

GUAM PUBLIC UTILITIES COMMISSION
SPECIAL MEETING
December 19, 2022
GCIC CONFERENCE ROOM, GCIC BUILDING, HAGATNA



MINUTES

The Guam Public Utilities Commission [PUC] conducted a special meeting commencing at 6:30 p.m. on December 19, 2022, pursuant to due and lawful notice. **Commissioners Jeffrey C. Johnson, Peter Montinola, Joseph McDonald, Rowena Perez-Camacho, Doris Flores-Brooks, and Michael Pangelinan** were in attendance. The following matters were considered at the meeting under the agenda included as *Attachment "A"* hereto.

1. Approval of Minutes of November 29, 2022.

The Chairperson announced that the first item of business on the agenda was the approval of the minutes of November 29, 2022. Commissioner Montinola moved to approve the minutes of the November 29, 2022 meeting subject to corrections, which motion was seconded by Commissioner Perez-Camacho. 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 23-04, Filing of Approved Contracts and Obligations for FY2022, for informational purposes only. ALJ Frederick Horecky ("Horecky") explained that the filing is the annual report from GPA of all the contracts filed during the fiscal year, pursuant to contract review procedure. Commissioner Flores-Brooks questioned whether contracts listed were available to be viewed online, to which GPA confirmed they were. No further questions or discussion ensued.

- **GPA Docket Number 23-05**

The Chairperson announced that the next item of business on the agenda was Guam Power Authority Docket 23-05, Petition for Approval of Extension of the ULSD Tank Lease Agreement with TriStar, ALJ Report, and a proposed Order. ALJ Joephet Alcantara ("Alcantara") stated that this matter is before the Commission pursuant to a December 7, 2022 request by GPA to extend its contract with Tristar Terminals to lease Tanks 1906 and 1907 which store the ultra-low sulfur diesel fuel for the agency. GPA intends to extend the leases through June 30, 2024.

ALJ Alcantara stated the lease between GPA and Tristar which was originally authorized by the PUC back in September of 2017, specifically the PUC authorized GPA to enter into an agreement with Tristar to lease the storage tanks for the ultra-low sulfur diesel ("ULSD") fuel oil for a term of five years; and at that time, it was specifically Tank 1906; that said term of the lease was to expire at the end of this month, December 31st, 2022.

ALJ Alcantara continued to state that PUC authorizes these at an annual cost of about \$1,176,000.00 or about \$98,000.00 per month; and then subsequently at GPA's request, the PUC further authorized the agency to amend the Tristar agreement adding the lease of Tristar Tank 1907 for additional storage for the ULSD fuel oil at the same storage lease fee of about \$1,176,000.00 annually or about \$98,000.00 per month. These Tristar storage tanks are located at the Tristar terminal in Agat. According to GPA, and as ALJ Alcantara had mentioned earlier, the lease of Tank 1906 was set to expire at the end of this year, and Tank 1907 was to expire at the end of June, 2023. GPA has determined that the extension of these fuel storage tanks serve the best interest of both GPA and its ratepayers since they would ensure an uninterrupted supply of ultra-low sulfur diesel fuel to its powerplant.

ALJ Alcantara further stated that, as a result, GPA negotiated extensions of the lease agreements for these tanks so that they both expire at the end of June 30th, 2024; and that based on the proposed amendment to the contract which ALJ Alcantara reviewed, extending the lease terms through June 30, 2024, the storage fees for both tanks would remain unchanged at \$98,000.00 per month. Therefore, an additional 17 months at \$98,000.00 per month for Tank 1906 would cost about an additional \$1.666 million, and an additional year for Tank 1907 at \$98,000.00 per month, would cost an additional \$1.176 million dollars, resulting in a total cost for the extension at about \$2.842 million dollars. GPA has indicated that it would fund the contract through its fuel revenue budget.

Furthermore, the CCU has also authorized GPA to extend these lease terms for 1906 and 1907, allowing them to expire on June 30th, 2024, and the CCU also authorized the corresponding cost for the extension again at about \$2.842 million in total and the CCU indicated that these extensions are necessary because they ensure that there will be sufficient ARF funds and are reasonable and prudent.

ALJ Alcantara concluded that the contract was necessary and that the extension seemed reasonable and prudent inasmuch as the extension provides an uninterrupted supply of fuel to the powerplants; that, as this Commission has consistently found, any disruption to the safe distribution of fuel resources to GPA, could be a potential threat to the public health, welfare, and safety of our island; that the Commission has also stated that GPA has little choice but to utilize the storage tanks of Tristar at this moment; and, that these negotiations resulted in the extension of the same fees that were negotiated back in 2018 and 2021.

Based on this record, ALJ Alcantara recommended that the PUC approve the requested extensions at a total cost of about \$1.66 million for Tank 1906 and about \$1.176 million for Tank 1907, for a total cost of about \$2.842 million for the entire extension of this contract. ALJ Alcantara added, during review of the proposed amendment to the contract, there appears to include an option to extend the contract term beyond June 30th, 2024, on a month-to-month basis for up to two years. ALJ Alcantara provided a proposed order that would require GPA to return to the PUC, if it intended to extend the contract beyond the June 30, 2024 date. GPA representative Tricee Limtiaco reiterated that this extension provides uninterrupted supply of fuel, which is vital to the community. A discussion ensued between GPA representative Tricee Limtiaco and John Kim, Commissioner Pangelinan, Commissioner Montinola, ALJ Alcantara, and Chairperson Johnson regarding a technical issue with the contract.

Commissioner Pangelinan moved to approve the draft order granting the petition, which motion was seconded by Commissioner Montinola, and the motion passed unanimously.

3. Guam Waterworks Authority.

The Chairperson announced that the next item of business on the agenda was Guam Waterworks Authority (“GWA”) Docket 23-03, Petition for Approval of Increase in funding and Scope of Work for the Tai Road/S-13 and Canada-Toto Loop/Blas Street Waterline Replacement project, ALJ Report, and proposed Order. ALJ Horecky stated that GWA counsel Theresa Rojas discovered that the amount GWA was requesting did not exceed the 20% under the contract review protocol; therefore, GWA withdrew said petition. No further questions or discussions followed.

4. Administrative Matters.

The Chairperson announced that the next item of business on the agenda was administrative matters, beginning with GWA Water Loss Control Program Status Report for informational purposes only. ALJ Horecky stated that GWA General Manager Miguel Bordallo will provide a presentation in January explaining the water loss report.

A discussion ensued between the GWA GM Bordallo, Commissioner Flores-Brooks, Commissioner Montinola, and Chairperson Johnson, regarding calculations and measuring metrics. No further questions or discussions followed.

- **Consultant Compensation**

The Chairperson announced that the next item under administrative matters was the Consultant Compensation. ALJ Horecky stated that the last time the hourly rate for

attorney legal services was increased was 2017, which was five years ago. At that time, the hourly rate for on-island legal consultants, to include the Administrative Law Judges Frederick Horecky and Joephet Alcantara, and PUC Legal Counsel Anthony Camacho, was increased from \$175 an hour to \$200.00 an hour. ALJ Horecky expressed that the Commission had seen that rates on utilities contracts and charges for engineering and other services had increased--everything has gone up.

ALJ Horecky stated that he researched what average hourly figures were, and in 2017 ALJ Horecky found that the hourly rate was around \$240.00 per hour. Therefore, the \$200 was actually lower than the average hourly rate at that time. At the present time, it's hard to get an exact figure because lawyers aren't always open and free about what they're charging. Nonetheless, ALJ Horecky stated that \$300.00 an hour is now the standard with some Attorneys charging \$400 or more.

Upon further research, ALJ Horecky stated it seems that the \$300 an hour is pretty comparable to hourly lawyer fees in the U.S.; from \$250 an hour to \$350 an hour. Some data showed an average hourly rate, and that's for all lawyers across the United States, at \$275 an hour.

ALJ Horecky add that the expenses for everything have gone up with costs to keep office operations running; employees, whose salaries are rising; equipment and supplies, etc. The inflation rates have gone up substantially.

ALJ Horecky provided some figures on the consumer price index, which showed 3.2% the first quarter of this year, an increase; 7.6% increase compared to the prior year. And then some average inflation figures of 3.8% in 2021, 1.7 in 2020, and 1.8% in 2019. ALJ Horecky stated a fair rate is \$250 an hour.

ALJ Horecky stated for further consideration that PUC off-island consultants Daymark, had just raised their rates to over \$400 per hour now. One consultant, Concentric Energy Advisers, has been charging at \$370 an hour. ALJ Horecky pointed out that the local consultant rates were considerably less than the off-island rates and that it is important for the Commissioners to consider as next year will be PUC's RFPs, or Request For Proposals, where the Commission will once more go out for all its consultants including the three on-island legal positions. It's always difficult to get people to apply for the position on the Commission, with the main issues being no retirement program, no healthcare, etc. ALJ Horecky suggested that the current rate is not a competitive rate.

Given the difficulties PUC has had in the past with searching for young lawyers that might be interested in doing utilities work, and while it would be great if the PUC could find an in-house counsel because in-house counsel would reduce the cost of the services provided, many young/new lawyers don't consider utilities law when they're deciding what legal areas they want to pursue.

ALJ Horecky concluded that an increase of \$250 an hour is just and warranted. A discussion ensued between Commissioner Flores-Brooks, Chairperson Johnson, Commissioner Pangelinan, Commissioner Montinola, Commissioner McDonald regarding comparison of rates with other local government agencies, rates compared to off-island consultants, compound rates, previous sole reliance on off-island consultants costing the PUC more than what is utilized today with current on-island consultants, and the request for a survey to be conducted on the various legal rates for various local government agencies.

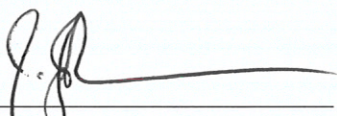
Commissioner Montinola moved to approve the \$250 per hour rate for on-island consultants effective January 1, 2023, which motion was seconded by Commissioner Pangelinan, and the motion passed with five Commissioners in favor and one opposed.

- **FY2022 PUC Annual Report**

The Chairperson announced that the next item under administrative matters was the Fiscal year 2022 PUC Annual Report. ALJ Horecky explained that this annual report, in the form of a letter addressed to the Governor of Guam and Speaker of the current Legislature, was a brief annual report and overview of the most important areas that PUC handled during the fiscal year. The annual reports can also be found on the PUC website and serve as a record of what the Commission has done each year. Commissioners thanked ALJ Horecky for providing this report.

A short and separate discussion ensued between Commissioner Montinola, Chairperson Flores-Brooks, and ALJ Horecky regarding the upcoming GWA presentation on the Water Loss Program.

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 December 19, 2022, Suite 703, GCIC Building, 414 W. Soledad Ave., Hagatna.

The following business will be transacted:

Agenda

- 1. Call to Order**
- 2. Approval of Minutes of November 29, 2022**
- 3. Guam Power Authority**
 - **GPA Docket 23-04, Filing of Approved Contracts and Obligations for FY2022 (for Informational Purposes)**
 - **GPA Docket 23-05, Petition for Approval of Extension of the ULSD Tank Lease Agreement with TriStar, ALJ Report, and Proposed Order**
- 4. Guam Waterworks Authority**
 - **GWA Docket 23-03, Petition for Approval of Increase in Funding and Scope of Work for the Tai Road/S-13 and Canada-Toto Loop/Blas Street Waterline Replacement project, ALJ Report, and Proposed Order**
- 5. Administrative Matters**
 - **GWA Water Loss Control Program Status Report (for Informational purposes)**
 - **Consultant Compensation**
 - **FY2022 PUC Annual Report**
- 6. Adjournment**

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