

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:) GPA Docket 23-21
)
GUAM POWER AUTHORITY BUCKET)
TRUCKS) **ALJ REPORT**
)
)
_____)



INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission ["PUC"] upon the Petition of the Guam Power Authority ["GPA"] for Approval to Purchase Ten (10) Bucket Trucks (six 55-foot and four 65-foot reach trucks) for up to \$5,000,000.00, to Support daily T & D Functions and Future Typhoon/Storm Recovery Operations.¹
2. GPA requests that the PUC approve GPA's purchase of ten bucket trucks for up to \$5M, and then authorize GPA to issue a procurement for the trucks.²

BACKGROUND

3. GPA makes this request for the purchase of additional bucket trucks after its response experience during the post-typhoon Mawar restoration and recovery.
4. GPA claims that the recovery after typhoon Mawar was the "fastest ever" in history, but still contends that it still needs additional bucket trucks to shorten the period for future typhoon restoration and recovery.³

¹ GPA Petition for PUC Approval of the Purchase of Ten Bucket Trucks, GPA Docket 23-21, filed August 18, 2023.

² Id. at p.3.

³ Id. at p.1.

5. At present, GPA has 27 bucket trucks of varying reach, from 35ft. to 120 ft.⁴ Of these bucket trucks, 7 are presently “down”.⁵ GPA has not indicated whether the “down” bucket trucks can be repaired.
6. 16 of the 27 bucket trucks were purchased from 2016 to the present.⁶ During the typhoon Mawar restoration, GPA indicates that it “used 20-30 bucket trucks throughout the recent restoration efforts which included the 9 to 12 additional bucket trucks provided on loan by FEMA and the Navy.”⁷
7. GPA admits that it received substantial support and several bucket trucks provided to it by outside entities during the typhoon recovery. It received support through the local Navy for 100’ and 115’ reach bucket trucks. Navy and its contractor DZSP provided five 55’ reach bucket trucks. GPA also received 5 of 8 bucket trucks requested from FEMA.⁸
8. GPA already has, or will shortly have, two new bucket trucks which are not included in the ten bucket trucks which it now seeks to purchase. By Purchase Order 31399, dated December 19, 2022, and signed by the GPA General Manager on March 16, 2023, GPA already ordered two 45’ bucket trucks from Morrico Equipment LLC. Delivery was expected by July 2023.⁹

⁴ GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No. 1.

⁵ Id.

⁶ Id.

⁷ GPA Petition at p. 2.

⁸ GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No.4.

⁹ Id. at No. 3, Attachment 2.

9. GPA claims that it now requires “6 additional 55-foot reach and four additional 65-foot reach bucket trucks.”¹⁰
10. GPA believes that these “10 trucks will improve equipment availability due to maintenance and unavoidable equipment down time and will be readily available to support imminent and future post storm and disaster recovery.”¹¹
11. GPA provides two basic justifications for the purchase of additional bucket trucks: (1) the availability of additional bucket trucks will further reduce restoration times, reduce GPA’s revenue loss, commercial business disruption, and customer suffering and frustration;¹² and (2) the purchase of additional bucket trucks will enable Guam to better address restoration during future typhoons. On June 29, 2023, the NOAA National Weather Service issued NOAA’s Western North Pacific Tropical Cyclone (TC) Outlook for the remainder of 2023, indicating that “Guam will likely see above-normal tropical cyclone activity based on the shift of El Nino from their prediction studies.”¹³
12. The ALJ recommends that the Commissioners review the GPA Responses to the PUC Requests for Information (which are set forth in part in the Commissioners’ packets for the meeting) to obtain a better understanding of the current situation regarding GPA’s request for additional bucket trucks.

¹⁰ GPA Petition at p. 2.

¹¹ GPA Petition at p. 2.

¹² GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No. 6.

¹³ Id. at No. 10, Attachment 7.

13. In GPA Resolution No. FY2023-23, the Guam Consolidated Commission on Utilities authorized GPA General Manager to petition the PUC for approval to procure 10 bucket trucks “estimated **up to \$5M...**”.¹⁴

ANALYSIS

GPA’S REQUEST FOR APPROVAL OF THE PURCHASE OF TEN BUCKET TRUCKS AND THE ISSUANCE OF A PROCUREMENT IS PREMATURE UNTIL GPA FIRST DETERMINES WHETHER IT WILL PURCHASE THE FIVE FEMA BUCKET TRUCKS.

14. In its Petition, GPA has proposed two different, and procedurally divergent, options for the purchase of bucket trucks. The first is a purchase of the 5 bucket trucks which FEMA loaned to GPA during the typhoon recovery: “GPA is presently discussing with FEMA the purchase option for the 5 bucket trucks that were provided during the typhoon restoration. This is an option for acquisition.”¹⁵

15. In accordance with 48 U.S. Code §1469e-Insular government purchases, and 5 GCA §5122, GPA may be able to make the bucket truck purchases from FEMA through the federal General Services Administration. Supplies may be procured from the United States when the cost to the GSA is less by ten percent (10%) than from other contractors.¹⁶

¹⁴ GPA Petition at Exhibit B-01-B-03, GPA Resolution No. FY2023-23, Relative to the Approval to Purchase Bucket Trucks.

¹⁵ GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No. 1.

¹⁶ 5 GCA §5122

16. As a second option, remaining bucket trucks not purchased through FEMA could be solicited through an Invitation for Bid which would be open to local vendors.¹⁷
17. GPA has referenced the possibility that it would purchase 5 bucket trucks from FEMA, which were used in the Mawar restoration, at a cost of \$395,400.00 each: “GPA requested FEMA for a purchase option of bucket trucks as they are still in good condition and are readily available.”¹⁸
18. Attachment 4 indicates that the Federal Contracts Corp. has already given GPA a price quote for 5 bucket trucks at a price of \$395,400.00 each. These trucks are on island and would require no delivery time.¹⁹
19. GPA is presently unclear as to whether it will be able to purchase these FEMA bucket trucks: “Trucks are presently on island **pending decision on purchase.**”²⁰
20. GPA should first determine whether it plans to purchase the bucket trucks from FEMA before it requests PUC to authorize a procurement for 10 additional trucks at an “up to”\$5M cost. If it purchases 5 bucket trucks from FEMA, GPA will not need to procure ten additional trucks through a procurement. Also, the cost for the FEMA bucket trucks will not be \$500,000 each, or up to a \$5M total. For 5 trucks, the cost will be \$395,400.00 each. PUC should not authorize a procurement of ten bucket trucks or \$5M in expenditure, when the number of trucks needed and the cost will potentially be reduced by a purchase of the FEMA trucks.

¹⁷ Id.

¹⁸ GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No. 3., Attachment 4.

¹⁹ Id.

²⁰ Id.

21. If GPA reaches an agreement to purchase the 5 bucket trucks from FEMA, it can then request PUC approval for the purchase of those trucks and further request that PUC approve a procurement if GPA believes that additional bucket trucks are still needed. GPA's request for approval would then properly "limit the purchase of bucket trucks based on quantity or cost."²¹

22. PUC should not approve a procurement for bucket trucks until GPA determines how many trucks it will need to procure. It should not approve a cost for the trucks until the cost is vetted through offerors in a procurement process. GPA's requested relief is premature; the PUC should defer consideration of this matter until GPA decides whether it will purchase the FEMA bucket trucks.

**IT WOULD BE INCONSISTENT WITH THE GPA CONTRACT REVIEW
PROTOCOL FOR PUC TO APPROVE A CONTRACT PRICE FOR BUCKET
TRUCKS UNTIL THERE HAS FIRST BEEN A PROCUREMENT AWARD AND
A REQUEST THAT THE PUC APPROVE THE AWARD/PRICE.**

23. GPA is asking the PUC to approve in advance an expenditure of \$5M, at \$500,000 per bucket truck, before any procurement has even been undertaken.

24. Ordinarily, under the Contract Review Protocol, the PUC would not give final approval of the purchase of a specific number of goods or the price until GPA has undertaken a procurement. Once the procurement is issued, GPA will receive competitive prices from offerors. The normal process has been that GPA will initially seek approval from the PUC to issue a procurement for goods or services. It

²¹ GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No. 12.

is appropriate for GPA to submit price estimates for the goods when it requests authorization to issue a procurement from the PUC.²² However, the PUC does not issue approval for a specific price until the procurement is completed.

25. After a procurement is completed, GPA would then come back to the PUC for approval of an award for the number of trucks requested and the specific price of the contract/award. The Contract Review Protocol requires PUC approval, after a procurement, of any contract or obligation that requires approval under paragraph 1 of the Review Protocol.²³

26. Here GPA is requesting PUC approval of a price for as much as \$5,000,000 before there has been a bid or offer by a company as to the number of bucket trucks to be purchased or the price.

27. The PUC should not give advance approval of a price for the bucket trucks. At present the prices estimated for the bucket trucks vary widely. During the post-Mawar recovery, a 2022 Terex TC 55 Bucket Truck, with working height of 60ft., was quoted by a local company at \$337,440.00²⁴ GPA also indicates that it has received a recent quote from FEMA for 5 bucket trucks that were used by GPA during the restoration at \$395,400.00 each.²⁵ As previously was mentioned, GPA has either received, or should soon receive, two 45ft. reach bucket trucks at a cost of \$487,499 each.²⁶

²² Contract Review Protocol for Guam Power Authority, Administrative Docket, approved February 15, 2008, at par.7(iv).

²³ Id. at par. 8.

²⁴ GPA Petition at Exhibit A-01-A-14.

²⁵ GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No. 3.

²⁶ Id.

28. The purpose of a procurement is to establish a reasonable price for requested goods based upon the lowest price of the most responsive and responsible bidder. PUC should not approve a price for the bucket trucks until GPA makes an award.

**AT THE PRESENT TIME THERE ARE UNRESOLVED ISSUES AS TO
WHETHER GPA HAS JUSTIFIED THE PURCHASE OF ADDITIONAL BUCKET
TRUCKS.**

29. GPA admits that it was “able to perform restoration work with resources on hand.”²⁷ GPA’s presentation does not establish that it had an insufficient number of bucket trucks for the recovery.

30. Part of GPA’s justification for additional bucket trucks is based upon the opinion of NOAA that there will be “above-normal tropical cyclone (TC) activity for the remainder of 2023” for Guam.²⁸ However, even if GPA issues a procurement now, there is no likelihood that there will be additional bucket trucks available before the end of 2023. For its Bucket Truck Order 31399-OP, GPA indicates that delivery was expected “**27 months after order.**”²⁹ Elsewhere, GPA indicates that past purchases of bucket trucks indicate a delivery time requiring “**over 12 months.**”³⁰

31. After PUC issued its Request for Information, GPA prepared a “simple” cost-benefit analysis based upon an average availability of 25 trucks. GPA claims that if it had

²⁷ GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No.6.

²⁸ GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No.10, Attachment 7.

²⁹ GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No.3, Attachment 2.

³⁰ GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No.12.

an additional 10 trucks, the restoration period would have been reduced from 50 days to 30 days (a reduction of the recovery period by 20 days, at a 2-day reduction in the recovery period for each of the ten additional bucket trucks).³¹

32. There is no logical nexus or correlation between the number of bucket trucks available and the period that the recovery takes. There could be a myriad of other factors affecting the period of recovery, including the varying need for utilization of bucket trucks in a particular storm, how many truck operators are available, the character, location, and accessibility of damaged lines, damage to parts of the power system other than lines, such as generation plants, substations, or transformers, the area(s) of the island most affected by a typhoon, and inability to clear lines of vegetation, etc.

33. Without more empirical evidence, the hypothesis that more bucket trucks will automatically shorten recovery time, or by a two-day period per additional truck, is not proven and should not be accepted.

34. In the cost-benefit analysis, GPA also claims that purchase of 10 additional bucket trucks would produce a benefit worth three times the cost.³² However, for “avoided cost”, GPA has estimated a “value of service”, which is a very subjective estimate of the worth to customers for avoiding outages. For its proof of a cost-benefit, GPA relies upon a study, “FEMA Technical Feasibility, Cost and Benefits of Underground Conversion of Selected Transmission & Distribution Lines-Guam” (ICF Consulting,

³¹ GPA Responses to PUC Request for Information, GPA Docket 23-21, dated August 25, 2023, at No. 8, Attachment 5.

³² Id. at Attachment 5.

dated August 14, 2003.”³³ It should be noted that the study is somewhat outdated, but also that the true subject of the study’s inquiry is the costs and benefits of the underground conversion of transmission and distribution lines, not the cost-benefit of the purchase of additional bucket trucks.

35. Most of the “avoided cost” assumed by GPA is for outages resulting from a typhoon. However, the study itself indicates: “the Utilities universally found that the longer the outage, the lower the VOS. This makes sense, since customers find ways to adapt to the lack of electricity over time, and many of the damages (e.g., spoiled food, lost productions lines) would happen in the first few hours or day, and not continue to grow on a linear basis. In our study we have reflected this by distinguishing between an outage from a typhoon lasting up to two weeks, and one lasting two weeks or more.” The actual daily revenue loss that would be recovered by the purchase of new bucket trucks is far less than the cost of the bucket trucks.³⁴

RECOMMENDATION

36. The Administrative Law Judge recommends that the PUC defer a ruling on GPA’s petition.

37. GPA should first determine whether it plans to purchase the 5 FEMA bucket trucks. If it intends to purchase the FEMA bucket trucks, it can further apply to the PUC for approval of such purchase and, if necessary and justified, request a procurement for additional bucket trucks.

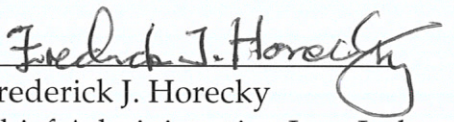
³³ Id. at Attachment 5A (FEMA Technical Feasibility, Cost and Benefits of Underground Conversion of Selected Transmission & Distribution Lines-Guam” (ICF Consulting, dated August 14, 2003, at Appendix 1, Value of Electric Service (VOS).

³⁴ Id. at p. 96.

38. If GPA cannot purchase the FEMA bucket trucks, it can also then again request that the PUC approve GPA's issuance of a procurement.

39. A Proposed Order is submitted herewith for the consideration of the Commissioners.

Dated this 27th day of August, 2023.


Frederick J. Horecky
Chief Administrative Law Judge