

**BEFORE THE PUBLIC UTILITIES COMMISSION**

<b>PETITION OF GUAM POWER</b>	)	<b>GPA DOCKET 24-13</b>
<b>AUTHORITY TO APPROVE</b>	)	
<b>EXTENSION OF THE ULSD STORAGE)</b>		<b>ORDER</b>
<b>LEASE AGREEMENT WITH TRISTAR)</b>		
<b>TERMINALS GUAM, INC.</b>	)	
_____	)	

**INTRODUCTION**

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the February 14, 2024 Petition (hereinafter referred to as the “Petition”) for review and approval of the Tristar Terminals Guam, Inc. (“Tristar”) contract related to GPA’s extension of its leases for Tank 1906 and Tank 1907, which store Ultra Low Sulfur Diesel (“ULSD”) fuel. GPA seeks PUC approval to extend the Tristar leases through June 30, 2026.<sup>1</sup>

On February 26, 2024, 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**

On September 28, 2017, the PUC authorized GPA to enter into an agreement with Tristar to lease a storage tank for ULSD fuel oil for a term of five years, specifically through December 31, 2022. The PUC authorized this lease at an annual cost of

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<sup>1</sup> Petition, p. 1.

\$1,176,000.00.<sup>2</sup> Thereafter, on January 1, 2018, GPA entered into an agreement with Tristar, which included among others, the leasing of Tristar's Tank 1906 "for the storage of Diesel product."<sup>3</sup> Subsequently, at GPA's request, the PUC further authorized GPA to amend the Tristar agreement, adding the lease of Tristar's Tank 1907 for additional ULSD fuel oil storage. In GPA Docket 23-05, the PUC authorized GPA to extend its contract with Tristar for an additional two years, specifically through June 30, 2024.<sup>4</sup> In the Order, the PUC directed that GPA return to the Commission in the event GPA sought to extend the term of the contract beyond June 30, 2024.

**1. GPA's 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. Additionally, pursuant to GPA's current Contract Review Protocol, "[a]ll professional service procurements in excess of \$1,500,000" "shall require prior PUC approval . . . ."<sup>5</sup> Further, with respect to multi-year contracts, GPA's Contract Review Protocol provides that "GPA must obtain PUC approval if the total costs over the entire procurement term exceed the review threshold."<sup>6</sup>

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<sup>2</sup> PUC Order, GPA Docket 21-16, p. 2 (Sept. 30, 2021) (citing PUC Order, GPA Docket 17-23, pp. 1-4 (Sept. 28, 2017)).

<sup>3</sup> Contract No. TTGI-SA-2018-01, between Tristar Terminals Guam, Inc. and Guam Power Authority, p. 4 (Jan. 1, 2018).

<sup>4</sup> PUC Order, GPA Docket 23-05, p. 5 (Dec. 19, 2022).

<sup>5</sup> Contract Review Protocol, PUC Admin. Docket 00-04, p. 1 (Feb. 15, 2008).

<sup>6</sup> *Id.*, p. 3.

## **2. Extension of Contract Terms and Costs**

According to GPA, its lease of Tank 1906 and Tank 1907 is set to expire this summer.<sup>7</sup> GPA maintains that the extension of the ULSD storage lease agreement with Tristar is necessary in order to ensure the uninterrupted supply of ULSD to its power plants, namely Tenjo Vista, Piti 7, Piti 8, and Piti 9.<sup>8</sup>

Based on the proposed amendment to the contract extending the lease term through June 30, 2026, the storage fees for the tanks remain unchanged at \$98,000.00 per month, excluding the handling and throughput fees.<sup>9</sup> These fees were negotiated, and have remained the same, since 2018. In addition, the proposed amendment allows GPA to terminate the contract prior to the expiration of the term of the contract upon written consent of the parties, which may be useful should GPA no longer need the storage.<sup>10</sup>

According to GPA, an additional twenty-five (25) months at \$98,000.00 per month for Tank 1906 will cost \$2,450,000.00; and an additional twenty-four (24) months at \$98,000.00 per month for Tank 1907 will cost \$2,352,000.00.<sup>11</sup> As a result, the total cost of the subject extension is \$4,802,000.00.<sup>12</sup>

## **4. CCU Approval**

On January 23, 2024, the Consolidated Commission on Utilities (the “CCU”) issued GPA Resolution No. 2024-13 (the “Resolution”), wherein it found that currently the

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<sup>7</sup> Petition, p. 1; Resolution, p. 1.

<sup>8</sup> Petition, p. 1; Resolution, p. 1.

<sup>9</sup> Petition, p. 2; Resolution, p. 1.

<sup>10</sup> Petition, p. 2; Resolution, p. 1.

<sup>11</sup> Petition, p. 2; Resolution, p. 1.

<sup>12</sup> Petition, pp. 2-3; Resolution, p. 2.

Tristar Terminal tanks are the only tanks suitable for the bulk storage of ULSD.<sup>13</sup> In particular, since Tank 1934 and Tank 1935 are expected to be fully converted to store ULSD in 2026, the continued lease of Tank 1906 and Tank 1907 is necessary to ensure the “uninterrupted supply of bulk ULSD . . . to power plants Tenjo Vista, Piti 7, Piti 8, and Piti 9.”<sup>14</sup>

Accordingly, the CCU determined that the contract extension of the lease concerning the ULSD storage tanks is “reasonable and prudent”<sup>15</sup>; and therefore, approved the contract extensions for both Tank 1906 and Tank 1907, to expire on June 30, 2026.<sup>16</sup> Additionally, the CCU authorized the corresponding cost for the extension, at an approximate total of \$4,802,000.00.<sup>17</sup>

#### **RECOMMENDATION AND CONCLUSION**

Based on the documentation provided, the ALJ found that the subject contract is necessary, and that the extensions of the terms referred to herein are reasonable and prudent. As indicated by GPA, the contract extension referred to in this matter is vital since it ensures the “uninterrupted” supply of ULSD fuel to the power plants.<sup>18</sup>

This Commission has previously held that any disruption to the safe distribution of fuel resources to GPA, “could be a potential threat to the public health, welfare and safety

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<sup>13</sup> Resolution, p. 1.

<sup>14</sup> Resolution, p. 1.

<sup>15</sup> Resolution, p. 2.

<sup>16</sup> Resolution, p. 1.

<sup>17</sup> Resolution, pp. 1-2.

<sup>18</sup> Resolution, p. 2.

of our island.”<sup>19</sup> In addition, this Commission has consistently found that GPA “has little choice but to utilize the storage tanks of Tristar.”<sup>20</sup> No other alternatives appear available to GPA at this time.

Further, based on the record before the PUC, the fees for the two tanks under the extended lease agreement will continue to remain the same, notably unchanged from the fees that were negotiated back in 2018.

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 the contract extension with Tristar, at a cost of about \$2,450,000.00 for Tank 1906; and about \$2,532,000.00 for Tank 1907; for a total cost of \$4,802,000.00.

The Commission hereby adopts the findings in the February 26, 2024 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 extend its contract with Tristar Terminals Guam, Inc. through June 30, 2026 at a cost of about \$2,450,000.00 for Tank 1906; and about \$2,532,000.00 for Tank 1907; for a total cost of \$4,802,000.00.

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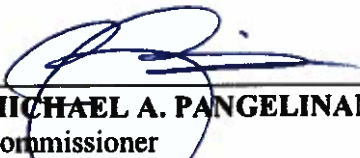

<sup>19</sup> PUC Order, PAG Docket 21-01, p. 7 (Jan. 28, 2021).

<sup>20</sup> PUC Supplemental Order, GPA Docket 13-11, p. 2 (Sept. 24, 2013).

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.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

**SO ORDERED** this 29<sup>th</sup> day of February, 2024.

  
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**JEFFREY C. JOHNSON**  
Chairman  
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**ROWENA E. PEREZ-CAMACHO**  
Commissioner  
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**JOSEPH M. MCDONALD**  
Commissioner  
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**PEDRO GUERRERO**  
Commissioner  
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**MICHAEL A. PANGELINAN**  
Commissioner  
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**PETER MONTINOLA**  
Commissioner  
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**DORIS FLORES BROOKS**  
Commissioner

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