

BEFORE THE PUBLIC UTILITIES COMMISSION



**IN RE: PETITION FOR)
EXTENSION OF DOCK)
FACILITY AGREEMENT)
WITH TRISTAR TERMINALS,))
GUAM, INC. BY GUAM)
POWER AUTHORITY)**

GPA DOCKET 22-17

ORDER

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the August 4, 2022 Petition (hereinafter referred to as the “Petition”) for approval to extend the Tristar Terminals Guam Inc. (“Tristar”) contract with the Guam Power Authority (“GPA”), related to handling and receiving fuel oil import deliveries at the F-1 Fuel Pier Facility.¹

On September 26, 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 F-1 Fuel Pier Facility is a dock constructed on submerged land that is located on Cabras Island (hereinafter referred to as the “F-1 Dock”) and owned by the Port Authority of Guam (“PAG”).² This fuel pier is where petroleum products, like gasoline and oil, and non-petroleum products are offloaded, discharged, and distributed.³

Tristar currently manages the F-1 Dock for PAG; and since 2013, GPA has contracted with Tristar for the handling and receipt of fuel import deliveries to GPA’s storage facilities

¹ The September 1, 2013 Facility User Agreement F-1 Dock is attached as Exhibit A to the ALJ Report filed herein.

² See PUC Order, PAG Docket 21-01, p. 1 (Jan. 28, 2021).

³ See PUC Order, PAG Docket 21-01, p. 2.

(hereinafter referred to as the “Dock Facility Contract”).⁴ Tristar is the manager of the F-1 Dock until March 31, 2026.⁵

1. GPA’s Contract Review Protocol

Pursuant to 12 G.C.A. §12105, GPA may not enter into any contractual agreements or obligations which could increase rates and charges without the PUC’s express approval. Additionally, pursuant to GPA’s current Contract Review Protocol, “[a]ll professional services contracts in excess of \$1,000,000” and “[a]ll internally financed contracts utilizing O&M funds in excess of \$1,000,000, whether or not the contract extends over a period of one year or several years” “shall require prior PUC approval” Contract Review Protocol, GPA Docket 09-01, p. 1 (June 20, 2011). Further, with respect to multi-year contracts, GPA’s Contract Review Protocol provides that “GPA must obtain PUC approval if the total costs over the entire procurement term exceed the review threshold.” *Id.*, p. 3.

2. Scope of Services

As the manager of the F-1 Dock, Tristar’s obligations include receiving these imports of fuel oil, jet fuel, diesel, motor gasoline and liquid petroleum products; delivery of fuel for export; and coordinating with ship masters and harbor pilots to ensure safe dockage.⁶ It is further tasked with providing operational access by scheduling operations of the facility by uses; and collecting the applicable Port’s user fees.⁷ Pursuant to the Dock Facility Contract, Tristar allows GPA to

⁴ Petition, p. 1.

⁵ GPA Resolution No. FY2022-23 (“Resolution”), issued by the Consolidated Commission on Utilities, p. 1 (July 26, 2022).

⁶ See PUC Order, PAG Docket 21-01, p. 4.

⁷ See PUC Order, PAG Docket 21-01, p. 4.

discharge or load fuel from and to GPA's vessels at the F-1 Dock.⁸ In addition, Tristar provides GPA with equipment and labor necessary to GPA for discharging or loading of such fuel.⁹

3. Cost

According to GPA, it has negotiated an extension of the Dock Facility Contract through March 31, 2026.¹⁰ With regard to cost, the fee schedule for the Dock Facility Contract "shall remain the same at the prevailing PAG rates" and is only subject to "automatic adjustments" based on any changes to PAG's rates.¹¹ Indeed, the fees for the use of the F-1 Dock appear unchanged based on the current fee schedule, which include hourly rates for the dock operators, excess lay time costs, and imports and export fees per barrel of RFO.¹² Such fees have not changed since 2013.

GPA estimates the annual cost for the management fee at \$1,924,512.00, for an estimated total of \$5,773,536.00 for the additional three years.¹³ GPA submits that the contract will be funded internally through its operations budget.

4. CCU Approval

On July 26, 2022, the Consolidated Commission on Utilities ("CCU") issued GPA Resolution No. FY2022-23, which indicated that "the contract extension will serve the best interest of the Authority and its ratepayers by ensuring uninterrupted supply of fuel to GPA . . .

⁸ Dock Facility Contract, p. 1.

⁹ Dock Facility Contract, p. 1.

¹⁰ Resolution, p. 1.

¹¹ Resolution, p. 1.

¹² Resolution, "Exhibit A."

¹³ Resolution, "Exhibit A."

.”¹⁴ Accordingly, the CCU authorized GPA management to petition the PUC for approval of the contract extension with Tristar.¹⁵

RECOMMENDATION AND CONCLUSION

Based on the documentation provided, the ALJ found that the subject contract is reasonable and necessary, and that extension of the Dock Facility Contract is prudent. Undeniably, the operations on the F-1 Dock are crucial to GPA’s operations. Reports in previous dockets have indicated that “[i]t is evident that if GPA were unable to enter into the Facility User Agreement, it would not have [the] necessary dock facility at which vessels commissioned by GPA could load and unload fuel oil.”¹⁶ “Without the use of the F-1 Dock Facility, GPA would be unable to obtain the fuel necessary to supply its power plants.”¹⁷ Accordingly, without fuel, “GPA could not provide electricity to the ratepayers.”¹⁸

Further, as indicated by GPA, the contract is vital since it ensures the “uninterrupted supply of fuel to GPA.”¹⁹ Indeed, this Commission has previously held that any disruption to the safe distribution of fuel resources to GPA, for example, “could be a potential threat to the public health, welfare and safety of our island.”²⁰

Significantly, too, the fees for the services provided under the Dock Facility Contract remain the same during the three-year extension. In fact, these Tristar fees have remained the

¹⁴ Resolution, p. 1.

¹⁵ Resolution, p. 2.

¹⁶ See PUC Legal Counsel Report, GPA Docket 10-10, p. 4 (Dec. 6, 2010).

¹⁷ See PUC Legal Counsel Report, GPA Docket 10-10, p. 4.

¹⁸ See PUC Legal Counsel Report, GPA Docket 10-10, p. 4.

¹⁹ Resolution, p. 1.

²⁰ PUC Order, PAG Docket 21-01, p. 7 (Jan. 28, 2021).

same since 2013. Accordingly, the cost of this contract benefits ratepayers, since such fees have remained the same for ten years.

Based on the documentation provided by GPA in this docket, and for the other reasons set forth herein, the ALJ recommended that the PUC approve GPA's request to extend its Dock Facility Contract with Tristar through March 31, 2026, at an estimated annual cost of \$1,924,512.00.

The Commission hereby adopts the findings in the September 26, 2022 ALJ Report and therefore issues the following.

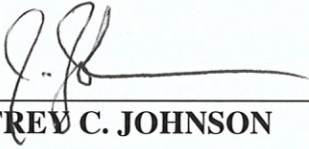
ORDERING PROVISIONS

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:

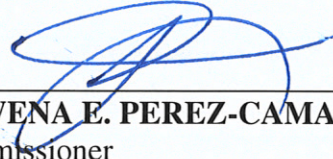
1. That the instant Petition is hereby APPROVED.
2. GPA is authorized to extend its Dock Facility Contract with Tristar Terminals, Inc. related to handling and receiving fuel oil import deliveries through March 31, 2026, and for an estimated annual cost of \$1,924,512.00.
3. GPA is ordered to pay the PUC's regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with this matter. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

SO ORDERED this 29th day of September, 2022.



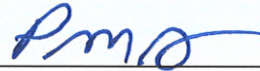
JEFFREY C. JOHNSON
Chairman



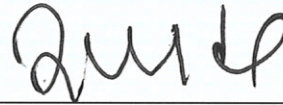
ROWENA E. PEREZ-CAMACHO
Commissioner



JOSEPH M. MCDONALD
Commissioner



PEDRO GUERRERO
Commissioner



MICHAEL A. PANGELINAN
Commissioner

PETER MONTINOLA
Commissioner



DORIS FLORES BROOKS
Commissioner

P223043.JRA