the main container yard."²¹

Because of its off-site location, it was determined back in 2013 that Hotel Wharf would be a perfect site to serve as an alternate loading and off-loading berth that will alleviate the congestion at F3-F6 during the peak of buildup related activities. Examples of specific special cargos that can be handled at the rehabilitated Hotel Wharf include, but are not limited to: 1) aggregate, 2) special imported construction materials, 3) Roll On/Roll Off (RORO), 4) research vessels, 5) passenger vessels, and 5) military support vessels, if requested.²²

3. In various Public Laws, the Guam Legislature has approved the Hotel Wharf Construction Rehabilitation and Funding for the Project.

In a series of Public Laws, the Guam Legislature has approved the H-Wharf project. In Public Law 32-155, the Guam Legislature approved certain capital improvement projects included in the Port Master Plan update of 2013. The Legislature recommended that "the Port focus near term" on certain "sustainability projects", which included the H-Wharf. Such project was deemed to be **"critical to preserving marine industrial capabilities in the CIP schedule."**²³ (emphasis added).

In Public Law 34-70, the Guam Legislature authorized the Port Authority to issue revenue bonds for the purpose of financing certain improvements. The Legislature recognized its intent "to provide funding for Capital Improvement Projects, which include the rehabilitation of "H" Wharf and Access Road...."²⁴ The Legislature also authorized the Port to finance: "local match for the Transportation Investment

²¹ Id.

²² Id.

²³ See Public Law No. 32-155, "An Act to Approve and Adopt the Capital Improvement Projects (CIP) Schedule....", Section 1, enacted May 21, 2014.

²⁴ See Public Law No. 34-70, Section 1, enacted December 7, 2017.

Generating Economic Recovery (TIGER) grant program funding for rehabilitation of "H" Wharf and access road in the approximate amount of \$14,200,000..."²⁵

In Public Law No. 35-44, the Guam Legislature reprogrammed bond funds and approved the amount of \$13,774,255 for rehabilitation of "H" Wharf and the access road.²⁶

4. The Parties have exercised best efforts in negotiating the Project Scope and reaching a reasonable Amount for the Contract Award.

As set forth above in the Background section, the parties engaged in negotiations to reach "a fair and reasonable works and price agreed by both parties."²⁷ A copy of the Revised Price Proposal for Marine Structure Works is attached to the ALJ Report as Exhibit "3".²⁸ As a result of the negotiations, the parties have reduced the bid amount from \$59,683,065.00 to \$46,331,895.00. The scope has also been changed to focus on the construction rehabilitation of Hotel Wharf.

Currently, the Port has a total of \$20,277,248.39 for the Hotel Wharf Construction Rehabilitation. \$10,000,000 is from the Tiger Grant; the Port's matching share from bond funds is \$10,277,248.39. The Guam Legislature had approved over \$13M for the Hotel Wharf project, but over \$3M of that amount was for the Highway 11 Roadway

²⁵ Id., at Section 4(a)(1).

²⁶ Public Law No. 35-44, Section 2(a)(1), enacted October 16, 2019.

²⁷ Sumitomo Mitsui Construction Co., Ltd., Revised Price Proposal for Marine Structure Works, dated May 18, 2022, attached as Exhibit "3" to the ALJ Report, at p. 1.

²⁸ Id.

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Reconstruction.²⁹ As such, there is a shortfall of \$26,054,646.61 to fund Phase 1 and Phase 2.³⁰

The Port has already developed a funding plan for the shortfall:

"Hotel Wharf and Highway Route 11 Road Construction Phase 1 and 2
46,331,895

LESS: Current Budget

MARAD Funding 10,000,000

Bond Funding 10,277,249

Total FY22 Budget 20,277,249

Project Shortfall 26,054,646

Proposed Funding Source for Shortfall:

General Reserve Account 15,000,000

FY23 CIP Budget 3,000,000

FY24 CIP Budget 3,000,000

Bond Capital Improvement Reserve 5,054,646

Total Proposed Funding Source 26,054,646

Balance 0."³¹

²⁹ Phone Conversation between PAG GM Rory Respicio and PUC ALJ Fred Horecky on June 13, 2022.

³⁰ Inter-Office Memorandum from Clarence V. Lagutang, CIP Coordinator, to Rory J. Respicio General Manager, re: Request for Supplemental Budget for the Account No. C22B001.1783.1 for Construction Rehabilitation of the Hotel Wharf and Highway 11 Road Construction Phase 1 and 2, dated June 9, 2022.

³¹ Email from PAG Financial Affairs Controller Jose B. Guevara III to PAG GM Rory Respicio, and attached Request for Supplemental Budget, Hotel Wharf, dated June 13, 2022

A formal request from the Financial Affairs Controller to the General Manager for such funding has already been made.³²

The \$15,000,000.00 is in the Port General Reserve Fund; these funds are American Rescue Plan Act Funds that were transferred by the government of Guam to PAG in February 2022.³³

The Port Board of Directors has also authorized the Port General Manager to utilize Port Revenues, unrestricted Port funds and/or other revenues and federal grants to supplement the short-fall funding of the revenue bond projects.³⁴

This project is very expensive; costs have been impacted by world economic conditions, inflation, and supply chain issues. Cost for materials such as steel have been soaring. However, for many years the Port of Authority, the Federal Maritime Administration, and the Guam Legislature have recognized that the construction rehabilitation of Hotel Wharf must be accomplished.

As was the case with the Port's Waterline Replacement Project, it is not likely that a rebid of this project would lead to any lesser of a price proposal.³⁵ There were no price submittals upon the original bid for this project, and only one, that of SMCC, for the Rebid. The parties have done their best to negotiate a fair and reasonable price.

³² Id.

³³ Inter-Office Memorandum from PAG Financial Affairs Controller Jose B. Guevara III to PAG GM Rory Respicio Re: Request for Transfer – Bank of Guam, dated March 15, 2022.

³⁴ Port Board of Directors Resolution No. 2021-07, Relative to Authorizing the General Manager to Use Port Revenues, Port Unrestricted Funds and/or Other Revenues and Federal Grants to Supplement the Funding of Revenue Bond Projects, All of which Shall Remain Subjected to Procurement and Public Utilities Statutory Requirements, dated July 29, 2021.

³⁵ See ALJ Report, PAG Docket 22-02, dated February 14, 2022, at pgs. 7-8.

5. SMCC is eminently qualified to perform the Contract.

From the bid submittal, it appears that SMCC is "a leading Japanese construction company with operations that span the globe." Its 2021 assets approach \$3 Billion. It has available bonding capacity on Guam of \$100,000,000. It has done many major works involving Piling and Deep-Water Area Works. It has performed a substantial number of projects on Guam, including Guam Waterworks Authority projects such as Construction of Agat Santa Rita Wastewater Treatment Plant replacement, Phase II, various pipeline, water main and pumpstation projects for GWA, Guam Airport and Guam Power Authority projects and many private sector projects. Some of its main project engineers and managers have extensive experience with projects in Guam.

6. The Proposed Agreement for the Hotel Wharf Construction Rehabilitation protects the Interests of the Port and Ratepayers

The Port has provided a proposed Agreement between the Port and SMCC.³⁶ In accordance with the IFB, SMCC is required to provide a bid guarantee of not less than fifteen percent [15%] of the total bid amount for which an award can be made. SMCC is also required to provide the Port with an executed performance and payment bond in an amount at least equal to one hundred percent [100%] of the accepted bid as security for the faithful performance of the contract and security for the payment of all persons performing labor and furnishing materials in connection with the contract.³⁷

The proposed Agreement contains adequate provisions to protect the interests of the Port and its customers. The Agreement provides that PAG may terminate or modify

³⁶ The Port transmitted a copy of the Agreement to the PUC on June 10, 2022 [AGREEMENT BETWEEN JOSE D. LEON GUERRERO COMMERCIAL PORT AND SUMITOMO MITSUI CONSTRUCTION CO., LTD.].

³⁷ IFB-PAG-CIP-022-002, Vol. 2, Bid Guarantee and Performance and Payment Bond.

the Agreement **"based upon a lack of funding."** PAG may terminate the Agreement for "default" or "cause."³⁸ There is a "indemnification" clause which protects the Port.³⁹

There are "liquidated damages" provisions which require the Contractor to pay \$4,000.00 per day to the Port for each day beyond the expiration of 735 calendar days from issuance of a Notice to Proceed by the Port.⁴⁰

CONCLUSION

The Port has established that there are funds available to pay for the Hotel Wharf Project. The PAG General Manager has indicated that the Port will not seek any rate or tariff increases in FY23 and FY24.⁴¹ In accepting \$15M in American Recovery Act Funds for this project, the Port agreed that it would not seek a rate increase. Therefore, this is not a contract award that will increase rates.

This project will assist PAG in further modernizing the Port infrastructure and facilities.

ORDERING PROVISIONS

Upon consideration of the record herein, the Petition of PAG for Approval of Procurement Contract Award to Sumitomo Mitsui Construction Company for the Rehabilitation of Hotel Wharf and Highway 11 Roadway Reconstruction, IFB-PAG-CIP 022-002, the ALJ Report, and for good cause shown, on motion duly made, seconded,

³⁸ AGREEMENT BETWEEN JOSE D. LEON GUERRERO COMMERCIAL PORT AND SUMITOMO MITSUI CONSTRUCTION CO. LTD., par. 4 at pgs. 4-7.

³⁹ Id., at par. 12.

⁴⁰ Id., at par. 2.2, Liquidated Damages.

⁴¹ Representation by the Port GM in a Phone Conversation with PUC ALJ Horecky on June 13, 2022.

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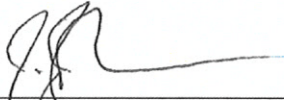
and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby **ORDERS** that:

1. The Invitation for Bid Procurement Contract Award to Sumitomo Mitsui Construction Company for the Rehabilitation of Hotel Wharf and Highway 11 Roadway Reconstruction, IFB-PAG-CIP 022-002, is approved.
2. PAG is authorized to expend the amount of \$46,331,895.00 for the approved Contract Award for the Rehabilitation of Hotel Wharf. The Project will assist PAG in further modernizing the Port infrastructure and facilities.
3. PAG 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 are 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.

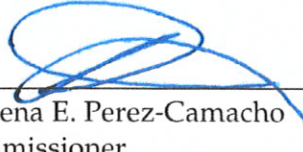
[SIGNATURES TO FOLLOW ON NEXT PAGE]

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Dated this 16th day of June 2022.



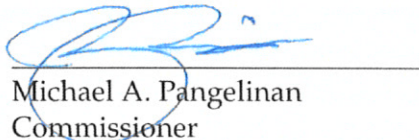
Jeffrey C. Johnson
Chairman



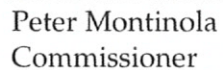
Rowena E. Perez-Camacho
Commissioner



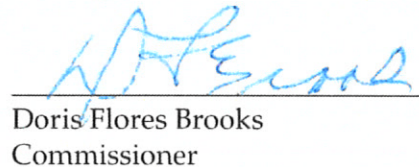
Joseph M. McDonald
Commissioner



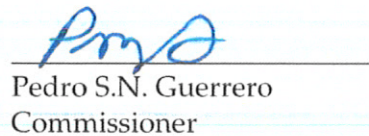
Michael A. Pangelinan
Commissioner



Peter Montinola
Commissioner



Doris Flores Brooks
Commissioner



Pedro S.N. Guerrero
Commissioner

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:) GPA Docket 22-15
)
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 increase the current LEAC factor effective July 1, 2022.¹ GPA is proposing a 3-step increase in the fuel recovery factor. As a result of further fuel price increases in the updated Morgan Stanley average noon call prices from May 30, 2022, through June 3, 2022, GPA is now seeking to raise the fuel recovery factor for the average residential customer from \$.209552/kWh to \$.251638 for meters read on or after July 1, 2022.² In addition, two further increases are requested: from \$.251638/kWh to \$.296043 effective September 1, 2022 and from \$.296043/kWh to \$.342338 effective November 1, 2022.³

An illustration of the impact of the 3-Phase Rate Increases (July-September-November) is attached to the ALJ Report as Exhibit "1".⁴ If these three increases are approved, the total cumulative increase for the average residential customer would be roughly 38% in

¹ GPA Petition, In the Matter of: Guam Power Authority Levelized Energy Adjustment Clause (LEAC), GPA Docket 22-15, dated June 1, 2022.

² Email from GPA CFO John Kim to PUC ALJ Fred Horecky dated June 7, 2022.

³ Id.

⁴ 3-Phase Rate Increases (July-September-November), dated June 7, 2022, Exhibit "1", attached to the ALJ Report.

the total bill. The LEAC Under-Recovery, as of June 30, 2022, is projected to be \$35.16M.⁵

BACKGROUND

On March 31, 2022, in GPA Docket 22-05, the PUC raised the LEAC factor from \$.180837 to \$.209552/kWh for meters read on and after April 1, 2022.⁶ Pursuant to GPA Tariff Schedule "Z", the PUC is required to set the LEAC Factor no later than August 1st for the next 6-month period.⁷ On May 24, 2022, the Guam Consolidated Commission on Utilities ["CCU"] approved GPA Resolution No. FY2022-21.⁸ The CCU approved a 3-Step increase as follows:

- a) 1st step - \$.240413 effective July 1, 2022 to August 31, 2022
- b) 2nd step - \$.270185 effective September 1, 2022 to October 31, 2022
- c) 3rd step - \$.296275 effective November 1, 2022 to January 31, 2023.⁹

GPA has requested "expedited relief" to set a new LEAC Factor effective July 1st to mitigate the growing under-recovery balance. The CCU also approved the withdrawal of up to \$10M in self-insurance funds to purchase fuel and stated that the self-insurance fund would be replenished from the surcharge, which is currently active.¹⁰

The ALJ filed his Report herein dated June 8, 2022. The PUC adopts the recommendations and conclusions of the Report.

⁵ Id.

⁶ PUC Order, GPA Docket 22-05, PUC Review of Levelized Energy Adjustment Clause (LEAC) Factor Pursuant to Tariff Z, dated March 31, 2022.

⁷ Guam Power Authority, Schedule "Z", Levelized Energy Adjustment Clause (LEAC), revised March 31, 2012.

⁸ Guam Consolidated Commission on Utilities, GPA Resolution No. FY2022-21, 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 24, 2022.

⁹ Id., at p. 2.

¹⁰ Id.

DETERMINATIONS

I. THE PUC SHOULD REJECT THE REQUEST OF THE CCU TO WITHDRAW UP TO \$10 MILLION IN SELF-INSURANCE FUNDS TO PURCHASE FUEL.

This is not the first time that the CCU has made such a request. On January 28, 2021, in GPA Docket 21-04, the PUC did authorize GPA to withdraw \$10M from the Self-Insurance Fund and offset that amount against the LEAC Under-Recovery.¹¹ At that time the withdrawal of SIP funds reduced the self-insurance fund to roughly \$9M (from \$19M). The Self-Insurance Fund has grown from \$9.479M in September 2021 to \$11.544M in April 2022.¹²

However, at this time, approval by the PUC of the withdrawal of \$10M from the Self-Insurance Fund would deprive GPA of funds to address or repair damages caused by typhoons. If \$10M were withdrawn from the fund at present, the balance would be roughly \$1.5M. Such a small amount is not sufficient to address the damages that could result to Guam and the ratepayers from a significant typhoon.

The ALJ previously presented argument to the PUC that taking funds from the Self Insurance Fund to pay for fuel is not consistent with the purposes of the Self Insurance Program ("SIP"). The ALJ also opined that it could be illegal for GPA to use Self Insurance funds to pay for fuel, as the Self Insurance Fund is a restricted fund.

¹¹ PUC Order, Guam Power Authority Levelized Energy Adjustment Clause (LEAC), GPA Docket 21-04, dated January 28, 2021, at p. 3.

¹² LEAC Update-Restricted & Unrestricted Cash, CCU Board Packets submitted for GPA Work Session, May 19, 2022 (issues for Decision, p. 11).

The ALJ attached his prior analysis provided in GPA Docket 21-04 to his Report herein.

Self-Insurance is charged to ratepayers on their bills. When GPA is allowed to withdraw funds from the Self-Insurance Fund, Guam ratepayers end up paying again for the same self-insurance funds that they already paid for. It constitutes a double billing to ratepayers. When self-insurance funds are diverted for fuel payments, and the remaining self-insurance funds are below \$18M, ratepayers are required through the SIP surcharge to replace the same self-insurance funds that they already paid for previously.

During a phone conference on June 7 between GPA management officials and ALJ Horecky, GPA CFO John Kim suggested that GPA could be authorized to withdraw \$10M, as a "loan", or akin to a line of credit, from the Self-Insurance Fund, to purchase fuel. The PUC rejects this proposal. Further use of Self-Insurance funds to pay for fuel would deprive the Self Insurance Program of sufficient funds to address damage from a major typhoon. Self-Insurance funds may not be used to purchase fuel.

II. GIVEN THE DRASTIC INCREASES IN FUEL OIL PRICES SINCE JANUARY OF THIS YEAR, GPA HAS NO OPTION OTHER THAN TO PROPOSE INCREASES IN THE LEAC FACTOR.

From January 20, 2022, to June 7, 2022, the price of SING Gasoil 10 PPM (per barrel) has increased from \$102.12 to \$176.38.¹³ The SING HSFO 180 CST (per metric ton) high sulfur fuel oil prices have increased from \$501.43 (per metric ton) on January 20, 2022, to \$645.16 per metric ton on June 7, 2022. GPA's cost for diesel fuel and HSFO have risen by 70%.

¹³ ALJ Report, GPA Docket 22-05, dated March 28, 2022, at p. 6; see also Morgan Stanley, Asia Morning Call, Price Indication dated June 7, 2022.

Graphs submitted by GPA indicate that GPA RFO purchases (per barrel) have increased from \$79.65 in January 2022, to \$127.83 in April 2022. GPA Diesel purchases (per barrel) have increased from \$95.25 in January 2022, to \$150.80 in April 2022. Diesel fuel purchases are now approaching \$180 per barrel.¹⁴

The Fuel Landed Prices have also increased substantially. See "LEAC Update-Fuel Landed Prices", attached to the ALJ Report as Exhibit "3".

As indicated by GPA's submission of updated Morgan Stanley Fuel Prices, and the higher proposed three-step increments in the "proposed LEAC rate", there have been further significant increases recently in the price of fuel oil. When GPA filed its Petition, its fuel pricing was based upon the Morgan Stanley Pricing from May 4, 2022 to May 10, 2022. At that time, GPA's calculation was that the average price per Bbl-RFO was \$141.57. The average price per Bbl-Diesel was \$126.54. Exhibit "4" to the ALJ Report indicates that, based upon the Morgan Stanley Pricing from May 30, 2022 to June 3, 2022, the average price per Bbl-RFO was \$148.28 and the average price per Bbl-Diesel was \$139.67. Based upon the increase in fuel prices, GPA is now requesting 3-step increases in the amounts of \$.251638, \$.296043, and \$.342338 per kWh respectively.¹⁵

III. UNLESS THE PUC APPROVES INCREASES REQUESTED BY GPA, THE UNDER-RECOVERY BALANCE WILL GROW TO UNACCEPTABLE LEVELS.

To date, the fuel under-recovery balance of GPA (i.e. fuel expense that GPA has not recovered from ratepayers) has not exceeded \$32M. However, if the PUC does not

¹⁴ See LEAC Update-GPA RFO Purchases (per barrel) and LEAC Update-GPA Diesel Purchases (per barrel), submitted to the CCU in the Board Packet for the GPA Work Session on May 19, 2022 (Issues for Decision, at pgs. 2 and 3).

¹⁵ See Exhibit "4", GPA Proposed LEAC Rate, 06/07/2022, attached to the ALJ Report.

increase the present LEAC Factor of \$.209522 during the upcoming LEAC period, the under-recovery balance as of the end of January 2023 will be \$87M.¹⁶ The LEAC under-recovery as of June 30, 2022 will be \$35.16M. Even with the Step 1 and Step 2 LEAC increases, the LEAC under-recovery as of August 31, 2022, and October 31, 2022, is projected to be \$34.67M and \$37M respectively.¹⁷ This means that, even with the LEAC increases proposed for Steps 1 and 2, the LEAC under-recovery will slightly increase. Thus, the Step 1 and Step 2 increases do nothing more than prevent the LEAC under-recovery from growing more substantially.

There are other factors leading to increasing fuel prices for GPA. The Consent Decree requires GPA to convert its fuel for the Piti 8 and 9 Plants to ultra-low sulfur diesel (ULSD). The Cabras plants are converting to low sulfur residual fuel oil (LSRFO) and subsequently to ultra-low sulfur residual fuel (ULSRFO) in December. GPA is required to purchase higher priced fuels.¹⁸ In addition, the baseload plants will be down for overhaul and/or the conversion process. GPA will be required to utilize the fast-track generators to a greater extent, which are less fuel efficient.

There has been a "perfect storm" of events leading to increasing fuel prices for GPA.

IV. THE PUC SHOULD PRESENTLY ADOPT THE PROPOSED STEP 1 AND STEP 2 INCREASES; ACTION SHOULD BE DEFERRED ON THE PROPOSED THIRD INCREMENT UNTIL THE OCTOBER, 2022, PUC MEETING.

GPA has proposed an increase in the LEAC Factor to \$.251638/kWh for meters read on and after July 1, 2022. This Factor will result in a 13.72% increase in the total bill. GPA further recommends a second increase of \$.296043/kWh for meters read on and after

¹⁶ Id.

¹⁷ Id.

¹⁸ GPA General Manager Report to the Guam Consolidated Commission on Utilities dated May 24, 2022.

September 1, 2022. This LEAC Factor will result in an additional 12.72% increase in the total bill.¹⁹

GPA has also recommended a third increase in the LEAC to \$.347238/kWh for meters read on and after November 1, 2022. This LEAC Factor would result in a 11.76% increase in the total bill.²⁰

The third proposed LEAC increase effective November 1, 2022, should not be approved at the present time. The PUC should have the opportunity to further assess the impact of the first two step increases over the next four months. PUC will be in a better position at its October meeting on October 27, 2022, to assess current fuel prices and what possible action or level of increase is required for the period of November 2022 through the end of January 2023.

Recent Morgan Stanley Asian Morning Call price predictions indicate declining prices for fuel over the balance of this year. However, for the past few months, such predictions of declining prices have not proven to be accurate. It is certainly possible that a third step increase will be necessary effective November 1, and that the amount of increase could potentially be even higher than the recommended Step 3 increase. Deferring action at present on the third increment is prudent to enable the PUC to have better information before it addresses that issue.

¹⁹ Id.

²⁰ 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 special meeting held on June 16, 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:

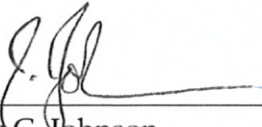
1. The secondary Fuel Recovery (LEAC) Factor of \$.251638/kWh shall be effective for meters read on or after July 1, 2022. The secondary Fuel Recovery (LEAC) Factor of \$.296043/kWh shall be effective for meters read on or after September 1, 2022.
2. The current singular LEAC factors are hereby adjusted, commencing on July 1, 2022, and thereafter as shown in the following table:

	First 2 months	Second 2 months
Secondary - 13.8 KV	0.251638	0.296043
Primary - 13.8 KV	0.244104	0.287175
34.5 KV	0.243401	0.286348
115 KV	0.240404	0.282823

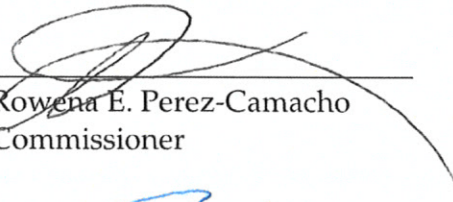
3. As requested by GPA, the forecast of the Working Capital Fund Requirement will remain the same, so there will not be a change in the Working Capital Surcharge for the period of July 1, 2022, through January 31, 2023.

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GPA's LEAC
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Dated this 16th day of June 2022.



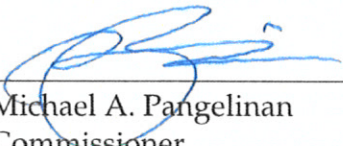
Jeffrey C. Johnson
Chairman



Rowena E. Perez-Camacho
Commissioner



Joseph M. McDonald
Commissioner



Michael A. Pangelinan
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Peter Montinola
Commissioner

Doris Flores Brooks
Commissioner



Pedro S.N. Guerrero
Commissioner