

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

PETITION FOR APPROVAL TO
AWARD THE CONTRACT FOR BULK
SUPPLY OF ULTRA LOW SULFUR
DIESEL FUEL OIL TO HYUNDAI
CORPORATION BY GUAM POWER
AUTHORITY

GPA DOCKET 24-05

ORDER



INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC” or the “Commission”) pursuant to the November 14, 2023 Petition for Approval to Award the Contract for the Bulk Supply of Ultra Low Sulfur Diesel Fuel Oil (the “Petition”), filed by the Guam Power Authority (“GPA”).

On November 28, 2023, 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

GPA currently maintains and operates several units that use ultra low sulfur diesel (“ULSD”) fuel oil, which include Piti 8 and 9.¹ In addition, the new Ukudu Power Plant will also run on ULSD fuel oil.² According to GPA, its contract with Mobil Oil Guam is set to expire on January 31, 2024.³ On March 30, 2023, this Commission authorized GPA to issue an Invitation for Bid in order to procure a bulk supply of ULSD fuel oil.⁴ Thereafter, GPA

¹ See Order, GPA Docket 23-12, p. 1 (Mar. 30, 2023).

² See Order, GPA Docket 23-12, p. 1.

³ See Order, GPA Docket 23-12, p. 1.

⁴ See Order, GPA Docket 23-12, p. 5.

issued Invitation for Multi-Step Bid No. GPA-040-23 for bulk supply of Diesel Fuel Oil No. 2.⁵ In response to the solicitation, three vendors submitted bids.⁶ Hyundai Corporation submitted the lowest responsive bid, which offered a Fixed Premium Fee of about \$8.00 per barrel of fuel; and about \$4.00 less than the highest bid, and about \$2.00 less than the next lowest bid.⁷ Therefore, Hyundai's bid price results in about \$117 per barrel of fuel, \$2.00 less than the next lowest bid. On October 31, 2023, the Consolidated Commission on Utilities issued Resolution No. FY2024-04, authorizing GPA to enter into a contract with Hyundai Corporation at the proposed fixed fee rate for three years, and at a total estimated cost of \$846,864,000.00 for 7.2 million barrels of fuel.⁸

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. Furthermore, GPA's Contract Review Protocol requires that "[a]ll professional service procurements in excess of \$1,500,000" require "prior PUC approval . . . which shall be obtained before the procurement process is begun."⁹

As indicated in the proposed contract, Hyundai is required to provide GPA with an "uninterrupted" bulk supply of ULSD fuel oil to GPA's power plants.¹⁰ The proposed contract includes a provision that allows the contractor to source fuel oil from other vendors

⁵ Resolution No. FY2024-04, issued by the Consolidated Commission on Utilities, p. 2 (Oct. 31, 2023).

⁶ Resolution No. FY2024-04, p. 1 and "Exhibit A".

⁷ Resolution No. FY2024-04, p. 1 and "Exhibit A".

⁸ Resolution No. FY2024-04, p. 2.

⁹ GPA's Contract Review Protocol ("GPA CRP"), Administrative Docket 00-04, p. 1 (Feb. 15, 2008) (emphasis in original).

¹⁰ Proposed Contract, p. 9.

in order to guarantee fuel oil supply security.¹¹ In addition, the contract also contains a provision that allows GPA to seek an alternative source of fuel oil from another vendor where the contractor is unable to fulfill its obligations. And in such instance, the contractor will be liable to GPA for the difference in the cost of fuel oil.¹² Additionally, the contract contains a provision that allows GPA to terminate any such delivery of fuel oil supply, in whole or in part, by simply providing the contractor with a notice of termination one hundred and twenty (120) days prior to any such termination.¹³

As indicated in the proposed contract, the term of the contract will be for three (3) years, beginning on February 1, 2024 through January 31, 2027, with options to extend the contract an additional two (2) years.¹⁴ In addition, GPA has estimated that it will need about 2 million barrels of ULSD fuel oil for the first year of the contract; about 2.5 million barrels of fuel oil for the second year of the contract; and about 2.7 million barrels of fuel oil for the third year of the contract.¹⁵ Accordingly, based on these estimates, GPA has indicated that the total three-year cost for the bulk supply of ULSD is about \$846,864,000.00. Resolution No. FY2024-04 issued by the CCU at its October 31, 2023 authorizes GPA to enter into a contract with Hyundai Corporation at the proposed fixed premium fee rate, and for a total estimated cost of \$846,864,000.00 for 7.2 million barrels of fuel for all three years.

CONCLUSION

Without a doubt, diesel fuel oil is essential to GPA's operations since it is utilized at various diesel-fired power plants. Without such fuel oil, GPA will be unable to provide the

¹¹ Proposed Contract, p. 19.

¹² Proposed Contract, p. 23.

¹³ Proposed Contract, p. 33.

¹⁴ Proposed Contract, p. 9.

¹⁵ Resolution No. FY2024-04, p. 1 and "Exhibit A".

necessary generation capacity, especially during times when certain base load units are down, in order to provide a stable and uninterrupted supply of electricity to meet the island-wide utility power demand. This Commission has consistently determined that GPA requires a continuous supply of diesel fuel to maintain the authority's electric power generation capacity; and that the purchase and delivery of such fuel oil is reasonable, prudent and necessary.¹⁶

In addition, the selection of Hyundai's bid out of three total bid submissions demonstrates that the fixed premium fee was competitively obtained. Furthermore, the contract keeps this fixed premium fee the same throughout the three-year term. GPA also has the option to extend the contract for an additional two (2) years. Based on the bid, it appears, too, that Hyundai's fixed premium fee lessens by twenty cents should GPA exercise any extension of the contract.

Additionally, the contract contains various provisions designed to protect GPA and ratepayers, such as provisions on warranty and quality assurance, insurance requirements, and a provision on termination for convenience, as mentioned above. Accordingly, the ALJ found that the proposed contract appears to adequately protect the interests of GPA and its ratepayers.

Moreover, the ALJ found that the contract with Hyundai for the bulk supply of ULSD fuel oil ensures that GPA has a continuous supply of fuel to the power plants necessary to perform its electric power generation at capacity. The ALJ, therefore, found the subject contract to be reasonable, prudent, and necessary.

RECOMMENDATION

¹⁶ See, e.g., Order, GPA Docket 17-18, p. 3 (Sept. 28, 2017).

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 GPA's Petition. Accordingly, GPA should be authorized to enter into a contract with Hyundai Corporation for the bulk supply of ULSD fuel oil.

The Commission hereby adopts the findings in the November 28, 2023 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:

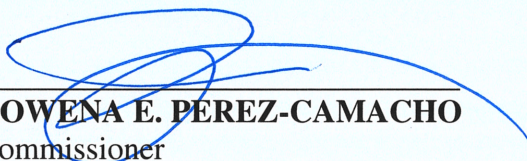
1. That the instant Petition is hereby APPROVED.
2. GPA is authorized to enter into a contract with Hyundai Corporation for the bulk supply of ULSD fuel oil.
3. GPA is authorized to expend up to \$235,240,000 for the first year; up to \$294,050,000 for the second year; and up to \$317,574,000 for the third year of the 3-year contract term.
4. 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 30th day of November, 2023.



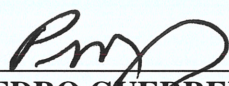
JEFFREY C. JOHNSON
Chairman



ROWENA E. PEREZ-CAMACHO
Commissioner



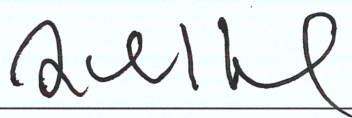
JOSEPH M. MCDONALD
Commissioner



PEDRO GUERRERO
Commissioner



MICHAEL A. PANGELINAN
Commissioner



PETER MONTINOLA
Commissioner



DORIS FLORES BROOKS
Commissioner

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