

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:) GPA Docket 24-15
)
GUAM POWER AUTHORITY AWARD)
OF 20 MW OF TEMPORARY POWER) **ORDER**
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INTRODUCTION

This matter comes before the Guam Public Utilities Commission [“PUC”] upon the Second Amended Petition of the Guam Power Authority [“GPA”] for Review and Approval for the Award of a Contract to Aggreko International Projects Limited (hereinafter “Aggreko”) for the Supply, Installation, Operation, and Maintenance of 20MW of Temporary Power Services at the Yigo CT site.¹

BACKGROUND

The PUC adopts the Background statement in the Administrative Law Judge Report dated March 23, 2023.² It further adopts the conclusions and recommendations therein.

DETERMINATIONS

1. GPA has demonstrated the need to procure 20MW of Temporary Power.

Attached as Exhibit “B” to its Petition, GPA has presented a Determination Need and an explanation as to why the procurement is required³:

¹ GPA Second Amended Petition to Approve the Award of 20MW of Temporary Power, GPA Docket 24-15, dated March 13, 2024.

² ALJ Report, GPA Docket 24-15, dated March 23, 2024, at pgs. 1-3.

³ GPA Second Amended Petition at p. 3.

“Emergency procurement of 40MW of Temporary Power Services is required to maintain sufficient reserves and prevent load shedding due to potential outages of the Cabras 1 & 2 units. The Ukudu Power Plant’s 14.5-month delay and degradation of ILP participant generators further amplify the issue. The emergency generators must be operational by May 2024 to prevent extensive load shedding during the summer which is typically the year’s peak demand period.”⁴

Due to cost factors, GPA has since reduced its original request to 20MW of temporary power services. Unless GPA is quickly able to bring additional power into the IWPS, there is a strong possibility that further load shedding will occur in May and the summer months beyond: “The emergency generators must be operational by May 2024 to prevent extensive load shedding by the summer, which is typically the year’s peak demand period.”⁵

GPA has proposed the best plan it can come up with to quickly provide additional power. In its bid, Aggreko was the one vendor who indicated an ability to supply the temporary power within 100 days of contract execution.⁶ With a two-year term for the proposed contract, GPA will hopefully have sufficient power to handle system load until the Ukudu plant begins operation in late 2025 or early 2026.

2. Public Law 37-81 authorizes GPA to procure 20MW of Temporary Power Services, subject to the Approval of the PUC.

The Law was approved by the Legislature and then enacted by the Governor on March 8, 2024. The Law amends a section of the GPA Enabling Act, 12 GCA §8113.15, which authorizes GPA to procure 20MW of temporary power generation at the Yigo site on a two (2) year base contract. The provision extends the normal 90-day limitation on emergency procurement to two (2) years for this procurement only. The procurement

⁴ GPA Second Amended Petition, Exhibit “B”.

⁵ Id.

⁶ GPA Second Amended Petition at p. 3.

provisions whereby a procurement is “stayed” upon the filing of a protest are waived for this procurement. The Law also provides for the review and approval of the procurement by the Attorney General as to form and legality within five days of the receipt of the procurement package from GPA.

3. GPA has complied with most of the requirements for an “Emergency Procurement”, pursuant to 5 GCA §5215 and Public Law 37-81.

The General Manager of Guam Power Authority, John Benavente, has issued a Certificate of Emergency with a Determination of Need for Emergency Procurement. See GPA Petition, Exhibits A (Certificate of Emergency, Dec. 7, 2023, Verified Feb. 1, 2024 & B (Determination of Need, Dec. 11, 2023). GPA has satisfied most of the requirements of 5 GCA §5215, Emergency Procurements and Public Law 37-81.

The Certificate of Emergency incorporates by reference the contents of the appended Determination of Need. The GPA General Manager certifies that the contents of the appended Determination of Need are true, correct and complete. Certified copies have been provided to the Governor and the Speaker. In affirming the Determination of Need, the GPA General Manager certifies that there is an imminent threat to public health; that the threat of load shedding could not have been foreseen through the reasonable and prudent use of management procedures and could not have been addressed by other methods of source selection.

The Governor of Guam has approved the Certificate of Emergency in writing.⁷ The Determination of Need executed by the General Manager of GPA meets the requirements of §5215(c) and includes a statement that there is a threat to public health, welfare and safety: “the threat of load shedding looms with the pending repairs to the diesel power plants and projected increase in power demand beginning in May 2024.

⁷ GPA Second Amended Petition, Exhibit D-2.

Monthly load shedding schedules have been and will continue to be issued monthly until sufficient backup generating capacity is achieved.”⁸

4. As of this Afternoon, the Remaining Requirements of Public Law 37-81 have been complied with.

In accordance with Public Law 37-81, the Attorney General must review and approve the proposed contract as to the contract’s form and legality within five (5) calendar days of receipt of the procurement package from GPA.⁹ The Attorney General reviewed the contract and returned it to GPA for revisions. These included prohibitions against gratuities, kickbacks and favors, prohibitions against contingent fees, a statement concerning ethical standards, and a prohibition against employment of sex offenders. Some of the revisions dealt with dispute remedies, such as removing provisions requiring mediation and arbitration.¹⁰

GPA implemented changes requested by the Attorney General. Just this afternoon, Aggreko has signed the contract with GPA and the Attorney General has approved the contract as to form and legality. He has executed the contract. the contract may now be reviewed and approved by the PUC.

5. The Cost of the Contract is expensive, but GPA does not appear to have other options.

The draft contract between GPA and Aggreko provides for a cost of approximately \$25M over the two-year base period. The terms provide for a capacity charge of

⁸ GPA Second Amended Petition, Exhibit A, at p. 2.

⁹ Public Law 37-81 at p. 2.

¹⁰ <https://edition.pagesuite-professional.co.uk/html5/reader/production/default.aspx?pubname=&edid=bf5bbe31-1f6f-40f1-bc2a-10e9f0535da4&pnum=1>, The Guam Daily Post, March 18, 2024, at pgs. 1, 7.

\$27.35/kW/month; a fixed O & M charge of \$192,081.00/month; and an energy conversion rate of \$9.00/MWH. The cost also included a one-time \$1M fee for the initial mobilization of the project.¹¹

This cost is very high, which is probably to be expected when a contractor must deliver to Guam and provide 20 MW of power on a temporary basis. However, Aggreko is the only contractor that can provide temporary power within one hundred days. The only options available are for GPA to either purchase power from Aggreko or suffer the possible consequences of load shedding.

ORDERING PROVISIONS

After review of the record herein, including GPA's Petition for Review and Approval for the Award of a Contract to Aggreko International Projects Limited for the Supply, Installation, Operation, and Maintenance of 20MW of Temporary Power Services at the Yigo CT site, 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 Emergency procurement for 20MW of Temporary Power is now approved. All requirements of 5 GCA §5215 and Public Law 37-81 have been satisfied.
2. 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

¹¹ GPA Second Amended Petition at p. 3.

Order
Approval for Award to Aggreko
for 20MW of Temporary Power
GPA Docket 24-15
March 28, 2024

12125(b), and Rule 40 of the Rules of Practice and Procedure before the Public
Utilities Commission.

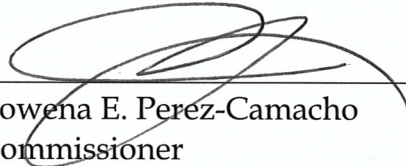
[SIGNATURES TO FOLLOW ON NEXT PAGE]

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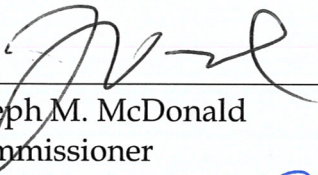
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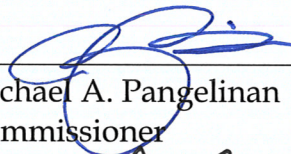
Jeffrey C. Johnson
Chairman



Rowena E. Perez-Camacho
Commissioner



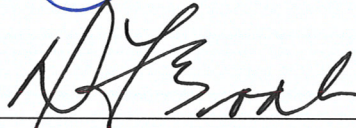
Joseph M. McDonald
Commissioner



Michael A. Pangelinan
Commissioner



Peter Montinola
Commissioner



Doris Flores Brooks
Commissioner