

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF: ) GPA Docket 23-17  
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LIQUIFIED NATURAL GAS (LNG) ) ALJ REPORT  
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**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 GPA’s Updated Phase 1 Liquified Natural Gas Pre-Development Study.<sup>1</sup> The study would be conducted by Stanley Consultants Inc. [“Stanley”].

At the present time, GPA only seeks approval for Phase I of the LNG Pre-Development Study [“the Study”], at an estimated cost of \$1,720,000.00.

**BACKGROUND**

GPA originally filed a request for PUC approval for Phase 1 of GPA’s LNG Pre-Development Study on May 29, 2023.<sup>2</sup> On June 26, 2023, the Administrative Law Judge filed his Report recommending that the PUC deny GPA’s Petition. The primary objections of the ALJ were that the Study and its 4 Phases indicated a predetermination by GPA that it would proceed ahead with the LNG project. The ALJ report stated: “Before the PUC takes any action in this matter, there must be a study/presentation to

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<sup>1</sup> GPA Petition for PUC Review and Approval of GPA’s Updated Phase I Liquified Natural Gas Pre-Development Study, GPA Docket 23-17, dated November 14, 2023.

<sup>2</sup> GPA Petition for Review and Approval of the EPCM, Phase I, Liquified Natural Gas (LNG) Pre-Development Study, GPA Docket 23-17, dated May 29, 2023.



the PUC that justifies proceeding ahead with the implementation and construction of the LNG infrastructure. Such should include cost estimates, cost benefit analysis, justifications, and consideration of various questions raised in the ALJ report... The study/presentation should also address the option of not proceeding ahead with implementation of the LNG infrastructure.”<sup>3</sup>

GPA, after receipt of the ALJ Report, requested that its Petition not be considered at the June 29, 2023, PUC meeting.

In July, 2023, GPA Assistant General Manager John Cruz requested that he and representative Mike Spooner from Stanley Consultants meet with the ALJ to discuss the proposal. At the meeting the ALJ indicated that GPA could file an amended proposal with the PUC to address the ALJ’s concerns.

On November 14, 2023, GPA filed its updated Phase 1 Liquidated Natural Gas Pre-Development Study. In its Petition, GPA noted certain changes in its updated study:

- (a) Renewable Integration (new bids/RPS) would be considered in LNG projections;
- (b) The approval process in the overall LNG scope as Phase 1 would focus on providing a cost benefit analysis for LNG and evaluate options for fuel sourcing, infrastructure, and business models; and
- (c) Identifies a PUC approval requirement after Phase 1 if the LNG project is to proceed ahead to the other identified phases.<sup>4</sup>

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<sup>3</sup> ALJ Report, GPA Docket 23-17, dated June 26, 2023, at pgs. 19-20.

<sup>4</sup> GPA Updated Proposal, p. 1.



## DISCUSSION

### 1. Introduction.

The Introduction to the Stanley Study Plan indicated the understanding of the Stanley Project Team that “under the current terms of the Ukudo project ECA, GPA’s capacity and energy payments shall increase if the Ukudo power plant does not switch from USLD to LNG before the fifth anniversary of the IPP project’s commercial operation date.”<sup>5</sup> No information concerning the amounts of payment increases has been provided to the PUC.

In the Phase 1 Study, Stanley will provide a “Cost-Benefit Analysis.”<sup>6</sup> At the completion of Phase 1, Stanley will review the results with GPA to determine if bringing LNG to Guam will result in a cost reduction to the cost of electricity generated by the Ukudo Power Plant. If the cost benefit analysis demonstrates that bringing LNG to Guam is beneficial, GPA, after approval by the CCU and PUC, would proceed with performing Phase 2.<sup>7</sup>

Phase I would include the following 6 tasks:

- (1) Evaluation of indicative LNG demand;
- (2) Undertaking of an LNG Fuel Procurement Study, including evaluating LNG sourcing and shipment options;
- (3) Identification of the LNG infrastructure location and configuration options in Guam;

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<sup>5</sup> GPA Petition at EX-A-003.

<sup>6</sup> Id.

<sup>7</sup> GPA Petition at EX-A-005.



- (4) Preparation of a Business Model Analysis and Economic/Financial Analysis;
- (5) Consultation with the industry, Guam stakeholders, and Guam and federal regulatory agencies; and
- (6) Environmental, Cultural, and Construction Permit Survey.<sup>8</sup>

The updated Proposal also includes the same additional phases as the original proposal: Phase 2: LNG Infrastructure Procurement; Phase 3: LNG Infrastructure Implementation; and Phase 4: LNG/CNG Transshipment.<sup>9</sup> There will be a “GO-NO GO POINT NO. 1: DECISION TO PROCEED WITH PHASE 2”.<sup>10</sup>

2. The Updated Study Proposal does not include several issues that the ALJ previously raised in his Report.

- (1) The cost-benefit analysis should not only calculate the cost of proceeding with LNG as opposed to continuing solely with ULSD. PUC should request a comprehensive cost-benefit analysis to determine the overall cost of the LNG project over the entire period of its operation and the anticipated cost savings of using LNG over the entire period of its operation. Before the LNG project can proceed ahead, Stanley must provide a comprehensive justification.
- (2) The previous ALJ Report pointed out that there are serious questions about the legality of GPA selling or franchising the distribution of LNG to customers in Guam or for regional transshipment. As indicated in the ALJ Report, 12 GCA §8104(k) “empowers GPA to control, operate, improve, equip, maintain, repair, renew, replace, reconstruct, alter and to insure **the electric system...**”. The GPA

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<sup>8</sup> GPA Petition at EX-A-006.

<sup>9</sup> GPA Petition at EX-A-003.

<sup>10</sup>GPA Petition at EX-A-014.



Enabling Act clearly refers to the electric system in Guam (“the Island Wide Power System”). GPA could possibly supply LNG to the Ukudo or other IWPS generation facilities, if approved by the PUC. However, there is no apparent authority in GPA’s enabling statute for GPA to enter the fuel market as a private competitor, to sell or franchise the sales of LNG to other third-parties, to be involved in the intra-island sale of LNG or the transshipment of LNG to other islands, or to exercise monopolistic control as sole off-taker for all LNG services and fuel supply. None of the functions referenced in the prior sentence are necessarily within GPA’s authority to control, operate, maintain and repair the island-wide electric power system. When an agency attempts to undertake functions that are not within its statutory mandate, a court may hold that such functions are invalid and illegal, without authority. Carlson v. Guam Telephone Authority, 2002 Guam 15. This issue is of considerable importance. If GPA does not have the power to act as a fuel distributor or franchisee for on-island and regional transshipment of LNG, the use for LNG on Guam could be limited to the supply of the Ukudo Plant. In its Phase 1 Study, Stanley/GPA should arrange for a comprehensive legal opinion as to whether intra-island sale of LNG and regional transshipment are activities that GPA can legally enter. Stanley should also address in its study the issue of whether supply of LNG to Ukudo alone would create a large enough volume of LNG to justify the LNG infrastructure.

- (3) GPA’s Petition states that renewable integration (new bid/RPS) will be considered in LNG projections. Unless something has been overlooked, there does not appear to be anything in Stanley’s Phase 1 Study to indicate that renewable integration will be considered. At pages 18-19 of the prior ALJ Report, the ALJ questioned how implementation of LNG is compatible with statutory mandates for conversion to renewable energy pursuant to 12 GCA



§8311. Stanley originally estimated that LNG could not be delivered to the Ukudo Plant until 2028. Now the commercial operation date for the new plant is not likely to occur until 2026. This further extends the earliest date upon which LNG could even be delivered to the plant until at least 2030-2031. Yet, by 2035 GPA is legislatively mandated to have 50% renewable power and 100% renewable by 2045. The underlying question is whether implementation of the LNG Plan is consistent with GPA's current plan to implement 100% renewables by 2045. This is no longer only the Guam Legislature's plan—GPA has adopted renewable integration as its own plan. Attached hereto as Exhibit "1" is GPA's projection of renewable integration into the system. By 2040, GPA projects that all its generation will be renewable. The system would then be comprised of 1,383.5 MW of solar power, with most of that total including load shifting capacity during nighttime hours. What will be the need for the Ukudo plant and LNG when this renewable integration is accomplished? It also brings into question the length of the time that the Ukudo plant will be needed for island generation. If the Ukudo plant will be obsolete in 2040, why should LNG infrastructure be implemented for a time of ten years (2030 to 2040)? The Study must show that there is sufficient time during which the costs of the LNG infrastructure can be recaptured through savings.

- (4) Stanley's Phase 1 Study should specifically address the option of not proceeding ahead with the LNG infrastructure plan, and the advantages/disadvantages that would result for Guam and the ratepayers by not proceeding ahead.
- (5) Stanley's Phase 1 Study should be revised to include all the above issues. As part of an Order in this matter, the PUC should require that Stanley revise its Study to include all the issues raised in this ALJ Report. Stanley should further submit its revised Study plan to the PUC.



3. Whether a Phase 1 Study should be approved by the PUC is an open question.

After disapproving any plan for proceeding with LNG in GPA Docket 15-05, the PUC later indicated in the same docket that GPA, in procurements for new generation, could entertain and consider LNG proposals that provided efficient, reliable and least-cost baseload capacity.<sup>11</sup> In addition, on August 30, 2018, in GPA Docket 18-02, the PUC required that the Ukudo Power Plant “must be capable of dual firing for ultra-low sulfur diesel (ULSD) **or natural gas**...”.<sup>12</sup> For the new Ukudo Plant, GPA is already having a pipeline constructed for the delivery of LNG to Ukudo that is estimated to cost in the range of \$20M.

These prior PUC actions suggest that LNG should be at least considered by the PUC as a possible option. PUC has previously indicated that there should be a determination as to whether LNG is an “efficient, reliable and least-cost baseload capacity.”

On the other hand, there are numerous concerns about the LNG project, including cost, feasibility, complexity, legality, environment and others, as outlined in the prior ALJ Report. The Stanley Updated Proposal indicates that the LNG project is truly daunting—there are many complex issues that must be resolved before the other phases could be implemented. The prior RW Beck Report in 2013 indicated the high amount of risk that could be entailed in an LNG project.

4. The PUC should allow Stanley to proceed ahead with the Phase 1 Study upon compliance with certain conditions.

If a Phase 1 Study is completed, the PUC will have a more accurate record upon

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<sup>11</sup> Supplemental Order, GPA Docket 15-05, April 27, 2017, at p. 2.

<sup>12</sup> PUC Order, GPA Docket 18-02, dated August 30, 2018, at p. 2.



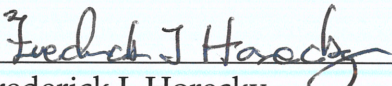
which to base its decision as to whether to proceed with any additional phases of the project. Also, in the meantime, PUC can hire its own consultant for a complete and extensive review of any study prepared by Stanley. At this time the PUC would only approve the Phase 1 Study. It should not approve the other Phases set forth in the Stanley Updated Proposal.

### **RECOMMENDATION**

The PUC should conditionally authorize Stanley Consultant Inc. to proceed with its Phase 1 Study upon further certification by the ALJ that Stanley has complied with the Order in this matter. Stanley should first be required to incorporate the issues raised in this ALJ Report in its Phase 1 Study. A further revised Study proposal would then be submitted to the PUC. Upon determination by the ALJ that the further revised Study proposal incorporates the required issues and complies with the PUC Order, Stanley would be authorized to proceed with the Phase1 Study. No other Phases proposed by Stanley should be approved at this time. Upon certification by the ALJ that all conditions in the PUC Order have been complied with, GPA should be authorized to expend up to the sum of \$1,720,000.00 for Phase I of GPA's LNG Pre-Development Study with Stanley Consultants.

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

Dated this 21<sup>st</sup> day of November, 2023.

  
Frederick J. Horecky  
Chief Administrative Law Judge



# Renewable Portfolio Standards (RPS) Tracking Projection thru 2040

(as of 10/23/23)

Phase IV: 345 MW



EXHIBIT "1"