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RECEIVED
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 PROCUREMENT APPEALS
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 FILE NO OPA-PA: 19-010/20-001

Attorney for the Guam Power Authority

**OFFICE OF THE PUBLIC AUDITOR
 PROCUREMENT APPEALS**

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|--------------------------------------|---|--------------------------------|
| IN THE APPEAL OF |) | DOCKET NO. OPA-PA-19-010 |
| |) | OPA-PA-20-001 |
| GlidePath Marianas Operations, Inc., |) | |
| |) | GUAM POWER AUTHORITY'S |
| Appellant. |) | RESPONSE TO GLIDEPATH'S |
| |) | OBJECTION TO GPA'S |
| |) | INCOMPLETE PROCUREMENT |
| |) | RECORD |

COMES NOW, the GUAM POWER AUTHORITY, by and through its counsel of record, D. GRAHAM BOTHA, ESQ., and hereby files its response to Appellant's Objection to Guam Power Authority's Incomplete Procurement Record.

GlidePath claims that GPA has not provided the technical literature or brochures used by Mr. Burlingame. Mr. Burlingame testified on July 7, 2020, that there were no technical literature or brochures he relied upon in assisting with the drafting of the technical specifications for the GPA Phase III solar bid. GlidePath claims that it had no knowledge of any outside consultants that GPA relied upon. The GPA Witness List is attached hereto as Exhibit "A" and lists 6 witnesses, including Mr. David Burlingame, and was filed on March 13, 2020. No request was made by any counsel for a copy of Mr. Burlingame's resume until the afternoon of July 7, 2020, by GlidePath's counsel, and the resume, attached hereto as Exhibit "B", was

immediately provided within 30 minutes of the request by GlidePath's counsel. From an examination of the GPA Exhibit List, it is clear that Mr. Burlingame is GPA's outside consultant, as the list indicates he is employed with Electrical Power Systems, Inc, and that he is not a GPA employee. The witness list provided by GlidePath does not even list the company which the witnesses are employed with, and just lists the witness names.

Together with this response, GPA has provided a copy of the emails between Jennifer Sablan, and Mr. David Burlingame, specifically relating only to the GPA Phase III bid. The attachments to the emails provide the draft technical specifications part of the Phase III solar bid. Nowhere in the GlidePath two appeals is there any language indicating that GlidePath has protested any of the specifications contained within the GPA Phase III solar bid. The person assisting GPA in the creation or revision of the technical specification is not material or relevant to the issues raised by GlidePath in its two appeals before the OPA.

GlidePath cites *In the Appeal of America's Best Electrimart, Inc.*, OPA-PA-17-006, as requiring the identification of the person responsible for drafting the specifications, and any person, technical literature or manufacturer's brochures relied upon in drafting the specifications. That decision, although noting the incomplete procurement record, was a determination of whether GPA's cancellation of the IFB after award was proper. It did not address whether the incomplete procurement record had any bearing on the merits of the appeal by America's Best. The OPA case which most closely addresses the issue of an incomplete procurement record, and which was appealed to the Guam Supreme Court, is *TeleGuam Holdings, LLC et. al. vs. Territory of Guam, et. al.*, 2018 Guam 5, ¶39.

The Guam Supreme Court stated in *TeleGuam* that "an appealing party must establish that items missing from the procurement record were material to the procurement.... Missing

procurement records are material when as a result of their absence, judicial review is thwarted in determining whether the appealing party is entitled to the relief requested.” GlidePath has never alleged in either of its appeals that any bidder received anything but the same IFB, specifications, and amendments as all other bidders. The first GlidePath appeal alleged that Engie’s proposal did not comply with the technical specifications set out in the IFB. The identity of the person assisting GPA in the drafting of the technical specifications is completely immaterial and irrelevant to whether the Engie bid complied with the technical specifications. In the second protest GlidePath alleges that the amendments, communications and information provided to the bidders resulted in a flawed procurement. Again there is no allegation by GlidePath that there was a problem with the technical specifications contained within the IFB, and provided to GlidePath and all other bidders.

GlidePath claims that it “has been prejudiced by GPA’s failure to identify Mr. Burlingame as the individual responsible for the specifications of the IFB.... GlidePath is at a disadvantage and is prejudiced. GlidePath is unable to adequately challenge the specifications because it did not know Mr. Burlingame was an essential member of the team drafting the specifications.” Since GlidePath in both appeals has not challenged the specifications, there is no basis now for a complaint that it needs additional information to do so. GlidePath has failed to show that the items missing from the procurement record, in this case an identification of a person assisting GPA in the drafting of the specifications, is material and relevant to its appeal to the OPA. GlidePath has not made any showing of materiality and relevance required by the Guam Supreme Court in *TeleGuam*, and has not raised this issue in its two appeals filed with the OPA in this matter.

The GlidePath appeal focuses on whether the proposal submitted by Engie met the

technical specifications of the IFB. The second appeal contends that because of the specifications only Engie could qualify and that GPA had a flawed procurement. GPA respectfully requests that GlidePath's objections should be denied.

RESPECTFULLY SUBMITTED this 8th day of July, 2020, by:

D. GRAHAM BOTHA, ESQ.
GPA General Counsel

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RECORDED
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PROCUREMENT APPEALS
DATE: 3-13-2020
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FILE NO. OPA-PA 19-010 / 20-001

Attorney for the Guam Power Authority

**OFFICE OF THE PUBLIC AUDITOR
PROCUREMENT APPEALS**

IN THE APPEAL OF)
)
GlidePath Marianas Operations, Inc.,)
)
Appellant.)
_____)

DOCKET NO. OPA-PA-19-010
OPA-PA-20-001

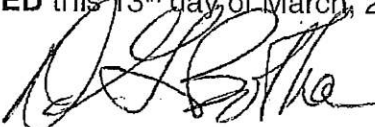
APPELLEE'S WITNESS LIST

COMES NOW, the GUAM POWER AUTHORITY, by and through its counsel of record, D. GRAHAM BOTHA, ESQ., and hereby submits its Witness List for the March 25, 2020, hearing as follows:

1. Jennifer Sablan
2. Francis Iriarte
3. John Kim
4. David Burlingame (Electrical Power Systems, Inc.)
5. Jamie Pangelinan
6. Dawn Fejeran

GPA reserves the right to call as witness any person identified on the Witness list of any other party or Interested Party in this matter, to amend or supplement this Witness List, and to call as witnesses any person for rebuttal or impeachment purposes.

RESPECTFULLY SUBMITTED this 13th day of March, 2020, by:


D. GRAHAM BOTHA, ESQ.
GPA General Counsel

ExA



Electric Power Systems
inc.
Consulting Engineers

David W. Burlingame

3305 Arctic Blvd, Suite 201
Anchorage, AK 99503
(907) 646-5103 (Voice)
(907) 522-1182 (FAX)
dburlingame@epsinc.com

Professional Registration

Electrical Engineer - Alaska, Hawaii, Guam, Commonwealth of the Northern Marianas Islands, Oregon, Washington

Professional Experience

1996 to Present

Electric Power Systems, Inc.

Anchorage, AK

Principal Consulting Engineer

Mr. Burlingame was a co-founder of Electric Power Systems, Inc in 1996. The firm is dedicated to providing engineering services to the power industry. Growing to over 130 employees over the past 24 years, the company is now a wholly owned subsidiary of Engineered Solutions Group, Inc., with offices in Anchorage, Palmer and Juneau, Alaska and Redmond, Olympia and Vancouver, Washington. ESG specializes in electrical and mechanical engineering and provides consulting, design and construction services to utility and industrial customers in Alaska, Pacific Northwest, Hawaii and the South Pacific.

Served as a representative for the Hawaiian utilities in a 30 member group of interested parties to develop the Hawaiian Reliability Standards.

Coordinator for AEA to reach agreement among the core group of Reliability and Planning Standards for the Railbelt.

Project manager for various system studies for the Railbelt utilities on 34.5 kV – 230 kV transmission systems involving transmission losses, metering stability, voltage control and reliability assessments.

Project manager for system studies and analysis for a 700 MW load and generation involving 200 miles of overhead transmission line, 60 miles of submarine cable and HVDC terminals.

Project manager for system studies for 400 MW of PV, HVDC submarine cables, 100 MW ESS, synchronous condensers and other stability measures to increase renewable penetration to over 50% in Hawaii.

Project manager for the 2020 ML&P Long Range Transmission and Distribution Plan

Project manager for Long Range Plan for a 280 MW islanded utility to transition from a system with 0% renewables to over 65% renewables in 6-10 years, Included specifying control and response characteristics for flexible generation, ESS and PV inverters, synchronous condensers and protective relaying.

Project manager for various Bradley Lake studies to define system stability limits and control solutions for 120 MW power plant.

Project manager for long range transmission plans for Anchorage Municipal Light & Power, Chugach Electric Association and Homer Electric Association. Plans involved analyzing various generation project impacts on the Railbelt transmission system's grid stability and loadshedding system.

Project manager for the completion of several versions of the Railbelt Transmission Plan. A plan analyzing the improvements required to meet AK-TPL1-4, Transmission Planning standard.

Project manager on stability, load flow and loss study for a 16.0 MW islanded electrical system in the South Pacific.

Project manager for 25 substation designs from 12.47 kV through 230 kV.

Completed the feasibility design and analysis for a 1,100 MW IPP development in the State of Washington.

Ex B

Project Manager for the design, construction management and inspection of improvements to four 69 kV/12.47 kV substations, 138 kV substation, 34.5 kV/12.47 kV substation and 115/24.9 kV substations.

Developed Long-Range distribution plan for 65,000-meter utility, 7,000-meter utility and 15,000-meter utility.

Project Manager for the analysis and scope of system stability studies for the Alaska interconnected system.

Project manager for distribution power system inventory of 15,000 poles and 12,000 meters system in the South Pacific. Project manager for the inventory and GPS correlation for 36,000 meters in Alaska. Project manager for electronic inventory and data collection of 1,200 poles and 1,300 meters in Alaska.

Developed Long-Range distribution plan for Chugach Electric Association. Developed transient stability cases used to verify Chugach Transmission Plan. Recommended system improvements to mitigate system stability and operating deficiencies.

1993 to 1996

Plains Electric Cooperative, Inc.

Albuquerque, NM

Executive Manager, Engineering, Generation and Transmission Operations

Responsible for the planning, engineering, operation and maintenance of the generation and transmission system through the department's 209 employees. Responsible for project management of power plant, transmission and substation improvement projects. Projects included design, construction, inspection and project management of a 300 MVA, 345 kV substation, 3 – 115 kV/24.9 kV substation additions and various power plant projects. Responsible for project administration, design and construction management of all transmission and generation projects, including change order approval, reports to Board of Directors and public utility commissioning reporting. Responsible for FERC activities and support of utility activities at the Public Utilities Commission. RUS certifying engineer for the transmission and generation projects.

Elected to the WSCC Board of Trustees as a Transmission Dependent Utility Representative in 1996. Member of the WSCC Planning Coordination Committee.

1992 to 1993

Chugach Electric Association, Inc.

Anchorage, AK

Manager, Power Control

Responsible for power production scheduling, production planning, power production budgeting and operation of 700 MW generation system. Operation of Switching and Power Control Center for 12.47 kV-230 kV distribution/transmission/generation system. Review and implementation of power supply contracts, gas supply contracts. Developing power pool guidelines and operations. Responsible for customer and system outage restoration.

1987 to 1992

Manager, Facilities Engineering

Responsible for engineering support for 12.47 kV - 230 kV distribution/transmission system. Developing and reviewing operating guidelines for distribution, transmission and interconnected system, Five-Year Work Plan and Long Range Plan project identification and review. Substation design and construction. Protective relaying projects and settings. System stability studies, 12.47-230 kV outage and trouble analysis. Sectionalize studies, NESC code violation investigations and corrections.

1984 to 1987

Station/Protection Engineer/Site Engineer

Responsible for REA Two Year Work Plan, voltage drop studies, sectionalizing studies, short circuit studies, and substation design construction and operation support. Transmission and subtransmission design and operation support. Relay settings and fuse coordination, 34.5 kV-230 kV disturbance analysis. Responsible for construction management and design during construction of two 138/230 kV, 300 MVA substations, miscellaneous substation projects.

1981 to 1983

International Engineering Company

Anchorage, AK

Associate Engineer

Responsible for foundation design, final tower spotting and construction engineering support for 69 miles of

138 kV transmission line. Responsible for 138 kV submarine cable supply, design and installation contract. Various 12.47-138 kV transmission line relocation projects.

Education

University of Oklahoma

B.S., Electrical Engineering 1981

Testimony, Publications and Presentations

FERC - Plains Electric G&T vs Public Service New Mexico 211 Complaint

Provided testimony on system impact of proposed transmission rates and capacity studies of PNM. Developed transmission impact studies and loss evaluations, coordinated rate case development, negotiations and settlement.

New Mexico Public Utilities Commission

Provided testimony on generation and transmission system, reliability and generation and transmission costs. Provided supporting testimony for Plains rate cases. Provided testimony of Southwest Public Service Co and Public Service Company of Colorado merger impacts.

Alaska Public Utilities Commission

Provided testimony on transmission reliability and outages

2003 Northwest Public Power Association -- Spring Session

Power System Fault Studies and Interpretation

2004 Pacific Power Association

SCADA Systems for Small Utilities

2005 Northwest Public Power Association

Power System Coordination & Sectionalizing

2007 Northwest Public Power Association

SCADA Systems for Small Utilities

2009 Northwest Public Power Association

Generation Monitoring & Control Systems

2009 Northwest Public Power Association

Generation Monitoring & Control Systems

2013 Hawaii Renewable Energy Conference

Impacts of Renewable Energy on Islanded Power Systems

2014 Utility Variable-Generation Integration Group

Impact of Variable Generation on Islanded Systems

2017 Guam Renewable Energy Symposium

Planning for Increased Renewables

2019 Northwest Public Power Association

Generation Governors and History of Railbelt