

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:

The Application of the Guam Power
Authority for Approving the Procurement
of Phase IV Renewable Acquisition for
GPA.

GPA Docket 23-01

ALJ REPORT



INTRODUCTION

This matter comes before the Guam Public Utilities Commission [PUC] pursuant to the Petition of the Guam Power Authority [“GPA”] for PUC Review and Approval of GPA’s Procurement of the Phase IV Renewable Acquisition.¹

BACKGROUND

In 2019, the Guam Legislature enacted Public Law No. 35-46, which raised the “Renewable Portfolio Standards” of the Guam Power Authority.² The standards set forth “goals” for GPA of percentages of renewables from total net sales which must be achieved by certain deadlines. In P.L. 35-46, the Legislature revised 12 GCA §8311, Renewable Portfolio Standards, to require that GPA establish a “preliminary” renewable portfolio standard goal of fifty percent (50%) of its net electricity sales by December 31, 2035, and one hundred percent (100%) of its net electricity sales by December 31, 2045.³

¹ GPA Petition, GPA Docket 23-01, dated October 11, 2022, at p. 1.

² Public Law No. 35-46, enacted on November 12, 2019.

³ Id. at Section 2; 12 GCA §8311(a) and (b).

On January 28, 2022, GPA filed its 2022 Integrated Resource Plan (IRP).⁴ In its IRP plan, GPA provided a “roadmap” of its intended plans and projects regarding the power system over the next 5–10 year period. Among the focuses of its IRP was how to “implement projects and programs to support achieving the 50% Renewable Portfolio Standard...”⁵ A primary recommendation of the IRP was to include “procurement of renewable energy contracts with an annual 300,000 MWh by 2025 and another 300,000 MWh by 2029.”⁶ In its current Petition, GPA indicates that it “intends to contract for an additional 180MW to 300MW of renewable energy with energy storage requirements for the primary purpose of shifting solar PV energy.”⁷

The Phase IV Renewable Acquisition will require bidders to either acquire or lease property to build solar PV projects with energy storage.⁸ GPA has drafted an Invitation for Multi-Step Bid, containing five volumes, which include the following: Commercial Terms and Conditions, Technical Proposal Qualification Requirements, Draft Contract, Bid Scoring Mechanism, and Required Forms.⁹

In its current Petition, GPA only requests authorization to issue a procurement for the new renewables acquisition. GPA will conduct a 2-step bidding procedure. The first step will involve a submission of Technical Qualifications Proposals and GPA’s determination of which bidders are acceptable. Upon completion of Step 1 and the selection of qualified bidders, the qualified bidders will submit their priced proposals.

⁴ GPA Filing of 2022 Integrated Resource Plan (IRP), GPA Docket 22-08, dated January 28, 2022.

⁵ Id., at p. 1.

⁶ Id.

⁷ GPA Petition at p. 1.

⁸ Id.

⁹ Electronic Filing of Bid Documents in Invitation for Multi-Step Bid No. GPA-0XX-23 dated October 14, 2022.

GPA will proceed with Step 2 of the multi-step bid, which includes evaluation of the Price Proposals and award of the contract(s).¹⁰

DISCUSSION

1. GPA's Contract Review Protocol

GPA indicates that "the anticipated annual minimum of 300,000 MWh and up to 530,000 MWh (approximately 180MW to 300MW) over 25 years to be acquired under Phase IV of the Renewable Acquisition Project will exceed GPA's contracting authorization of \$1.5 million."¹¹ The GPA Contract Review Protocol requires that the PUC must review "any contract or obligation... which exceeds \$1,500,000". The contract must be reviewed by the PUC "before the procurement process is begun."¹² The proposed contract for Renewable Acquisition must be reviewed by the PUC.

2. Description of the Procurement

GPA intends to continue building its renewable capacity in order to meet the RPS goals set forth by Public Law No. 35-46 and to further the goals discussed in the 2022 IRP.¹³ The acceptable technologies for the bid will include biomass, hydro, geothermal, solar,

¹⁰ Electronic Filing of Bid Documents in Invitation for Multi-Step Bid No. GPA-0XX-23 dated October 14, 2022, Volume I, Commercial Terms and Conditions, at sections 2.9.1.3, 2.9.5.1, and 2.10.

¹¹ Guam Consolidated Commission on Utilities, Resolution No. FY2022-30, Authorizing Management of the Guam Power Authority to Petition the PUC for Approval of the Phase IV Renewable Acquisition Multi-Step Bid Documents under the Procurement Protocol, adopted and approved on September 27, 2022, at p. 3.

¹² Contract Review Protocol for Guam Power Authority, Administrative Docket, Par. 1.

¹³ Guam Consolidated Commission on Utilities, Resolution No. FY2022-30, Authorizing Management of the Guam Power Authority to Petition the PUC for Approval of the Phase IV Renewable Acquisition Multi-Step Bid Documents under the Procurement Protocol, adopted and approved on September 27, 2022, at p. 2.

wind, ocean thermal, wave action and tidal action.¹⁴ Through the procurement, GPA seeks to meet or exceed the renewable energy resource portfolio standard adopted by the Guam Legislature; lower billing volatility by reducing fuel oil price impact on GPA's financial resources and working capital; diversify its fuel sources for generation and utilize renewables as part of the implementation; and acquire renewable resources that will result in cost savings to the customers of GPA.¹⁵

The delivered output of the renewable energy to the GPA grid is required to be "firm, non-intermittent power from one or more renewable generation sources."¹⁶ The renewable energy resource must deliver energy directly to the existing GPA transmission systems, "subject to the result of a System Integration Study to be completed after Step 1 of the proposed evaluation."¹⁷ The Bidder is responsible for all costs related to the System Integration Study and recommendations from the study for project interconnection.¹⁸

The renewable energy resource must be equipped with an energy storage system (ESS) that meets GPA's requirements. The primary purpose of the ESS is for "energy-shifting, which is to deliver the energy produced at one time or period of the day."¹⁹ The proponent is required to make the renewable energy resource available for commercial operation within thirty-six (36) months from the contract execution. The renewable energy resource shall provide energy for a term of 20 years, with the option to extend for two additional 5-year terms, for a maximum of 30 years. GPA reserves certain

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Guam Consolidated Commission on Utilities, Resolution No. FY2022-30, Authorizing Management of the Guam Power Authority to Petition the PUC for Approval of the Phase IV Renewable Acquisition Multi-Step Bid Documents under the Procurement Protocol, adopted and approved on September 27, 2022, at p. 2.

¹⁹ Id., at p. 3.

options to buy out the capital portion of the contract.²⁰ The proposed 30-year term is consistent with the authorization provided by the Guam Legislature to GPA in Public Law No. 30-66.²¹

3. The Proposed Contract

The proposed Contract provides for the purchase by GPA of renewable energy from Bidder/Seller over the contract period.²² The Contract includes performance requirements for the commercial operation date and financing arrangement deadlines.²³ The facilities are required to produce a minimum number of MWhs of Renewable Energy for each contract year. If the Contractor/Seller fails to deliver such energy, there are provisions for “shortfall damages.”²⁴ A most important aspect of the procurement is that the Seller is required to use an ESS for the purpose of delivering produced energy at a different period of time than its production period. The stored renewable energy is required to be “dispatchable at the point of interconnection, between the hours of 6:00 P.M. to 6:00 A.M.”²⁵ If Seller fails to deliver to GPA any quantity of renewable energy to which GPA is entitled, Seller is required to pay to GPA certain “Seller Failure Damages.”²⁶

There are many provisions designed to protect GPA and the ratepayers such as limitations on remedies, liability and damages²⁷ and credit and collateral requirements

²⁰ Id.

²¹ Public Law No. 30-66, enacted November 7, 2009.

²² Electronic Filing of Bid Documents in Invitation for Multi-Step Bid No. GPA-0XX-23 dated October 14, 2022, Volume III, Draft Contract, Article Two, at p. 13.

²³ Id. at Article Four.

²⁴ Id. at Section 4.8, pgs. 19-20.

²⁵ Id. at Section 4.18, p. 23.

²⁶ Id. at Article Five, Section 5.1, p. 25.

²⁷ Id. at Article Eight, p. 29.

(Performance Security).²⁸ Seller is required to provide numerous forms of insurance, including commercial general liability, auto liability, excess liability, pollution liability, property insurance and others.²⁹ There is an indemnification provision.³⁰ GPA has various purchase options both during the delivery period and at the end of the delivery period.³¹ In general, the contract contains similar provisions to those which GPA has utilized in Phases I and II of its Renewable Acquisition. The provisions of the Contract appear to be standard and commercially reasonable, and adequately protect the interests of GPA and its ratepayers.

4. The Justification for the Procurement

GPA has provided adequate justification for issuance of the procurement. GPA has a duty to establish a renewable portfolio standard goal of 50% by 2035. The procurement of additional renewable resources is required if GPA is to accomplish this goal. The addition of these Phase IV Renewable resources will enable GPA to meet its IRP plan goal of providing an annual 300,000 MWh by 2025 and another 300,000 MWh by 2029. In terms of protecting the interest of ratepayers, it is beneficial for GPA to procure renewable generation resources, which can presently provide power at a lower rate than the current LEAC rate.

5. Cost

At present, there is no accurate estimate of what the addition of the Phase IV renewables will cost to GPA and its ratepayers. Even in the IRP plan, there was no cost

²⁸ Id. at pgs. 31-32.

²⁹ Id. at Article Twelve, Section 12.2, p. 37.

³⁰ Id. at Section 12.3, p. 38.

³¹ Id. at Section 12.8, p. 40.

estimate for the Phase IV renewable plants. The entire infrastructure cost was estimated to be over \$233M, but this estimate did not include the cost of the Phase IV renewable plants.³² There was an estimate that a 75 MW/300 MWh Standalone BESS would cost \$131,250,000.³³

Until GPA receives specific bids, it will not know the cost of the renewable projects or even what renewable projects will be bid on. Of course, after the procurement is completed, GPA will be required to present any renewable contract awards to the PUC for approval. At that time, the PUC will be able to better assess the reasonableness of the cost of such projects.

There are several issues that bidders will have to face concerning these renewable projects. Bidders are required to purchase or lease land upon which to place the renewable projects. For larger projects, there are also issues concerning interconnection with the GPA grid and the cost of additional transmission lines or substations. Bidders will have to bear such costs, including renewable integration studies. Nevertheless, despite such obstacles, it is a worthwhile undertaking for GPA to explore the interest of bidders in such projects and the potential costs.

6. Board Resolution

Resolution No. FY2022-30, issued by the Guam Consolidated Commission on Utilities on September 27, 2022, approved the procurement for Phase IV Renewable Acquisition Multi-Step Bid Documents as prepared by GPA.³⁴

³² Phone Conference between GPA Legal Counsel Graham Botha and PUC ALJ Fred Horecky on October 13, 2022.

³³ ALJ Report, GPA Docket 22-08, dated May 23, 2022, at pgs. 3-4

³⁴ Guam Consolidated Commission on Utilities, Resolution No. FY2022-30, Authorizing Management of the Guam Power Authority to Petition the PUC for Approval of the Phase IV Renewable Acquisition

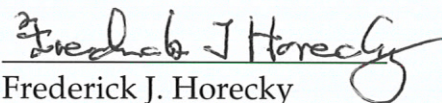
RECOMMENDATION AND CONCLUSION

Based upon its IRP and the renewable portfolio standards established by the Guam Legislature, GPA has justified its issuance of a procurement for the Phase IV Renewables. Such renewables present the hope of less costly generation than presently is provided by fossil fuel plants.

Having reviewed the Petition of GPA and the procurement documents presented, the ALJ concludes that the PUC should approve and authorize the issuance of the procurement for Phase IV renewables. Once the procurement process has been completed, the PUC will have a further opportunity to assess the reasonableness and desirability of the projects proposed and the cost for such projects.

A Proposed Order is submitted herewith for the Commissioners' consideration.

Respectfully submitted this 18th day of October, 2022.


Frederick J. Horecky
Chief Administrative Law Judge