

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

In the Matter of:)
)
)
Port Authority of Guam Request for)
Approval of \$3.5M Loan from ANZ Bank)
_____)

Port Docket 10-01



ORDER

Background

This matter comes before the Public Utilities Commission [PUC] upon the Request of the Port Authority of Guam [PAG] for approval of a \$3.5M Loan with ANZ Guam Inc. Bank, filed August 24, 2010.¹ PAG is now defined as a “public utility” for purposes of 12 GCA Chapter 12, Public Utilities Commission and the Guam Telecommunications Act of 2004.² 12 GCA §12004 provides that “The utility shall not, however, enter into any contractual agreements or obligations which could increase rates and charges prior to the written approval of the Commission.” On August 17, 2010, the Port’s General Manager and ANZ Guam Inc. entered into a loan commitment letter authorizing PAG to borrow \$3.5M from ANZ.³ On August 27, 2010, PAG submitted to the PUC a revised Loan and Security Agreement, a Promissory Note, and a UCC Financing Statement document (the “final” loan documentation).⁴

The final Loan and Security Agreement indicates that PAG purchased certain cargo handling equipment in 2009 and 2010: four (4) 2009 Hyster Top Lifters from Morrico Equipment and ten (10) 2010 Cargo Tech/Kalmar Ottawa Terminal Yard Tractors.⁵ The purpose of the loan proceeds is to reimburse PAG for its expenditures of the foregoing equipment.⁶ According to PAG, it was obligated to expend operations funds for the purchase of this necessary equipment. The loan is 90% guaranteed by the United States Department of Agriculture; it will be repayable over a 15 year period. The interest rate is calculated at 3.0% above the FHLBSEA 15 year amortizing fixed advance rate (currently 3.22%) Therefore, the present interest rate is 6.22%. The monthly payments

¹ E-mail from Jose B. Guevara, PAG Financial Affairs Controller, to Fred Horecky, PUC Counsel, dated August 24, 2010.

² 12 GCA §12000 et. seq.

³ See Commitment Letter for \$3.5M Loan to PAG by ANZ, dated August 17, 2010 and filed herein on August 24, 2010.

⁴ Email from Jose B. Guevara, PAG Financial Affairs Controller, to Fred Horecky, PUC Counsel, Port Docket 10-01, filed August 27, 2010.

⁵ Final Loan and Security Agreement, p. 6; and SCHEDULE 1.

⁶ Id.

will be approximately \$29,952.60.⁷ The provisions of the Loan and Security Agreement appear to be standard in terms of commercial loan documentation. PAG is required to give a lien and security interest in its equipment to ANZ Bank.

Analysis

The Loan and Security Agreement, along with the terms in the Loan Commitment Letter, are reasonable. The current interest rate of 6.22% compares favorably with other taxable loans recently negotiated by other government entities (i.e., the GWA \$25M and \$5M loans, with interest rates of 7.75%). PAG has demonstrated a need for the loan funds. It does not appear that the monthly amount of the principal and interest payments, approximately \$29,952.60, will increase PAG rates to consumers and the public. The \$3.5M loan is included in the preliminary financial projection that was submitted to PUC for the 3.4% increase in tariff rates in the financial feasibility rate increase schedule.⁸

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:

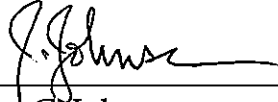
1. PAG is authorized to enter into a \$3.5 million loan with ANZ Guam, Inc., in accordance with the terms of the final loan documentation and the loan commitment letter dated August 17, 2010.
2. PAG has demonstrated a need for the loan funds, and the terms of the loan are reasonable.
3. The loan obligation will not increase the rates or charges of the Port.
4. Final approval by the PUC shall be conditioned upon submission of proof by PAG that the final loan documentation has been approved by the PAG Board of Directors, and execution of such documentation by all appropriate Port officials, including approval as to form by Port Legal Counsel.
5. 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 proceedings. Assessment of PUC's regulatory fees and expenses is authorized pursuant to 12 GCA §§12002(b) and

⁷ Loan Commitment Letter, p. 1.

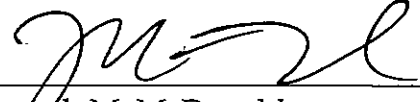
⁸ Email from Jose B. Guevara, Financial Affairs Controller, to Fred Horecky, PUC Counsel, July 26, 2010.

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.

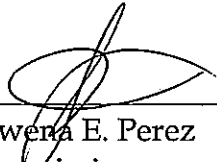
Dated this 30th day of August, 2010.



Jeffrey C. Johnson
Chairman



Joseph M. McDonald
Commissioner



Rowena E. Perez
Commissioner



Filomena M. Cantoria
Commissioner

Michael A. Pangelinan
Commissioner