



**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

**IN RE:            REQUEST BY THE PORT            )            PAG DOCKET 18-01**  
**AUTHORITY OF GUAM FOR        )            ORDER**  
**FOR APPROVAL OF                    )**  
**CONTRACT FOR INSURANCE        )**  
**\_\_\_\_\_ )**

**INTRODUCTION**

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the October 12, 2017 Petition for Approval of 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 with AM Insurance (“AM”).

On October 24, 2017, the Administrative Law Judge of the PUC (the “ALJ”) assigned to this matter filed an ALJ Report that included his findings and recommendations based on the administrative record before the PUC. The ALJ found the following.

**DETERMINATIONS**

On September 6, 2017, the General Services Agency of the Government of Guam (“GSA”) publicly announced Invitation for Bid No. GSA/PAG 020-17 (“IFB GSA/PAG 020-17”) in the Pacific Daily News,<sup>1</sup> which sought sealed bids for property insurance, liability insurance, directors and officers liability insurance, automobile insurance, and crime insurance. Invitation for Bid No. GSA/PAG 020-17, p. 36.

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<sup>1</sup> Petition for Review and Approval for Bid Award for Insurance Coverage (“Petition”), p. 1 (Oct. 12, 2017).

On September 21, 2017, GSA held a bid opening.<sup>2</sup> Thereafter, GSA transmitted a copy of the sole submission by AM to PAG's Risk Consultant for its review.<sup>3</sup> PAG then selected bids for the list of coverage for five-year terms. On September 26, 2017, PAG's Board of Directors ratified the award to AM, approving the bid amounts indicated for each coverage type. PAG represents that the Board of Directors intends to issue Resolution No. 2017-21 on October 25, 2017, which will formally approve GSA's award to AM at an annual premium amount of \$2,372,181.47.

**1. PAG's Petition**

In the Petition, PAG requested that the PUC approve PAG's purchase of property insurance, as well as other types of insurance, itemized in IFB GSA/PAG 020-17 on the basis that such insurance serves "as safeguards to all of PAG's assets from all risk, including natural disasters or catastrophic events, as well as, coverage for any liabilities resulting from PAG's operations."<sup>4</sup> Furthermore, PAG maintained that such insurance coverage "is instrumental to PAG's compliance to the existing loan conditions."<sup>5</sup> PAG specifically sought approval to contract with AM for the following coverage: Property Insurance, Liability Insurance, Directors and Officer Liability Insurance, Crime Insurance, and Automobile Insurance; for a five-year annual premium cost of \$2,372,181.47.

**2. Proposed Insurance Coverage**

In the Petition, PAG sought approval for the following five-year premiums: (1) \$55 million Property Insurance for \$2,004,787.00, with a \$1,000,000 deductible for typhoon,

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<sup>2</sup> Petition, p. 1.

<sup>3</sup> Petition, p. 1.

<sup>4</sup> Petition, p. 1.

<sup>5</sup> Petition, p. 2.

earthquake, and flood, and a \$50,000 deductible for all other peril; (2) \$50 million Liability Insurance for \$283,560.00, with a \$15,000 deductible; (3) \$2-\$5 million Directors and Officers Liability Insurance for \$55,575.00, with a \$10,000 deductible for any one claim, and \$75,000 deductible for employment practice liability claims; (4) \$2 million Automobile Insurance for \$15,908.47, with a \$1,000 deductible; and (5) \$1,000,000 Crime Insurance for \$12,351.00, with a \$10,000 deductible. In Fiscal Year 2013, the total cost for PAG's annual insurance premiums was \$1,957,484.75 per year.

**3. PAG's Contract Review Protocol**

Pursuant to 12 G.C.A. §12105,<sup>6</sup> PAG may not 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).

**4. Board Approval**

According to PAG, its Board of Directors ratified the award to AM on September 26, 2017. PAG also submitted that its Board of Directors will issue Resolution No. 2017-21, which draft indicates formal approval of PAG's recommendation to award the contract for insurance coverage to AM. In addition, the draft Resolution authorizes the contract term of five years and expressly authorizes the amount of \$2,372,181.47 for the cost of the annual premium.

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<sup>6</sup> Formerly 12 G.C.A. §12004.

## CONCLUSION

Based on the documentation provided, the ALJ agreed with PAG and therefore found that insurance “safeguards” “PAG’s assets from all risks, including natural disasters or catastrophic events, as well as, coverage for any liabilities resulting from PAG’s operations.”<sup>7</sup> Additionally, the ALJ further found that such insurance coverage “is instrumental to PAG’s compliance to the existing loan conditions.”<sup>8</sup>

Further, this Commission has historically highlighted the importance of maintaining insurance since such insurance benefits ratepayers with regard to the protection of assets by assisting with recovery efforts after natural disasters such as typhoons, earthquakes, or other calamities.

Accordingly, based on the record before the Commission, and for the reasons set forth therein, the ALJ recommended that the PUC approve PAG’s contract for insurance with AM for coverage indicated in the Petition, and for an annual premium cost of \$2,372,181.47. The Commission hereby adopts the findings made in the October 24, 2017 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:

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<sup>7</sup> See Petition, p. 1.

<sup>8</sup> See Petition, p. 2.

1. PAG's petition is hereby APPROVED; PAG's contract for Insurance with AM Insurance is hereby APPROVED for coverage indicated in the Petition, at an annual premium cost of \$2,372,181.47.

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 this matter. Assessment of the PUC's regulatory fees and expenses is authorized pursuant to 12 G.C.A. §§ 12103(b) and 12125(b), and Rule 40 of the Rules of Practice and Procedure before the PUC.

**SO ORDERED** this 26<sup>th</sup> day of October, 2017.



**JEFFREY C. JOHNSON**  
Chairman

**ROWENA E. PEREZ**  
Commissioner



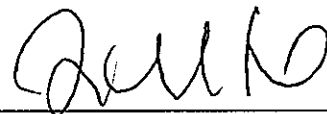
**JOSEPH M. MCDONALD**  
Commissioner



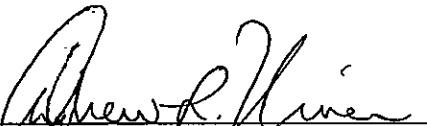
**FILOMENA M. CANTORIA**  
Commissioner



**MICHAEL A. PANGELINAN**  
Commissioner



**PETER MONTINOLA**  
Commissioner



**ANDREW L. NIVEN**  
Commissioner