

GUAM PUBLIC UTILITIES COMMISSION
REGULAR MEETING
April 27, 2023
GCIC CONFERENCE ROOM, GCIC BUILDING, HAGATNA



MINUTES

The Guam Public Utilities Commission [PUC] conducted a special meeting commencing at 6:30 p.m. on April 27, 2023, pursuant to due and lawful notice. **Commissioners Jeffrey C. Johnson, Peter Montinola, Joseph McDonald, Doris Flores-Brooks, Michael Pangelinan, Rowena Perez-Camacho and Pedro Guerrero** were in attendance. The following matters were considered at the meeting under the agenda included as *Attachment "A"* hereto.

1. Approval of Minutes of March 30, 2023.

The Chairperson announced that the first item of business on the agenda was the approval of the minutes of March 30, 2023. Commissioner Montinola moved to approve the minutes of the March 30, 2023 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 23-08, Petition for Approval of the Revision of the GPA Line Extension Policy, ALJ Report, and Proposed Order. ALJ Horecky stated GPA generally pays for line extensions, but new customers pay if the extension exceeds the free length provided in the statute. Therefore, if GPA is to extend the extension beyond the delivery point, then the new customer has to pay for that.

Currently the statute has a provision which says that, for up to five years, additional customers can use the line, but then they have to contribute to the cost. GPA can keep the amount has been paid in at the end of the period. A refund is made to the original customer that had the line put in. Refunds can be made if the additional customers connect to the line within five years. GPA now seeks to modify this policy from five years to 15 years so that, for a period of 15 years, additional customers could come in and be charged for the line.

The CCU approved this proposal to modify the line extension policy; and the purpose was indicated as to allow additional time for existing and future customers who pay the line extension to be partially refunded if additional customers connect to the line

extension within the 15-year period. The CCU authorized the general manager to obtain legislative approval or PUC approval to change the current line extension policy.

ALJ Horecky noted that most entities of the Government of Guam have to comply with something called the rule-making procedures of the Administrative Adjudication Law. You basically have to go to the Legislature for approval of the rule. If the Legislature does not act within 90 days, the rule is deemed approved. However, fortunately for GPA, in the definition of agency in the Administrative Adjudication Law, GPA is expressly excluded, which means GPA can do this on its own.

ALJ Horecky believed that GPA has justified the proposed revisions for the line extension policy. It lengthens the payback period for additional customers. These revisions seem to be reasonable and prudent. New customers benefit in that they can be partially refunded for the cost of the line extension if additional customers connect to the extension within a 15-year period rather than the current five-year period. These revisions increased the possibility that the new customer will not bear the entire responsibility for the cost of the line extension.

ALJ Horecky noted that there still seems to be a question about the proper procedure. GPA will have to do an actual revision of 28 Guam Administrative Rule 3139, Section 4. GPA is going to have to add an actual revision to show that the provision of five-year periods is changed to 15-year periods. GPA should make sure that whatever procedure is required is followed; whether the revision of the rule needs to be filed with the Guam Legislature or with the Compiler of Laws, it needs to pursue the proper procedure. The rule has to be amended in writing so that members of the public will know that the period has been changed from five to 15 years.

ALJ Horecky concluded that, based upon his review of the matter, the proposed revisions to the extension policy are reasonable and that the PUC should approve the draft order for this petition.

GPA GM John Benavente (GPA Benavente) noted that the cost of poles, which are now concrete, has increased from the cost of wooden poles. GPA Benavente also reiterated that this extension will allow customers to get reimbursed from the new customers that end up utilizing the poles that were purchased.

A discussion ensued between the Chairperson, Commissioners Flores-Brooks, Montinola Pangelinan, and GPA GM Benavente concerning current costs, appreciation for extending this policy, and clarification on credit received from the reimbursements from new customers. Commissioner Pangelinan moved to approve the draft order granting the petition, which motion was seconded by Commissioner Flores-Brooks, and the motion passed unanimously.

- **GPA Docket No. 23-14**

The Chairperson announced that the next item of business on the agenda was Guam Power Authority ("GPA") Docket 23-14, Petition for Contract Review and Approval for GPA's Fuel Bulk Storage Facility, ALJ Report, and Proposed Order. ALJ Horecky stated previously from 2017 to September 30, 2022, IP&E Guam was the contractor for the bulk storage facility, which contract was expiring September 30, 2022. GPA then asked the Commission to allow for a procurement of a new PMC for the storage facility. However, a problem occurred with the bid that went out, thus GPA had to rebid for the PMC. In June of 2022, it issued a rebid.

In the meantime, the PUC had extended the IP&E contract until September 30, 2023. After the rebid was issued, there were two applicants, IP&E Guam and Supreme Group Guam, LLC. Of these two bidders, Supreme Group was the lowest price and was the most responsive and responsible bidder.

The CCU authorized GPA to petition the PUC for awarding the contract to Supreme Group, LLC, which is the petition currently before the PUC for approval. The total contract amount would be \$2,728,321.00 for a three-year base period of the contract, which would start October 1, 2023. The Contract would also allow for two 1-year option periods.

ALJ Horecky's research into this matter showed that GPA's retention of a performance management contractor for the fuel farm bulk storage facility is essential to the continued functioning and operation of the power system. ALJ Horecky illustrated that, when considering GPA, the control center would be the brain, but the bulk storage facility is like the heart. It is where all the fuel comes from and powers the system, and the pipes for which the fuel passes could be looked as akin to veins in the body in which blood goes through. ALJ Horecky highlighted the importance of the bulk storage facility. Over the years, the PUC has approved contractors for the storage facility many times. PUC has always held that this PMC is really essential to the functioning of the island-wide power system, which is reinforced in a number of dockets where the PUC has stated that the PMC contributes to the operation of the Cabras powerplants and is reasonable, prudent, and necessary.

The PMC has full responsibility for the management and operation of the facility, the pipelines to and from the plants, and the Tristar tie-in. The PMC is also responsible for fuel transfer to and from oil tankers and vessels and from the facility to the various GPA powerplants, and to and from the outside GPA leased tanks.

The cost proposed by the Supreme Group, it is definitely reasonable, maybe even less than GPA would've expected. The projected expenditures here for the three-year period are \$873,547 in Year 1, \$895,074.00 in Year 2, and \$959,699.00 for Year 3, which is a total of \$2,728,321.00 inclusive of all costs for management and administration, staffing, office maintenance, utilities, transportation, communications, management fees and administration fees, uniform security contractor, a spill response company membership

fees, insurance, inventory, environmental oil spill equipment, and the operation and maintenance budget, which is also reimbursable.

These costs are in line as to what the PMC's cost over the last years. In 2018 it was \$765,464. In FY 2021, \$799,958. And the anticipated expenditure for FY 2022 was \$917,493. So, seems that Supreme gave it a fair and reasonable price determination.

The PUC approval of the PMC with Supreme Group is reasonable, prudent, and necessary. Supreme Group was selected as the PMC after a competitive bid, and it did offer the lowest price. It's important to note that Supreme's bid was over \$1.7 million dollars less than the bid of IP&E, LLC.

ALJ Horecky stated that the PUC has already reviewed the procurement documents before when the procurement came before the PUC in Docket 22-02. The procurement documents set forth, in detail, the description of the fuel pump facility, the technical requirements for the bid, the duties of the performance management contract contractor and the draft of the proposed contract.

The obligations of the PUC were set forth in detail and the Commission has covered those in previous dockets. The PUC determined in that docket that the form of that contract had been utilized since at least 2012, and that the form of the PMC should be adequate to require proper performance by the contractor and to protect the interest of GPA and the ratepayers.

The PUC noted numerous contract provisions which protected both GPA and the ratepayers including warranty provisions, provisions for remediation of defective work, default, termination for convenience, insurance, and indemnity provisions.

Based on the review of the petition and the associated documents, ALJ recommended that the PUC approve the contract between GPA and Supreme Group LLC for the management, operation, and maintenance of the fuel bulk storage facility, to take effect October 1, 2023. GPA should be further authorized to expend up to the amount of \$2,728,321.00 for the three-year base period. Any additional terms or additional years under the options, GPA would come back to the PUC for approval.

GPA GM John Benavente (GPA Benavente) provided additional details into what is expected from this contract between Supreme Group, LLC and agreed to the ALJ's report.

A short discussion ensued between Commissioner Flores-Brooks and GPA Benavente concerning the Supreme Group's identity. Commissioner Montinola moved to approve the draft order granting the petition which motion was seconded by Commissioner Guerrero, and the motion passed unanimously.

- **GPA Docket No. 23-15**

The Chairperson announced that the next item of business on the agenda was Guam Power Authority ("GPA") Docket 23-15, Petition for Approval to Increase the Amount of Award for GPA's Physical Security Proof of Concept, ALJ Report, and Proposed Order. ALJ Horecky stated GPA was not able to submit the petition for this matter, therefore the matter will be heard at a later meeting.

A short separate discussion ensued between Chairperson, Commissioners Flores-Brooks, Guerrero and Montinola, and GPA GM Benavente and GPA CFO John Kim regarding the LEAC status and the \$500 credit extension, status of the Ukudu power plant, and the pipeline status. GPA Kim stated that, back in March, GPA recovered about \$3 to \$4 million dollars of the under-recovery. However, for April, GPA is expecting the under-recovery to be \$17 million dollars. GPA did ask the CCU to reduce the LEAC from 31 cents to 24.8 cents. Given the decrease in oil prices and the current projection, GPA Kim stated there may be a reduction to the LEAC in the next coming months. GPA Benavente stated the new power plant and pipeline projects are coming along well with no major issues.

CCU Joey Duenas later joined the conversation and briefly noted that GPA has held the pledge made in 2015 to not raise the base rate since requesting for a new power plant and thanked GPA Benavente for his efforts in the project.

3. Administrative Matters.

The Chairperson announced that the next item of business on the agenda was administrative matters beginning with FY2022 Citizen Centric Report. Administrator Lourdes Palomo (Administrator Palomo) stated the CCR was revised and set before the Commissioners for their review. ALJ Horecky recommended approval of the CCR.


A discussion ensued between the Chairperson, Commissioners Montinola, Flores-Brooks, Perez-Camacho, and Administrator Palomo noting the pleasing appearance of the CCR and need to update photos. Commissioner Guerrero moved to approve the FY2022 Citizen Centric Report, which motion was seconded by Commissioner Flores-Brooks, and the motion passed unanimously.

- **Review of Financial Statements as of March 31, 2023**

The Chairperson announced that the next item of business on the agenda was the Review of Financial Statements as of March 31, 2023. Commissioner Flores-Brooks reported no major issues with PUC's finances.

A discussion ensued between the Chairperson, Commissioners Flores-Brooks, Perez-Camacho, Montinola, McDonald, Guerrero, ALJ Horecky and Administrator Palomo concerning current PUC accounts and assets, and current and future plans for TCDs.

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 regular business meeting, commencing at 6:30 p.m. on April 27, 2023, 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 March 30, 2023**
- 3. Guam Power Authority**
 - **GPA Docket 23-08, Petition for Approval of the Revision of the GPA Line Extension Policy, ALJ Report, and Proposed Order**
 - **GPA Docket 23-14, Petition for Contract Review and Approval for GPA's Fuel Bulk Storage Facility, ALJ Report, and Proposed Order**
 - **GPA Docket 23-15, Petition for Approval to Increase the Amount of Award for GPA's Physical Security Proof of Concept, ALJ Report, and Proposed Order**
- 4. Administrative Matters**
 - **FY 2022 Citizen Centric Report**
 - **Review of Financial Statements as of March 31, 2023**
- 5. 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



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:) GPA Docket 23-08
)
The Application of the Guam Power)
Authority Requesting Approval of the) **ORDER**
Revision of the GPA Line Extension Policy)
_____)

INTRODUCTION

This matter comes before the Guam Public Utilities Commission [“PUC”] pursuant to the Petition of the Guam Power Authority [“GPA”] for PUC Approval of the Revision of the GPA Line Extension Policy.¹

BACKGROUND

The current GPA line extension policy is set forth at 28 GAR §§ 3136-3139. A true and correct copy of the policy is attached to the ALJ Report as Exhibit “1”. In general, line extensions to supply electric service applicants are normally constructed, owned, operated and maintained by the Authority at its expense up to a certain length; however, for line extensions of greater length than the free extension allowance, new applicants are required to make an advance payment to the Authority of the estimated installed cost of such line extension in excess of the free length.² Private or government owned electric lines beyond the point where the service is delivered must be constructed and maintained without expense to Authority.³

¹ GPA Petition, GPA Docket 23-08, dated February 13, 2023, at p. 1.

² Id., at §3136 (a) and (b)(1).

³ Id.

Refunds may be made to the new customer if additional customers connect to the line.⁴ A new customer for a line extension may be partially refunded if additional customers connect within five (5) years from the date the extension is ready for service.⁵ GPA seeks to revise 28 GAR §3139(b)(4) by changing the time period during which existing and future customers who pay for a line extension could be partially refunded, if additional customers connect to the line, from five to fifteen years⁶

The Guam Consolidated Commission on Utilities [“CCU”] considered GPA’s proposal to modify the line extension policy, the purpose of which was “to allow additional time for existing and future customers who pay for line extension to be partially refunded if additional customers connect to the line extension within that period.”⁷ The CCU approved the policy revision proposed by GPA and authorized the General Manager of GPA “**to obtain legislative approval or PUC approval** to change the current GPA line extension policy set forth in the 28 GAR.”⁸ (emphasis added).

The Administrative Law Judge [“ALJ”] filed his Report herein dated April 18, 2023.⁹ The PUC adopts the conclusions and recommendations in the Report.

DETERMINATIONS

1. GPA has broad authority to amend its Rules; the Rule Making Procedures of the Administrative Adjudication Law are not applicable to GPA.

⁴ 28 GAR §3139(b)(3).

⁵ 28 GAR §3139(b)(4).

⁶ GPA Petition, GPA Docket 23-08, at p. 1.

⁷ Guam Consolidated Commission on Utilities, GPA Resolution No. FY2023-08, Relative to Revision of the GPA Line Extension Policy, adopted and approved on January 24, 2023.

⁸ Id., at p. 1.

⁹ ALJ Report, GPA Docket 23-08, dated April 17, 2023.

In this matter GPA proposes to amend its rules governing the line extension policy. In general, GPA has broad authority to “Adopt such rules and regulations as may be necessary for the exercise of the powers and performance of the duties conferred or imposed upon the Authority for the Board by this Article...”¹⁰ Ordinarily, agencies of the government must comply with certain “Rule-Making Procedures” under the Administrative Adjudication Law, 5 GCA §9300 et. seq. Under such law, there are many procedural requirements, including a hearing, approval or “default approval” by the Guam Legislature, and approvals by the Governor and the Attorney General of Guam. These procedural requirements are not applicable to GPA.

GPA is specifically exempted from the requirements of the Administrative Adjudication Law. In 5 GCA §9102, the definition of “Agency” states: “...Agency does not include any entity in the legislative and judicial branches and **for the purposes of establishing charges of utility services, it does not include the Guam Power Authority** or the Guam Waterworks Authority.”¹¹ (emphasis added).

2. GPA has justified its proposed revisions to the Line Extension Policy.

The proposed revisions to the line extension policy are reasonable and prudent. New customers will benefit in that they can be partially refunded the cost of the line extension if additional customers connect to the line extension within a fifteen-year period, rather than the currently existing five-year period. These revisions increase the possibility that the new customer will not bear the entire responsibility for the cost of

¹⁰ 12 GCA §8104(j).

¹¹ 5 GCA §9102.

the line extension. This proposed revision will potentially enable existing and future customers who pay for a line extension to be partially refunded if additional customers connect to the line extension within a fifteen-year period.

3. Revision of the Five-Year Period to a Fifteen-Year period will delay the ability of GPA to retain the unrefunded amount of the cost of the Line Extension.

Under the current policy, "...any unrefunded amount remaining at the end of the five-year period will become the property of the Authority."¹² However, delaying GPA's ability to retain the unrefunded amount to a period of fifteen-years should not adversely affect GPA's finances. The attachment to GPA Resolution No. FY2023-08, LINE EXTENSIONS--CY2016-2022, indicates that between 2016 and 2022, there were only 14 Line Extension Requests which would impact the policy. The total cost for such extensions is approximately \$325,000.00.¹³

4. GPA should ascertain the proper procedure for filing its proposed revisions to 28 GAR §3139(4) so that such revisions will be properly stated in the Guam Administrative Rules and Regulations.

There are a few remaining issues that GPA will need to address: (1) a revised version of 28 GAR §3139(4) must be prepared, changing the 5 year provisions to 15-years; and (2) GPA will need to determine the appropriate path for amending §3139(b)(4). In its Petition, the CCU authorized the General Manager of GPA "to obtain legislative approval or PUC approval." GPA has elected to seek PUC approval. However, GPA must determine which entities to file its amended rule with, be that the Legislature or the Compiler of Laws. GPA should determine the appropriate procedure for amending

¹² 28 GAR §3139(b)(3).

¹³ Attachment to GPA Resolution No. FY2023-08.

its Rule. The revised version of 28 GAR §3139(4) must be properly indicated in the Guam Administrative Rules and Regulations so that the public has notice of the revisions.


ORDERING PROVISIONS

After review of the record herein, including GPA's Petition for PUC Approval of the Revision of the GPA Line Extension Policy and the ALJ Report, for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY ORDERS** that:

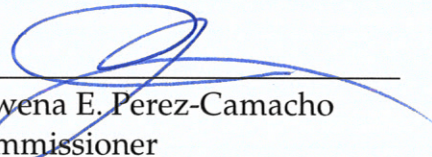
1. The revisions in GPA's Petition to its line extension policy are approved.
2. Within sixty (60) days of the date of this Order, GPA shall file with the PUC its amended version of the Line Extension Policy and a brief report indicating what entities it will file the rule with and the procedure for making the rule final.
3. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

Order
Request for Approval of
the Revision of the GPA
Line Extension Policy
GPA Docket 23-08
April 27, 2023

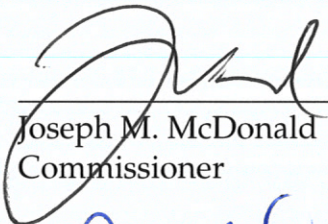
Dated this 27th day of April 2023.



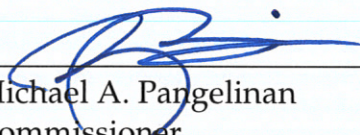
Jeffrey C. Johnson
Chairman



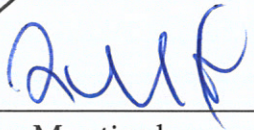
Rowena E. Perez-Camacho
Commissioner



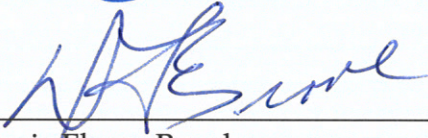
Joseph M. McDonald
Commissioner



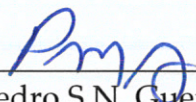
Michael A. Pangelinan
Commissioner



Peter Montinola
Commissioner



Doris Flores Brooks
Commissioner



Pedro S.N. Guerrero
Commissioner

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:) GPA Docket 23-14
)
The Application of the Guam Power)
Authority ("GPA") for Reviewing and) **ORDER**
Approving the Contract for GPA's Fuel)
Bulk Storage Facility)
)
)
)



INTRODUCTION

This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Petition of the Guam Power Authority ["GPA"] for Review and Approval of the Contract for GPA's Fuel Bulk Storage Facility.¹

BACKGROUND

On August 31, 2017, the PUC approved GPA's award of the Performance Management Contract to IP&E Guam LLC for the management, operation and maintenance of the GPA Fuel Farm Bulk Storage Facility.² That Contract was in effect from 2017 through September 30, 2022.³ In GPA Docket 22-02, the PUC approved GPA's Request for Approval of the Procurement of a Performance Management Contract for the GPA Fuel Farm Bulk Storage Facility.⁴

¹ GPA Petition for Reviewing and Approving the Contract for GPA's Fuel Bulk Storage Facility, dated April 20, 2023.

² PUC Order, GPA Docket 17-04, dated August 31, 2017, at p. 3.

³ PUC Order, GPA Docket 22-18, dated September 29, 2022, at p. 2.

⁴ GPA Petition for Approval of the Procurement of a Performance Management Contract (PMC) for the Management, Operation and Maintenance of the GPA Fuel Farm Bulk Storage Facility, GPA Docket 22-02, filed November 8, 2021.

GPA issued a Multi-Step Invitation for Bid under IFB GPA-015-22 for the Management, Operation and Maintenance of the Fuel Bulk Storage Facility; however, the IFB was cancelled in May 2022 due to non-compliance by all proponents with a requested affidavit submittal document.⁵ On June 2, 2022, GPA issued a Re-Bid for Multi-Step IFB GPA 015-22. Due to the delay in the bid, the PUC approved a 1-year extension of the contract between GPA and IP&E Guam for the management, operation and maintenance of the GPA Fuel Farm Bulk Storage Facility, from October 1, 2022 to September 30, 2023.⁶ The contract extension will expire on September 30, 2023.

Following the Re-Bid procurement technical phase, GPA received price proposals from two bidders: IP&E Guam LLC and Supreme Group Guam LLC. Of the two bidders, Supreme Group Guam LLC ["Supreme"] offered the lowest price, and was the most responsive and responsible bidder.⁷ On April 3, 2023, the Guam Consolidated Commission on Utilities approved GPA Resolution FY2023-14, which authorized GPA to petition the PUC for approval of a contract with Supreme Group Guam LLC.⁸

GPA now petitions the PUC to approve GPA's contract with Supreme Group Guam LLC for the management, operation and maintenance of GPA's Fuel Bulk Storage Facility for a total contract amount of Two Million Seven Hundred Twenty-Eight

⁵ Guam Consolidated Commission on Utilities, GPA Resolution No. FY2022-26, Authorizing the Management of the Guam Power Authority to Petition the Public Utilities Commission for the Extension of the Existing Contract for the Management, Operation and Maintenance of the Guam Power Authority's Fuel Bulk Storage Facility with Isla Petroleum & Energy, LLC (IP&E), adopted and approved on July 26, 2022, at p. 1.

⁶ PUC Order, GPA Docket 22-18, dated September 29, 2022, at p. 7 (Ordering Provision No. 1).

⁷ GPA Petition at p. 2.

⁸ Guam Consolidated Commission on Utilities, GPA Resolution No. FY2023-14, Authorizing the Guam Power Authority to Petition the PUC for Approval to Enter into Contract for the Management, Operation and Maintenance of the Guam Power Authority's Fuel Bulk Storage Facility, adopted and approved on April 3, 2023.

Thousand Three Hundred Twenty-One dollars (\$2,728,321.00). The contract would be for a 3-year base period beginning October 1, 2023 with two 1-year option periods.⁹

The Administrative Law Judge ["ALJ"] filed his Report herein dated April 24, 2023.¹⁰

DETERMINATIONS

A. Contract Review

PUC must review any GPA contract or obligation which exceeds \$1,500,000. For multi-year contracts, whether the contract exceeds the \$1,500,000 threshold for PUC review is determined by the total estimated cost for the entire term(s) of the contract.¹¹ The total cost for the three-year term of this contract, from October 1, 2023, through September 30, 2026 term, will be \$2,728,321.00.¹² The PUC must review and approve the requested GPA's Fuel Bulk Storage Facility Contract.¹³

B. GPA's Retention of a Performance Management Contractor for the Fuel Farm Bulk Storage Facility is essential to the continued functioning and operation of the power system.

Over the years, the PUC has repeatedly determined that the management, operation and maintenance services which the PMC contractor performs for GPA regarding the Fuel Farm Bulk Storage Facility are essential to the functioning of the plants in the

⁹ GPA Petition at p. 2.

¹⁰ ALJ Report, GPA Docket 23-14, dated April 24, 2023.

¹¹ Contract Review Protocol for Guam Power Authority, Administrative Docket, §§1.e and 4.b.

¹² Exhibit A to Guam Consolidated Commission on Utilities GPA Resolution No. FY2023-14.

¹³ Contract Review Protocol for Guam Power Authority, Administrative Docket, §§1.e and 4.b.

island wide power system.¹⁴ In its initial consideration of a Performance Management Contractor for the GPA Fuel Bulk Storage Facility in 2010, the PUC held:

"...given the success that GPA has experienced with the Performance Management Contracts for the power plants, it is reasonable to believe that GPA may be able to successfully utilize the PMC model with regard to operation and maintenance of its Fuel Farm Bulk Storage Facility."¹⁵ The Fuel Farm PMC contributes to the efficient operation of the Cabras Power Plants and is "reasonable, prudent, and necessary."¹⁶ Retention of a Performance Management Contractor for the Fuel Farm "is responsible, prudent and necessary."¹⁷

It is not always fully recognized how vital the Fuel Farm Bulk Storage Facility is to the operation of the Island Wide Power System. The PMC has full responsibility for the management and operation of the facility, the pipelines to and from the plants, and the Tristar tie-in. The PMC is responsible for the fuel transfer to and from oil tankers/vessels, from the Facility to the various GPA Power Plants, and to and from off-site GPA-leased tanks.¹⁸ The PMC ensures that the products in GPA's tanks meet Fuel specifications required by GPA. The PMC also has many other duties and functions, including maintenance and repair activities.¹⁹ If there were no performance manager to operate the facility, the IWPS could not function.

C. The 3-year cost of the Contract with Supreme Group Guam LLC is reasonable.

¹⁴ PUC Order, GPA Docket 10-08, dated April 30, 2015, at p. 2 ["The Management, Operation, and Maintenance services which Vital Energy Inc. performs for GPA with regard to the Fuel Farm Bulk Storage Facility are **essential to the efficient operation of the Cabras Power Plants.**"] (Emphasis added).

¹⁵ PUC Order, GPA Docket 10-08, dated November 29, 2010, at p. 2.

¹⁶ Id.

¹⁷ PUC Order, GPA Docket 17-04, dated August 31, 2017, at p. 2.

¹⁸ ALJ Report, GPA Docket 22-02, dated December 2, 2021, at Exhibit 1.

¹⁹ Id.

The projected expenditures for the three-year base period are \$873,547 in year 1, \$895,074 in year 2, and \$959,699 for year 3, a total of \$2,728,321.00. Costs included are management and administration [staffing, office maintenance, utilities, transportation, communications, management fees and administration fees], Uniform Security Contractor, Spill Response Company Membership Fees, Insurance, Inventory-Environmental/Oil Spill Equipment etc., and Operation and Maintenance Budget (reimbursable).²⁰

The actual annual expenditures over the last 5 years for the PMC have increased considerably, from \$765,464 in FY2018 to \$799,958 in FY2021. The anticipated expenditure for FY2022 was \$917,493.00.²¹ The 3-year base period prices proposed by Supreme Group Guam LLC are clearly in line with the actual expenditures for the Fuel Farm Bulk Storage Facility PMC in recent years. The pricing is appropriate.

D. PUC approval of the Performance Management Contract with Supreme Group Guam LLC for the management, operation and maintenance of GPA's Fuel Bulk Storage Facility is reasonable, prudent and necessary.

Supreme Group Guam LLC was selected as the Performance Management Contractor for the GPA Fuel Bulk Storage Facility after a competitive bid in which Supreme offered the lowest price, and was determined to be the most responsive and responsible bidder. Review of Exhibit A to GPA Resolution No. FY2023-14 indicates that Supreme's bid was over \$1.7M less than the bid of IP&E LLC.²²

²⁰ Exhibit A to Guam Consolidated Commission on Utilities GPA Resolution No. FY2023-14.

²¹ PUC Order, GPA Docket 22-02, dated December 2, 2021, at p. 4.

²² GPA Resolution NO. FY2023-14, Exhibit A attached thereto.

The PUC has previously reviewed the bid documents and the Performance Management Contract for Supreme Group LLC in GPA Docket 22-02. The PUC found that "the procurement documents set forth, in detail, a description of the Fuel Farm Facility, the technical requirements for the bid, the duties of the Performance Management Contractor, and a draft of the proposed contract."²³ The extensive obligations of the PMC were also set forth in the performance management contract.²⁴

The PUC further determined that the form of the contract for the PMC for the Fuel Bulk Storage Facility had been utilized since at least 2012, and that the form of the proposed Performance Management Contract should be "adequate to require proper performance by the Contractor, and to protect the interests of GPA and the ratepayers."²⁵ The PUC noted numerous contract provisions which protected such interests, including warranty, remediation of defective work, default, termination for convenience, insurance and indemnity provisions.²⁶

ORDERING PROVISIONS

After review of the record herein, including GPA's Petition for PUC Review and Approval of the Contract for GPA's Fuel Bulk Storage Facility and the ALJ Report, for good cause shown, on motion duly made, seconded and carried by the undersigned Commissioners, the Guam Public Utilities Commission **HEREBY ORDERS** that:

²³ PUC Order, GPA Docket 22-02, dated December 2, 2021, at p. 3.

²⁴ Id.

²⁵ Id., at pgs. 3-4.

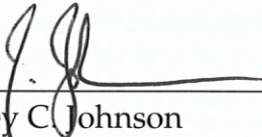
²⁶ Id., at p. 4.

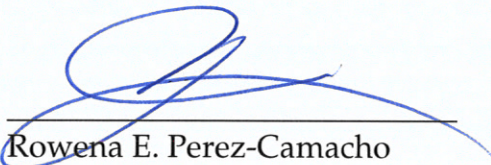
1. The 3-year base period contract between GPA and Supreme Group Guam LLC for the management, operation and maintenance of GPA's Fuel Bulk Storage Facility, to take effect October 1, 2023, is approved.
2. GPA is authorized to expend up to the amount of \$2,728,321.00 for the 3-year base period of the contract with Supreme Group Guam LLC.
3. GPA is ordered to pay the Commission's regulatory fees and expenses, including, without limitation, consulting and counsel fees and the fees and expenses of conducting the hearing proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

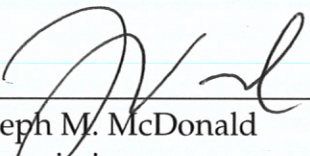
[SIGNATURES TO FOLLOW ON NEXT PAGE]

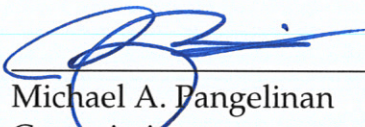
Order
Contract for GPA's Fuel Bulk Storage Facility
GPA Docket 23-14
April 27, 2023

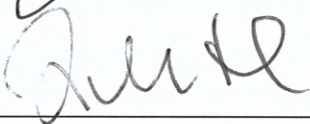
Dated this 27th day of April 2023.

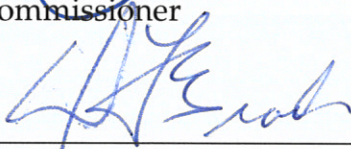


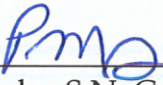
Jeffrey C. Johnson
Chairman

Rowena E. Perez-Camacho
Commissioner

Joseph M. McDonald
Commissioner

Michael A. Pangelinan
Commissioner

Peter Montinola
Commissioner

Doris Flores Brooks
Commissioner

Pedro S.N. Guerrero
Commissioner