

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

**THE APPLICATION OF THE GUAM
POWER AUTHORITY FOR
APPROVING THE PROCUREMENT
FOR THE BULK SUPPLY OF DIESEL
FUEL OIL**

GPA DOCKET 23-12

ORDER



INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the February 28, 2023 Petition for Approval of the Procurement for Bulk Supply of Diesel Fuel Oil (the “Petition”), filed by the Guam Power Authority (“GPA”).

On March 27, 2023, 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

GPA currently maintains and operates several units that use ultra low sulfur diesel (“ULSD”) fuel oil, which include Piti 7, 8, and 9.¹ In addition, once the new Ukudu Power Plant comes online, GPA will need this diesel fuel oil to power up that plant. According to GPA, its contract with Mobil Oil Guam is set to expire on January 31, 2024.

On February 21, 2023, the Guam Consolidated Commission on Utilities (the “CCU”), through CCU Resolution No. 2023-12, authorized GPA to petition the PUC for

¹ Petition, p. 1 (Feb. 28, 2023).

approval to procure a new contract for a bulk supply of ULSD fuel oil; and to issue and Invitation for Bid (“IFB”) to procure a supplier for such fuel oil.²

DISCUSSION

A. 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. Furthermore, GPA’s Contract Review Protocol requires that “[a]ll professional service procurements in excess of \$1,500,000” require “prior PUC approval . . . which shall be obtained before the procurement process is begun.”³

B. Invitation to Bid for the Bulk Supply of ULSD Fuel Oil

In the instant procurement, GPA intends to solicit bids for an “uninterrupted” bulk supply of ULSD fuel oil.⁴ Based on a review of the IFB, the proposed contract includes a provision that allows the contractor to source fuel oil from other vendors in order to guarantee fuel oil supply security.⁵ In addition, the contract also contains a provision that allows GPA to seek an alternative source of fuel oil from another vendor where the contractor is unable to fulfill its obligations. And in such instance, the contractor will be liable to GPA for the difference in the cost of fuel oil.⁶

² Petition, pp. 1-2 and “Exhibit A” (GPA Resolution No. FY2023-12, issued by the Consolidated Commission on Utilities, pp. 1-2 (Feb. 21, 2023) (hereinafter referred to as the “Resolution”).

³ GPA’s Contract Review Protocol (“GPA CRP”), Administrative Docket 00-04, p. 1 (Feb. 15, 2008) (emphasis in original).

⁴ Proposed Contract, p. 6.

⁵ Proposed Contract, p. 19.

⁶ Proposed Contract, p. 22.

Additionally, the contract contains a provision that allows GPA to terminate any such delivery of fuel oil supply, in whole or in part, by simply providing the contractor with a notice of termination one hundred and twenty (120) days prior to any such termination.⁷ Further, the contract will require the first delivery of fuel oil by February 1, 2024.⁸

C. Cost and Term

The term of the contract will be for three (3) years, beginning on February 1, 2024 through January 31, 2027, with options to extend the contract an additional two (2) years. In addition, GPA has estimated that it will need about 1 million to 2 million barrels of ULSD fuel oil for the first year of the contract; about 1.5 million to 2.5 million barrels of fuel oil for the second year of the contract; and about 2 million to 2.7 million barrels of fuel oil for the third year of the contract.⁹

GPA projects the cost of a barrel of ULSD fuel oil at \$113.40, and a contractor's premium of \$4.00 per barrel.¹⁰ Accordingly, on the high end, GPA has estimated that the total cost for three years of this bulk supply of ULSD is about \$845,294,000.00.

D. CCU Resolution No. 2023-12

The Petition is supported by GPA Resolution No. 2023-12 issued by the CCU at its February 21, 2023 meeting (the "Resolution"). In the Resolution, the CCU authorized GPA to petition the PUC for approval to procure a new contract for the bulk supply of

⁷ Proposed Contract, p. 32.

⁸ Proposed Contract, p. 9.

⁹ Proposed Contract, p. 9.

¹⁰ Proposed Contract, p. 12.

diesel fuel oil. The CCU further authorized GPA to issue an Invitation for Bid (“IFB”) to procure a supplier for the bulk supply of ULSD fuel oil.¹¹

CONCLUSION

Based on the documentation provided by GPA, the CCU has authorized GPA to petition the PUC for approval to issue an IFB to procure a contractor for the bulk supply of ULSD fuel oil. Without a doubt, diesel fuel oil is essential to GPA’s operations since it is utilized at various diesel-fired power plants. Without such fuel oil, GPA will be unable to provide the necessary generation capacity, especially during times when certain base load units are down, in order to provide a stable and uninterrupted supply of electricity to meet the island-wide utility power demand.

Indeed, the PUC has consistently determined that GPA requires a continuous supply of diesel fuel necessary to maintain the authority’s electric power generation capacity; and that the procurement of such fuel oil is reasonable, prudent and necessary.¹²

The proposed contract sets forth an initial three-year term, which will begin on February 1, 2024 and end on January 31, 2027. GPA will then have an option to extend the contract for an additional two (2) years, which will be renewable annually. The contract also contains various provisions designed to protect GPA and its ratepayers, which include provisions on warranty and quality assurance, insurance requirements, and a provision on termination for convenience, as mentioned above. Accordingly, the ALJ found that the proposed contract appears to adequately protect the interests of GPA and its ratepayers.

¹¹ Petition, pp. 1-2 and “Exhibit A” (GPA Resolution No. FY2023-12, issued by the Consolidated Commission on Utilities, pp. 1-2 (Feb. 21, 2023)).

¹² See, e.g., Order, GPA Docket 17-18, p. 3 (Sept. 28, 2017).

Moreover, the ALJ found that the procurement of bulk supply of ULSD fuel oil ensures that GPA has a continuous supply of fuel to the power plants necessary to perform its electric power generation at capacity. The ALJ, therefore, found the instant procurement to be reasonable, prudent, and necessary.

RECOMMENDATION

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 Petition. Accordingly, GPA should be authorized to issue an Invitation for Bid related to the procurement of the bulk supply of ULSD fuel oil.

The Commission hereby adopts the findings in the March 27, 2023 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 issue an Invitation for Bid related to the procurement of the bulk supply of ULSD fuel oil.
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.

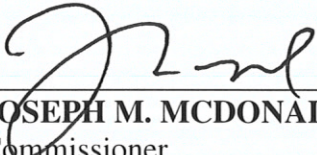
SO ORDERED this 30th day of March, 2023.



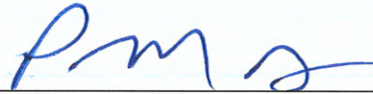
JEFFREY C. JOHNSON
Chairman



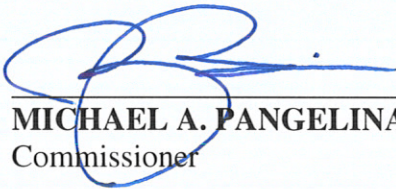
ROWENA E. PEREZ-CAMACHO
Commissioner



JOSEPH M. MCDONALD
Commissioner



PEDRO GUERRERO
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Commissioner

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