

**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

IN RE: REQUEST BY THE PORT )  
AUTHORITY OF GUAM TO OBTAIN A ) PAG Docket 10-02  
\$50M LOAN FROM THE USDA )  
\_\_\_\_\_ )

**ORDER AUTHORIZING THE PORT TO ACCEPT THE TERMS IN THE  
USDA LETTER OF CONDITIONS AND TO PROCEED IN OBTAINING A  
\$50M LOAN FROM USDA**

*Background*

This matter comes before the Guam Public Utilities Commission [PUC] upon the request of the Port Authority of Guam [Port] for authorization to obtain a \$50M Loan from the United States Department of Agriculture Rural Development Direct and Guaranteed Loan Program.<sup>1</sup>

The USDA has issued a “Letter of Conditions” to the Port which establishes certain terms and conditions for the \$50M Loan. The letter does not necessarily constitute loan approval, nor insure that funds will be available for the project.<sup>2</sup> However, if the Port does not agree to the conditions, the USDA may discontinue the processing of the PAG loan application.<sup>3</sup> The Port asks for preliminary approval from the PUC to proceed with the loan application and to agree to the terms and conditions in the “Letter of Conditions.”

PAG may not enter into an obligation which “could” increase rates without the prior approval of the PUC.<sup>4</sup>

*Determinations*

In accordance with Public Law 30-57, the Guam Legislature has already authorized the Port to secure a loan from the USDA up to the amount of \$54.4M. Over the past few years, both the Port and the Legislature have recognized that the obtaining of a loan by the Port from USDA is an integral part of the Port’s Modernization Plan. Without loan funds from the USDA, it is highly unlikely that the Port would be able to proceed with

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<sup>1</sup> PAG Request for Approval of USDA Letter of Conditions to PAG [from Port Financial Affairs Controller Jojo Guevara to PUC Counsel] [with attachments] , Port Docket 10-02, filed November 18, 2010.

<sup>2</sup> Letter of Conditions at p. 1.

<sup>3</sup> Id. at p. 2.

<sup>4</sup> 12 GCA §12004

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and fund its Modernization Plan. The Port should be authorized to accept the USDA loan terms so that the Port can proceed to effectuate its Modernization Plan.

The Terms and Conditions which USDA requires the Port to accept in the "Letter of Conditions" are commercially reasonable and not burdensome. They are standard government loan requirements designed to ensure repayment of a loan by PAG. Loan repayment is scheduled over a period of 40 years with an interest rate for "planning purposes" of 4.0% and a monthly payment of \$104,500.00. Given that USDA contemplates loaning the Port \$50M, it is reasonable that USDA would seek to impose requirements that upon the Port to ensure the security of its loan funds.

PAG is required to secure approval by the PUC of the complete loan documentation and full terms and conditions of any loan that is approved by USDA. Also, the PUC will subsequently have a full opportunity to review the impact of any such loan upon the Port's rates. In the context of the contemplated rate proceeding, the PUC will be able to determine if the Port's rates are sufficient to meet the debt service and other obligations incurred as a result of the \$50M borrowing.

### *Ordering Provisions*

Upon consideration of the record herein, the Request of the Port, the PUC Legal Counsel Report, and for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS that:

1. PAG is authorized to accept the terms and conditions for a \$50M Loan with United States Department of Agriculture Rural Development Administration, as fully set forth by USDA in its letter to the Port dated August 9, 2010.
2. PAG is authorized to proceed with obtaining the loan and securing loan approval from the USDA Rural Direct and Guaranteed Loan program.
3. However, once USDA gives final loan approval, and USDA and PAG agree to the final form of Promissory Note, Security Agreement, and other assignments, PAG shall be required to submit all such loan documentation to the PUC for final review and

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approval. Such documentation shall not be executed by PAG unless and until the PUC gives final approval to the same.

4. The Port 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 process. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12002(b) and 12024(b), and Rule 40 of the Rules of Practice and Procedure before the Public Utilities Commission.

Dated this 29<sup>th</sup> day of November, 2010.

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Jeffrey C. Johnson  
Chairman

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Joseph M. McDonald  
Commissioner

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Rowena E. Perez  
Commissioner

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Filomena M. Cantoria  
Commissioner

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Michael A. Pangelinan  
Commissioner