



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN RE: **REQUEST BY THE PORT**)
 AUTHORITY OF GUAM FOR)
 FOR APPROVAL OF)
 CONTRACT FOR INSURANCE)
_____)

PAG DOCKET 12-03
ORDER

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the September 21, 2012 Petition for Review and Approval for Bid Award for Insurance Coverage (hereinafter referred to as the “Petition”), filed by the Jose D. Leon Guerrero Commercial Port, Port Authority of Guam (“PAG”). PAG seeks PUC approval of its contract for insurance, which it intends on executing prior to the expiration of its current insurance coverage on September 30, 2012.

BACKGROUND

On August 28, 2012, the General Services Agency of the Government of Guam (“GSA”) publicly announced Invitation for Bid No. PAG-006-12 in the Marianas Variety newspaper, which sought sealed bids for property insurance, general liability insurance, directors and officers liability insurance, automobile insurance, and crime insurance. Board of Directors, Port Authority of Guam, Resolution No. 2012-07 (Sept. 21, 2012) (“Resolution”).

On September 14, 2012, GSA held a bid opening. Petition, p. 1. Thereafter, GSA transmitted a copy of the sole submission by AM Insurance (hereinafter referred to as “AM”) to

PAG for its review. Petition, p. 1. On September 15, 2012, Mike Moody of IRIS, Ltd., PAG's risk management consultant, transmitted a memorandum to PAG stating that, based on his review of the proposal and price bids submitted by AM, the bid submitted by AM complied with, and met the technical requirements of, the insurance bid. Petition, p. 1. On September 20, 2012, PAG's Board of Directors issued Resolution No. 2012-07, which approved GSA's award to AM in the amount of \$1,957,484.75. On September 21, 2012, PAG petitioned the PUC to approve PAG's contract for insurance with AM. On September 21, 2012, the Administrative Law Judge of the PUC (the "ALJ") issued an ALJ Report recommending that the PUC approve PAG's contract for insurance with AM for coverage indicated in the Petition and for the total cost of \$1,957,484.75.

DETERMINATIONS

Pursuant to 12 G.C.A. §12004, PAG cannot enter into any contractual agreements or obligations which could increase rates and charges without the PUC's express approval. Additionally, pursuant to PAG's current Contract Review Protocol, "[a]ll internally financed contracts utilizing O&M funds in excess of \$1,000,000" and "[a]ll capital items by account group utilizing O&M funds, which in any year exceed \$1,000,000"; and "[a]ny contract or obligation not specifically referenced above which exceeds \$1,000,000" "shall require prior PUC approval under 12 G.C.A. Section 12004." Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).

In the September 21, 2012 ALJ Report, the ALJ found that based on the documentation in the record, the proposed insurance coverage would "serve as safeguards to all

of PAG's assets from all risks, including natural disasters or catastrophic events, as well as, coverage for any liabilities resulting from PAG's operations." ALJ Report, pp. 4-5 (Sept. 21, 2012) (quoting Petition, p. 2). Additionally, the ALJ found that such insurance coverage "is instrumental to PAG's compliance to the existing loan conditions." ALJ Report, p. 5 (quoting Petition, p. 2).

The ALJ further found that PAG's Petition was supported by the findings of PAG's Board of Directors. The Board of Directors found that "the Port's Risk Management Consultant reviewed the proposal and found that such proposal complies with the instructions and meets the technical requirements of the insurance specifications"; which resulted in its recommendation to GSA that GSA award the bid to AM in the amount of \$1,957,484.75. The Board of Directors also "authorized PAG to petition the PUC for approval of the new contract for insurance." ALJ Report, p. 5.

Accordingly, the ALJ ultimately recommended that the PUC approve PAG's contract for insurance with AM for the following: (1) \$25 million Property Insurance at an annual premium of \$1,558,225.00, with a \$50,000 deductible for each and every loss, and a \$2,350,000 deductible for earthquake, flood and windstorm; (2) \$50 million Liability Insurance at a premium of \$334,945.92, with a \$15,000 deductible for each accident; (3) \$5 million Directors and Officers Liability Insurance at a premium of \$46,875.00, with a \$10,000 for any one claim, and \$75,000 for employment practice liability claims; (4) \$2 million Automobile Insurance at a premium of \$13,276.33, with a \$1,000 deductible for any one claim; and (5)

\$250,000 Crime Insurance at a premium of \$4,162.50, with a \$15,000 deductible for any one claim/aggregate—for a total cost of \$1,957,484.75.

The Commission hereby adopts the findings made in the September 21, 2012 ALJ Report and, therefore, issues the following:

ORDERING PROVISIONS

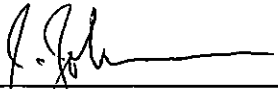
Upon consideration of the record herein, the September 21, 2012 ALJ Report, and for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned Commissioners, the Commission hereby ORDERS the following:

1. The PUC approves PAG's contract with AM Insurance for the following: \$25 million Property Insurance at an annual premium of \$1,558,225.00, with a \$50,000 deductible for each and every loss, and a \$2,350,000 deductible for earthquake, flood and windstorm; \$50 million Liability Insurance at a premium of \$334,945.92, with a \$15,000 deductible for each accident; \$5 million Directors and Officers Liability Insurance at a premium of \$46,875.00, with a \$10,000 for any one claim, and \$75,000 for employment practice liability claims; \$2 million Automobile Insurance at a premium of \$13,276.33, with a \$1,000 deductible for any one claim; and \$250,000 Crime Insurance at a premium of \$4,162.50, with a \$15,000 deductible for any one claim/aggregate.

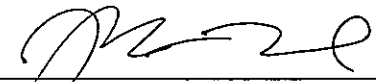
2. PAG is ordered to pay the PUC's regulatory fees and expenses, including and without limitation, consulting and counsel fees, and the fees and expenses associated with the instant contract review process. Assessment of the PUC's regulatory fees and expenses is

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.


SO ORDERED this 25th day of September, 2012.



Jeffrey C. Johnson
Chairman




Joseph M. McDonald
Commissioner



Rowena E. Perez
Commissioner

Filomena M. Cantoria
Commissioner

Michael A. Pangelinan
Commissioner



Peter Montinola
Commissioner

P124074.JRA