

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:

The Application of the Guam Power
Authority for the Cancellation of the
Cabras 41MW Reserve Facility and the
Modification of the Energy Conversion
Agreement

GPA Docket 23-07

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 the Cancellation of the Cabras 41MW Reserve Facility and the Modification of the Energy Conversion Agreement (ECA).¹

BACKGROUND

In GPA Docket 21-07, GPA presented a proposed Amendment to the PUC of the Energy Conversion Agreement with Korean Electric Power Company [“KEPCO”] for the construction of the 198MW Power Plant at Ukudu.² PUC approved the Amendment, which authorized GPA to remove from KEPCO’s proposal the construction of a 65MW diesel reserve facility at Ukudu and substitute a 41MW diesel engine reserve facility at Cabras. The main reason for the substitution was to allow for “Minor Source Permitting” for the new power plant and the reserve facility at Cabras rather than “Major Source Permitting.”³ If Major Source Permitting was required, the United States

¹ GPA Petition, GPA Docket 23-07, dated February 10, 2023, at p. 1.

² PUC Order, GPA Docket 21-07, dated February 25, 2021.

³ Id., at ORDERING PROVISIONS, p. 11.

Environmental Protection Agency [“USEPA”] had a concern that construction of the new power plant would be delayed considerably.⁴

PUC also determined that other benefits would be obtained from the construction of the reserve 41MW facility at Cabras, such as allowing GPA to control when the 41MW facility could be operated and the number of hours it could operate annually. The Ukudu 65MW reserve facility would only be operated when GUP decided that such operation was necessary; the Ukudu reserve facility had a limited operating capacity of 500 hours annually; with the change to Minor Source Permitting, the 41MW facility at Cabras would be permitted to run for a minimum of 2,600 hours annually and likely up to a maximum of 5,000 hours.⁵

The contractors for the construction of the Ukudu Power Plant and the 41MW reserve facility at Cabras, Guam Ukudu Power [“GUP”], required that GPA obtain an exemption from the Guam Legislature to allow the construction of the reserve facility within 1,200 feet of a school and legislative approval of a 30-year lease between GPA and GUP for both the Ukudu and Cabras lots.⁶

GPA has presented a rationale as to why it is now necessary to cancel the Cabras 41MW Reserve Facility:

“Guam Power Authority (GPA) contracted with Guam Ukudu Power (GUP) for the construction of the Ukudu Power Plant and associated forty-one (41) MW reserve facility.

The 41MW reserve facility was required to be relocated to the Cabras industrial area to ensure the Ukudu Power Plant could be constructed

⁴ Id., at p. 3.

⁵ Id., at p. 6.

⁶ Guam Consolidated Commission on Utilities, GPA Resolution No. FY2023-07, Relative to Cancellation of the Cabras 41MW Reserve Facility, adopted and approved on January 24, 2023, at p. 1.

using a minor source permit. The GUP lenders required that GUP and GPA obtain legislative approval for an exemption to construct the reserve facility within 1,200 feet of a school, and legislative approval of a 30-year lease for both the Ukudu and Cabras lots.

The GUP contractor Doosan indicated that the 41MW reserve facility contract would need to be finalized prior to March 31, 2022, otherwise costs would increase substantially due to increased labor and material costs.

The 41MW reserve facility contract could not be finalized by March 31, 2022, as PL 36-91 was signed April 11, 2022, and PL 36-104 was signed June 15, 2022, and when GPA approached GUP and Doosan costs had increased substantially rendering the project not economically feasible, which resulted in GPA's decision to cancel the 41MW reserve facility."⁷

DISCUSSION

1. The PUC is required, under the Contract Review Protocol, to approve the Energy Conversion Agreement (ECA) for the Ukudu Plant/Reserve Facility and Amendments thereto.

On October 31, 2019, the PUC approved the Energy Conversion Agreement between GPA and KEPCO for the construction of the 198MW Power Plant.⁸ The Contract Review Protocol requires PUC review of all GPA contract obligations that exceed \$1,500,000.⁹ It is presently anticipated that GPA's total expenses for the Ukudu plant will be \$735M during its first ten years of operation.¹⁰ Thus, review is required under the Contract Review Protocol. In addition, GPA will use bond savings of roughly \$87.2M to fund Ukudu plant expenses during its first ten years of operation. Any use of

⁷ Commissioners' Meeting Packet for CCU Meeting, Issues for Decision on GPA Resolution No. FY2023-07, January 24, 2023, at p. 59

⁸ PUC Order, GPA Docket 19-13, dated October 31, 2019 at pgs. 19-20.

⁹ Contract Review Protocol for Guam Power Authority, Administrative Docket, Par. 1 (e) (dated Feb. 15, 2008).

¹⁰ PUC Order, GPA Docket 22-20, dated September 29, 2022, at p. 5.

bond funds must be reviewed under the Contract Review Protocol.¹¹ GPA has previously brought proposed amendments of the Energy Conversion Agreement to the PUC for review and approval.¹²

2. The Guam Consolidated Commission on Utilities authorized the General Manager of GPA to negotiate with Guam Ukudu Power for the cancellation of the 41MW reserve facility.¹³

KEPCO's Engineering, Procurement and Construction Contractor, Doosan Industries, indicated that the 41MW reserve facility contract would need to be finalized prior to March 31, 2022; otherwise costs would increase substantially due to increased labor and material costs.¹⁴ GUP and Doosan had required that the Guam Legislature authorize the 41MW reserve facility to be constructed within 1,200 feet of a school, and a 30-year lease between GPA and GUP for both the Ukudu and Cabras lots.¹⁵ However, Public Laws 36-91 and 36-104 were not approved until April 11, 2022 and June 15, 2022 respectively.¹⁶ The CCU indicates that, because GUP and Doosan cost estimates increased substantially after the March 31, 2022 deadline, GPA determined that the project was not economically feasible and that the 41MW reserve facility should be cancelled.¹⁷

3. GPA has justified cancellation of the Cabras 41MW Reserve Facility because of the substantial increase in its construction cost.

¹¹ Contract Review Protocol for Guam Power Authority, Administrative Docket, Par. 1 (d) (dated Feb. 15, 2008).

¹² PUC Order, GPA Docket 21-07, dated February 25, 2021 (the Application of the Guam Power Authority to Approve the Amendment to the Energy Conversion Agreement (ECA) with KEPCO for the 198MW Power Plant).

¹³ Guam Consolidated Commission on Utilities, GPA Resolution No. FY2023-07, Relative to Cancellation of the Cabras 41MW Reserve Facility adopted and approved on January 24, 2023, at p. 1.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

GPA determined that the cost increase in the construction of the 41MW reserve facility, after the March 31, 2022 deadline for the finalization of the contract had passed, rendered the project economically unfeasible.¹⁸ Prior to March of 2022, GUP and Doosan had projected that the 41MW project would cost approximately \$57M; however, after the Legislature finally passed Public Laws 36-91 and 36-104 (April 11, 2022, and June 15, 2022 respectively), Doosan indicated that the new price/budgeted cost would be \$97M. Part of the cost increase was attributable to the need for pilings to be constructed beneath the reserve facility.¹⁹ There were increases in both Onshore and Offshore construction costs.²⁰

GPA could reasonably determine that the price increase was too great to justify construction of the 41MW reserve facility. GPA will also save \$2M in variable costs associated with the operation of the 41MW reserve facility and will receive a credit from GUP for the value of the project minus costs incurred by GUP.²¹

4. Cancellation of the 41MW Reserve Facility should not adversely impact GPA's ability to provide sufficient load capacity for the power system.

GPA is now in the position that both the 65MW reserve facility at Ukudu and the proposed 41MW reserve facility at Cabras would be cancelled. GPA will not have the same level of load capacity previously contemplated. However, in April of 2024, the new Ukudu Power Plant will bring an additional 198MW of power into the system. At that time, GPA will still be able to rely upon Piti units 8 & 9, which can provide a total

¹⁸ GPA Petition, GPA Docket 23-07, at p. 1.

¹⁹ Statements of GPA Counsel Graham Botha during a phone conversation with PUC ALJ Fred Horecky on February 16, 2023, and email from Counsel Botha to PUC ALJ Fred Horecky dated February 18, 2023; Letter from Doosan Enerbility to Guam Ukudu Power, LLC., dated May 24, 2022.

²⁰ Id.

²¹ GPA Petition, GPA Docket 23-07, dated February 10, 2023, at p. 1.

of 88MW. GPA had earlier petitioned the PUC to retire the Piti 8 & 9 units.²² However, GPA recently established a docket, GPA Docket 23-11, which would extend the existing Independent Power Producer contract for Piti 8 & 9 for Fiscal Years 2023-2029.²³ The Piti 8 & 9 plants, either as baseload or peaking units, should be able to help assure an adequate power supply.

The Yigo Diesels, formally known as the Aggreko plant, can also provide up to 40MW of power. For that option, funds will need to be spent on an overhaul and refurbishment.²⁴

Finally, GPA intends to add up to 300MW of renewable energy, with energy storage, in its Phase IV Renewable Acquisition.²⁵ The cancellation of the 41MW Cabras reserve facility project does not endanger GPA's ability to provide sufficient load capacity for the system.

RECOMMENDATION AND CONCLUSION

The ALJ concludes that GPA has justified the cancellation of the Cabras 41MW Reserve Facility based upon the substantial increase in cost for such facility. Having reviewed the Petition of GPA and other supporting documents, the ALJ recommends that the PUC approve the cancellation of the Cabras 41MW Reserve Facility and the Modification of the Energy Conversation Agreement (ECA). As to the Modification,

²² GPA Petition Requesting to Retire Piti 8 & 9 Units, GPA Docket 20-16, dated July 10, 2020.

²³ Email from GPA Counsel Graham Botha to PUC ALJ Fred Horecky, PUC Dockets Number Assignment, dated February 7, 2023.

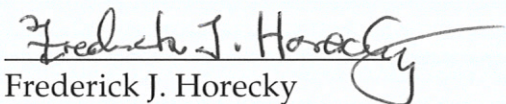
²⁴ Statements of GPA Counsel Graham Botha during a conversation with PUC ALJ Fred Horecky on February 16, 2023.

²⁵ PUC Order, GPA Docket 23-01, dated October 27, 2022, at p. 6.

GPA Counsel Botha indicates that the amendment will simply remove every reference to the 41MW reserve facility from the Energy Conversion Agreement.²⁶

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

Respectfully submitted this 20th day of February, 2023.


Frederick J. Horecky
Chief Administrative Law Judge

²⁶ Phone Conversation between GPA Counsel Graham Botha and PUC ALJ Fred Horecky on February 19, 2023.