



BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN RE:	PETITION FOR PUC)	PAG DOCKET 22-06
	APPROVAL OF THE AWARD)	
	TO AM INSURANCE FOR THE)	ORDER
	PORT AUTHORITY OF GUAM'S)	
	INSURANCE COVERAGE.)	
	_____)	

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the September 14, 2022 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” or the “Port”). PAG seeks PUC approval of its contract for insurance with AM Insurance (hereinafter referred to as “AM”).

On September 26, 2022, 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 August 19, 2022, PAG publicly announced Invitation for Bid No. IFB-PAG-015-22 (“IFB”) in the Pacific Daily News, which sought sealed bids for insurance coverage for the Port.¹ On September 2, 2022, PAG procurement personnel held a bid opening and thereafter determined that the sole bidder AM was the most responsible and

¹ Petition p. 1.

responsive bidder with the lowest bid at \$3,545,119.30.² On September 12, 2022, a notice of intent to award the bid was issued to AM.³

1. PAG's Contract Review Protocol

Pursuant to 12 G.C.A. §12105, 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" "shall require prior PUC approval under 12 G.C.A. Section 12004." Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).

2. PAG's Petition

PAG requests that the PUC approve its purchase of liability and property insurance, as well as other types of insurance, such as automobile and crime, and insurance for its directors and officers;⁴ and, more specifically, its contract award to AM for the following coverage: Property Insurance, Liability Insurance, Directors and Officer Liability Insurance, Crime Insurance, and Automobile Insurance; at an initial annual premium of \$3,545,119.30.

3. Proposed Insurance Coverage

AM's proposal offers the following insurance coverage: up to \$55 million in blanket coverage for physical loss and damage to all real and personal property, including

² Petition p. 1;

³ Petition p. 1;

⁴ Petition, p. 1; [Draft] Resolution No. 2022-18, by PAG's Board of Directors, p. 1 (Sept. 29, 2022).

earthquake, flood, typhoon, tsunami, loss of revenue, business interruption, and even boiler or machinery breakdown (\$3,101,543.09), insuring about \$246 million in Port assets; and up to \$50 million in marine liability (\$325,705.00). The proposal also offers commercial insurance coverage for directors' and officers' liability of \$5 million (\$69,747.60); up to \$2 million in automobile coverage (\$34,636.61); and up to \$1 million crime coverage (\$13,487.00).

Pursuant to the proposed contract and the IFB, AM will provide such insurance for PAG for five consecutive years. According to PAG, renewal of policy will be subject to the availability of funding and that its revenues will fund the contract.⁵

4. Board Approval

According to PAG, its Board of Directors plan to approve PAG's contract award to AM for insurance coverage and intend to issue Resolution No. 2022-18 on September 29, 2022, which will reflect such approval. In addition, the draft Resolution authorizes the amount of \$3,545,119.30 for the cost of the initial annual premium.

CONCLUSION AND RECOMMENDATION

Based on the documentation provided, the ALJ found that the purchase of insurance coverage safeguards PAG's assets from risks such natural disasters or catastrophic events, as well as, coverage for any liabilities resulting from PAG's operations. Indeed, this Commission has consistently highlighted the importance of maintaining insurance since such insurance benefits ratepayers with regard to the

⁵ Petition, p. 1.

protection of assets by assisting with recovery efforts after natural disasters such as typhoons, earthquakes, or other calamities.

Moreover, insurance coverage is essential to PAG's compliance with its bond covenants. As stated in "Appendix D" to the 2018 Port Revenue Bond Indenture, titled "Summary of Certain Provisions of the Indenture," "[t]he Authority will maintain or cause to be maintained insurance on the Port with responsible insurers in such amounts and against such risks (including accident to or destruction of the Port) as are usually maintained by prudent operators of ports similar and/or similarly situated to the Port and which it shall deem advisable or necessary to protect its interests and the interests of the Bondowners so long as such insurance is available to the Authority on the open market from responsible insurers at reasonable cost."⁶

In addition, "[t]he Authority will maintain such other insurance which it shall deem advisable or necessary to protect its interests and the interests of the Bondowners, which insurance shall afford protection in such amounts and against such risks as are usually maintained by prudent operators of ports similar to the Port."⁷

Accordingly, PAG must purchase and maintain insurance that similarly situated and prudent port operators would maintain. If not, then PAG would ostensibly violate the terms of its bond indenture. The ALJ therefore recommended that the PUC approve PAG's contract for insurance with AM for coverage indicated in the Petition, and for an initial annual premium cost of \$3,545,119.30.

⁶ Port Revenue Bond Indenture, p. D-23 (2018).

⁷ Port Revenue Bond Indenture, p. D-23 (2018).

The Commission hereby adopts the findings in the September 26, 2022 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. That the instant Petition is hereby APPROVED.
2. PAG's contract with AM Insurance is hereby APPROVED for coverage indicated in the Petition, at an estimated annual premium cost of \$3,545,119.30.
3. 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.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

SO ORDERED this 29th day of September, 2022.



JEFFREY C. JOHNSON
Chairman



ROWENA E. PEREZ-CAMACHO
Commissioner



JOSEPH M. MCDONALD
Commissioner

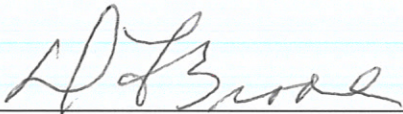


PEDRO GUERRERO
Commissioner



MICHAEL A. PANGELINAN
Commissioner

PETER MONTINOLA
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DORIS FLORES BROOKS
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