

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. In addition, no written testimony from the public was submitted.

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.

On October 19, 2015, Slater Nakamura provided the ALJ with its report on the rate investigation, which detailed its findings and recommendations. 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 year rate increase.³ 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.⁴ The tariff

³ Slater Nakamura Report, p. 4.

⁴ Slater Nakamura Report, p. 8.

increase will also assist PAG in funding its operations and capital programs.⁵ 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.⁶

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.”⁷ For instance, as submitted by PAG, the increase in unit cost for a canned beverage or a can of SPAM is \$.0006.⁸ For a twenty (20) pound bag of rice, the increase in unit cost is \$.0128.⁹

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.¹⁰ The consultants indicated that with compounding, Hawaii 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%.¹¹ Based on this example, Slater Nakamura found that the rate increase sought in this instance was “just and reasonable.”¹²

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.¹³ Slater Nakamura contends that “[t]hat the losses in base revenue combined with the proposed increases in

⁵ Slater Nakamura Report, p. 8.

⁶ Slater Nakamura Report, p. 8.

⁷ Slater Nakamura Report, p. 8.

⁸ Slater Nakamura Report, p. 8.

⁹ Slater Nakamura Report, p. 8.

¹⁰ Slater Nakamura Report, p. 9.

¹¹ Slater Nakamura Report, p. 9.

¹² Slater Nakamura Report, p. 9.

¹³ Slater Nakamura Report, p. 10.

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.¹⁴ 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.”¹⁵

The consultants noted that “container counts have dropped in the past few years”, but that “revenue tonnage has not changed as dramatically.”¹⁶ According to the consultants, between 2007 and 2014, PAG experienced a 14% reduction in total containers handled.¹⁷ The consultants maintained that the reduction was “primarily due to the loss of transshipment business” and Marianna Express Lines’ decision in 2013 to utilize Majuro as a transshipment center.¹⁸

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.¹⁹

¹⁴ Slater Nakamura Report, p. 10.

¹⁵ Slater Nakamura Report, p. 11.

¹⁶ Slater Nakamura Report, p. 12.

¹⁷ Slater Nakamura Report, p. 11.

¹⁸ Slater Nakamura Report, pp. 11-12.

¹⁹ Slater Nakamura Report, pp. 13-14.

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."²⁰ The consultants further found that PAG has deferred \$7.26 million in maintenance on critical equipment and infrastructure.²¹

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."²² Finally, Slater Nakamura found, based on its review of the financial forecast, which includes the loss of revenue from transshipment, that PAG "will continue to have difficulty funding operations and maintenance and will have minimum financial reserve."²³

As indicated in the Slater Nakamura Report, the following recommendations were made. First, the consultants recommended the approval of the requested tariff rates.²⁴ 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 2015.²⁵ 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."²⁶

²⁰ Slater Nakamura Report, p. 15.

²¹ Slater Nakamura Report, p. 15.

²² Slater Nakamura Report, p. 15.

²³ Slater Nakamura Report, p. 15.

²⁴ Slater Nakamura Report, p. 16.

²⁵ Slater Nakamura Report, p. 16.

²⁶ Slater Nakamura Report, p. 16, n.12.

Next, the consultants suggested that PAG review the impact of the 7% increase to determine if another increase is justified.²⁷ 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.”²⁸ Lastly, the consultants suggested that PAG establish a financial reserve based upon ratios used by other ports.²⁹

On October 27, 2015, the Administrative Law Judge of the PUC (the “ALJ”) issued an ALJ Report detailing his findings and recommendations with respect to PAG’s Petition and the Slater Nakamura Report.

In the October 27, 2015 ALJ Report, the ALJ made the following findings based on: PAG’s Rate Petition; Resolution No. 2015-01 issued by PAG’s Board of Directors approving an across the board 7% rate increase to support the financial needs of the Port; the written testimony from PAG management; the October 15, 2016 and October 16, 2015 public hearings; and the October 19, 2015 Report submitted by Slater Nakamura.

The ALJ found 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.³⁰ The tariff increase will also assist PAG in funding its operations and capital

²⁷ Slater Nakamura Report, p. 16.

²⁸ Slater Nakamura Report, p. 16.

²⁹ Slater Nakamura Report, p. 16.

³⁰ Slater Nakamura Report, p. 8.

programs.³¹ 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.³² The ALJ, therefore, found 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.”³³

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 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 found 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,”³⁴ as well as for all the reasons stated in the Slater Nakamura Report, which are incorporated hereto by reference.

³¹ Slater Nakamura Report, p. 8.

³² Slater Nakamura Report, p. 8.

³³ Direct Testimony of Simeon S. Delos Santos, p. 2.

³⁴ 12 G.C.A. §12118.

Based on the administrative record before the PUC, the ALJ recommended 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."

The Commission hereby adopts the findings made in the October 27, 2015 ALJ Report, and therefore, issues the following:

ORDERING PROVISIONS

Upon careful consideration of the record herein, 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. PAG is authorized to implement the proposed 7% increase to PAG's Terminal Tariff rates, excluding the crane surcharge, which are indicated in "Appendix B" of the Slater Nakamura Report, titled "Recommended PAG Tariff Rate Table;"

2. PAG is further 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 this rate investigation. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12002(b) and 12024(b) (renumbered as 12 G.C.A. §§ 12103(b) and 12125(b)), and Rule 40 of the Rules of Practice and Procedure before the PUC.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

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SO ORDERED this 29th day of October, 2015.


JEFFREY C. JOHNSON
Chairman
ROWENA E. PEREZ
Commissioner
JOSEPH M. MCDONALD
Commissioner
FILOMENA M. CANTORIA
Commissioner
MICHAEL A. PANGELINAN
Commissioner
PETER MONTINOLA
Commissioner
ANDREW L. NIVEN
Commissioner

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