

and recommendations. Pursuant to the Ratepayers' Bill of Rights, public hearings were held in the villages of Asan, Dededo, and Hagåtña on October 15, 2015 and October 16, 2015.

DISCUSSION

A. PAG's Increase Tariff Petition

The Rate Petition is based on the testimony submitted by PAG General Manager Joanne M.S. Brown, Felix R. Pangelinan, and Simeon S. Delos Santos; and is further based on Resolution No. 2015-01, issued by PAG's Board of Directors. The Rate Petition proposes a 7% increase across the board on its Terminal Tariff rates, excluding its Crane Surcharge. PAG submits that the rate increase proposed in the Rate Petition "is vital for the generation of sufficient revenues to cover operating costs of the Port Authority, debt services and capital programs for modernization and sustainability."³

Specifically, PAG maintains that "[t]he primary objective is to maintain an economically sustainable tariff that is equitable and reasonable for the port as well as its users, consistent with the quality and level of service provided by the port."⁴ The Rate Petition "is part of a long term plan that will allow the Port to keep pace with inflation and fund all necessary Port Modernization Program (PMP) investments, future crane replacements and all other sustainability investments needed to operate self-sufficiently as an efficient and solvent business through the 20-year planning horizon."⁵

³ Increase Tariff Petition, filed by the Jose D. Leon Guerrero Commercial Port ("Rate Petition"), PAG Docket 15-04, p. 1 (June 1, 2015).

⁴ Rate Petition, p. 1.

⁵ Rate Petition, p. 1.

1. PAG's Written Testimony in Support of the Rate Petition

Ms. Brown testified that “[t]he goal of the tariff adjustment is to ensure that sufficient revenues are available to support the ongoing PMP investments (gantry cranes, yard equipment, TOS, GOS, SLE for wharfs)” as well as “[i]nstitute structured maintenance program”; replace aging facilities; implement salary and wage increases; retain buying power; and address depreciation of existing assets.⁶ Ms. Brown further testified that “[w]ith a tariff adjustment of 7%, the Port will be able to keep up with near-term modernization goals” as well as “begin the process of addressing additional infrastructure maintenance and improvements.”⁷

Felix R. Pangelinan, PAG's Deputy General Manager, testified that “[t]here are critical facilities at the Port Authority that are in dire need of repair. The most immediate area of concern is the wharf that needs to be upgraded to provide for operational efficiencies.”⁸ Mr. Pangelinan added that “[t]he revenue generated from this [] tariff increase will help keep up with inflation and support the Port-financed components of the Port Modernization program which include the wharf service life extension project, financial management system improvements, terminal operating system (TOS) and acquisition of yard and maintenance equipment.”⁹

Simeon S. Delos Santos, PAG's Engineer Manager, testified that PAG's “F-5 wharf was significantly damaged during the 1993 Guam earthquake, the existing wharf was constructed of steel sheet pile supporting a concrete coping beam with horizontal tie-backs.”¹⁰ Mr. Delos Santos further testified that “[a]n underwater structural inspection of berth F-5

⁶ Rate Petition, Tab 2 (“Direct Testimony of Joanne M.S. Brown”), p. 3 (May 28, 2015).

⁷ Direct Testimony of Joanne M.S. Brown, p. 3.

⁸ Rate Petition, Tab 3 (“Direct Testimony of Felix R. Pangelinan”), p. 3 (May 28, 2015).

⁹ Direct Testimony of Felix R. Pangelinan, p. 3.

¹⁰ Rate Petition, Tab 4 (“Direct Testimony of Simeon S. Delos Santos”), p. 2 (May 28, 2015).

completed in December of 2010 found significant concrete spalling, cracking and delamination at piles, pilescaps, beams and bents.”¹¹ Mr. Delos Santos added that the “[m]ost recent inspection conducted in February 2012 exhibited sign of worsening condition as a result of continued chloride attack on the reinforcing steel.”¹²

Mr. Delos Santos testified that “PAG container yard equipment average age is over ten years old”; and that “[c]ontinued maintenance and repairs to these old equipment is not financially feasible, since repair and maintenance cost more than the present value of the equipment.”¹³ Mr. Delos Santos recommended in his testimony that PAG “move forward and focus on facility improvement and long term sustainability”; and that “[f]unding from the Tariff rate increase will give the Port additional funding to continue its improvements that are needed.”¹⁴

2. Board Resolution

Resolution No. 2015-01, issued by PAG’s Board of Directors, authorized PAG to petition the PUC for approval of an across the board 7% rate increase to support the financial needs of the Port.

B. Slater Nakamura Report

1. Analysis

At the outset, the consulting team of Slater Nakamura noted that although PAG presented documentation for a 5-year tariff increase, PAG only petitioned the PUC for a single

¹¹ Direct Testimony of Simeon S. Delos Santos, p. 2.

¹² Direct Testimony of Simeon S. Delos Santos, p. 2.

¹³ Direct Testimony of Simeon S. Delos Santos, p. 2.

¹⁴ Direct Testimony of Simeon S. Delos Santos, p. 2.

year rate increase.¹⁵ The instant request to increase PAG's tariff rates by 7% is for the following: continued payment of debt service on existing loans, which have funded \$7 million in wharf repairs; \$1 million towards the Terminal Operating System (TOS); and \$2 million to purchase two top lifters.¹⁶ The tariff increase will also assist PAG in funding its operations and capital programs.¹⁷ PAG is also looking to assume additional debt, to be paid over thirty (30) years, to fund the Gate Operating System, and Hotel Wharf and Administration Building projects.¹⁸

a. Consumer Price Index

In the Report submitted by Slater Nakamura, the consultants determined that a 7% increase would have a marginal impact on consumer prices, and therefore, the instant increase is "just and reasonable."¹⁹ For instance, as submitted by PAG, the increase in unit cost for a canned beverage or a can of SPAM is \$.0006.²⁰ For a twenty (20) pound bag of rice, the increase in unit cost is \$.0128.²¹

b. Other Ports

In comparison to other ports, Slater Nakamura examined the rate increases implemented in the state of Hawaii, and maintaining that the Hawaii Harbors Division seemed the most comparable to the Port.²² The consultants indicated that with compounding, Hawaii

¹⁵ Slater Nakamura Report, p. 4.

¹⁶ Slater Nakamura Report, p. 8.

¹⁷ Slater Nakamura Report, p. 8.

¹⁸ Slater Nakamura Report, p. 8.

¹⁹ Slater Nakamura Report, p. 8.

²⁰ Slater Nakamura Report, p. 8.

²¹ Slater Nakamura Report, p. 8.

²² Slater Nakamura Report, p. 9.

implemented an increase in rates by over 76% between 2010 and 2015, while PAG during the same time has increased its rates by only 14%.²³ Based on this example, Slater Nakamura found that the rate increase sought in this instance was “just and reasonable.”²⁴

c. Tariff Impact on Cost Recovery

In its report, Slater Nakamura advises that the instant rate relief did not appear to be sufficient to cover operating costs, capital investments, and debt service.²⁵ Slater Nakamura contends that “[t]hat the losses in base revenue combined with the proposed increases in operating costs provide[] for minimal excess revenues even with the proposed adjustments” given that PAG has lost revenue from transshipment, continues to defer maintenance, and plans to increase salaries.²⁶ Slater Nakamura maintains that the tariff increase is insufficient “to cover operating costs and capital investments unless there is a military buildup”; and that the “projected revenues will not be sufficient to fund crane replacements in future years.”²⁷

d. Cargo Projections

The consultants noted that “container counts have dropped in the past few years”, but that “revenue tonnage has not changed as dramatically.”²⁸ According to the consultants, between 2007 and 2014, PAG experienced a 14% reduction in total containers handled.²⁹ The consultants maintained that the reduction was “primarily due to the loss of transshipment

²³ Slater Nakamura Report, p. 9.

²⁴ Slater Nakamura Report, p. 9.

²⁵ Slater Nakamura Report, p. 10.

²⁶ Slater Nakamura Report, p. 10.

²⁷ Slater Nakamura Report, p. 11.

²⁸ Slater Nakamura Report, p. 12.

²⁹ Slater Nakamura Report, p. 11.

business” and Marianna Express Lines’ decision in 2013 to utilize Majuro as a transshipment center.³⁰

e. **Business Decisions on Expenses**

Slater Nakamura further noted the following business decisions warrant a higher rate increase: (1) No improvement in PAG’s financial margin; (2) Deferral of maintenance due to lack of funding; (3) Inability to cover planned capital and operational expenses; (4) Increase in salaries without corresponding increase in revenue; (5) Operating unnecessary equipment; (6) Excluding the Crane Surcharge from the rate increase; (7) Reliance on grant funding to meet operational needs; and (8) Process improvements that do not lead to reduced operating expenses.³¹

2. **Slater Nakamura’s Findings**

Based on its investigation, Slater Nakamura made the following findings. First, the consultants found that the requested increase to PAG’s Terminal Tariff is “just and reasonable.”³² The consultants further found that PAG has deferred \$7.26 million in maintenance on critical equipment and infrastructure.³³

Additionally, Slater Nakamura found that PAG “has not taken steps to reduce operating expenses; including but not limited to, reducing the number of cranes in operation despite direction from the Commission to consider this action.”³⁴ Finally, Slater Nakamura found, based on its review of the financial forecast, which includes the loss of revenue from

³⁰ Slater Nakamura Report, pp. 11-12.

³¹ Slater Nakamura Report, pp. 13-14.

³² Slater Nakamura Report, p. 15.

³³ Slater Nakamura Report, p. 15.

³⁴ Slater Nakamura Report, p. 15.

transshipment, that PAG “will continue to have difficulty funding operations and maintenance and will have minimum financial reserve.”³⁵

3. Slater Nakamura’s Recommendations

As indicated in the Slater Nakamura Report, the following recommendations were made. First, the consultants recommended the approval of the requested tariff rates.³⁶ The consultants also recommended that PAG review its plan to adjust salaries to the 50th market percentile to determine the impact on the financial stability of the Port, and that a report should be provided to the Commission by December 2015.³⁷ The consultants contend that “[t]his is recommended since the PAG’s ratio of salaries to the overall operating expenses is the highest of any port we reviewed” and that “[i]t can be inferred that salaries are being increased at the expense of critical maintenance.”³⁸

Next, the consultants suggested that PAG review the impact of the 7% increase to determine if another increase is justified.³⁹ More still, the consultants recommended that PAG review and implement “changes to operational activities which can reduce its maintenance backlog and cost operations” and suggested that PAG “report its plan to reduce OPEX to the Commission by March 2016.”⁴⁰ Lastly, the consultants suggested that PAG establish a financial reserve based upon ratios used by other ports.⁴¹

³⁵ Slater Nakamura Report, p. 15.

³⁶ Slater Nakamura Report, p. 16.

³⁷ Slater Nakamura Report, p. 16.

³⁸ Slater Nakamura Report, p. 16, n.12.

³⁹ Slater Nakamura Report, p. 16.

⁴⁰ Slater Nakamura Report, p. 16.

⁴¹ Slater Nakamura Report, p. 16.

C. Public Hearings

At the public hearing conducted by the ALJ in the village of Asan on October 15, 2015, there was no testimony given by any member of the public. Present during this public hearing were members of PAG's management and staff.

At the public hearing conducted by the ALJ in the village of Dededo on October 15, 2015, Mayor Melissa B. Savares provided testimony. In particular, Mayor Savares testified that with these rate increases, the senior citizens who are on a fixed income will suffer. Presently, the senior citizens have to choose between purchasing their medication or groceries. A lot of the senior citizens in her village cannot afford to pay for garbage disposal, and utility services. Ms. Brown stated that the Port needs to invest in its infrastructure and equipment, and that it is costly to maintain PAG's infrastructure, but that the Port must meet the demands of the community and must make this investment now.

At the public hearing conducted by the ALJ in the village of Hagåtña on October 16, 2015, there was no testimony given by any member of the public. In attendance during this public hearing were members of PAG's management and staff.

D. ALJ's Findings

The ALJ hereby makes the following findings based on: PAG's Rate Petition and supporting documents; Resolution No. 2013-03 issued by PAG's Board of Directors approving the proposed terminal tariff rate increase; the written testimony from PAG management; the October 15, 2015 and October 16, 2015 public hearings; and the October 19, 2015 Report submitted by Slater Nakamura.

1. Operating Costs, Debt Service, and Capital Programs

The ALJ finds that PAG's request to increase its tariff rates by 7% for continued payment of debt service on existing loans is reasonable, prudent, and necessary given the current state of PAG's infrastructure and modernization, as indicated in the record before the Commission. The tariff increase will help fund PAG's debt service for \$7 million in wharf repairs; \$1 million towards the Terminal Operating System (TOS); and \$2 million to purchase two top lifters.⁴² The tariff increase will also assist PAG in funding its operations and capital programs.⁴³ The tariff increase will further assist PAG as it looks to assume additional debt, to be paid over thirty (30) years, to fund the Gate Operating System, and Hotel Wharf and Administration Building projects.⁴⁴ The ALJ, therefore, finds that the tariff increase will help PAG "move forward and focus on facility improvement and long term sustainability"; and that "[f]unding from the Tariff rate increase will give the Port additional funding to continue its improvements that are needed."⁴⁵

2. Just and Reasonable Rates

Section 12116 of Title 12 of the Guam Code Annotated provides that: "[a]ll rates, charges, assessments, and costs made or charged by any public utility shall be just and reasonable and in conformance with public law, and shall be filed with the Commission; and no rate, charge or assessment cost shall be established, abandoned, modified, departed from or changed without a public hearing and the prior approval of the Commission." 12 G.C.A. §12116(a). Additionally, Section 12118 of the same Title provides that: "[t]he term just and

⁴² Slater Nakamura Report, p. 8.

⁴³ Slater Nakamura Report, p. 8.

⁴⁴ Slater Nakamura Report, p. 8.

⁴⁵ Direct Testimony of Simeon S. Delos Santos, p. 2.

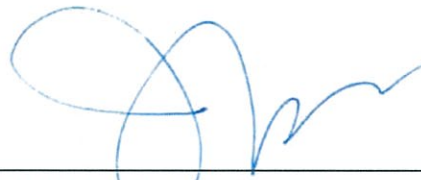
reasonable as used in this Article is defined as that rate, charge or assessment cost which enables the public utility to repay its debts, finance its obligations, finance its capital improvement needs and cover all its operating expenses.” 12 G.C.A. §12118.

Based on the standard expressed above, the ALJ finds that PAG’s tariff rate increase and adjustments are “just” and “reasonable” because such adjustments are necessary in order to enable PAG to “repay its debts, finance its obligations, finance its capital improvement needs and cover all its operating expenses,”⁴⁶ as well as for all the reasons stated in the Slater Nakamura Report, which are incorporated hereto by reference.

CONCLUSION AND RECOMMENDATION

Based on the foregoing, the ALJ hereby recommends that the PUC approve the proposed increases to PAG’s Terminal Tariff rates, as petitioned by PAG, and which are indicated in “Appendix B” of the Slater Nakamura Report, titled “Recommended PAG Tariff Rate Table.”

Respectfully submitted this 27th day of October, 2015.



JOEPHET R. ALCANTARA
Administrative Law Judge

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⁴⁶ 12 G.C.A. §12118.