



**BEFORE THE GUAM PUBLIC UTILITIES COMMISSION**

<b>IN RE:</b>	<b>PETITION TO RATIFY</b>	)	<b>PAG DOCKET 24-01</b>
	<b>INSURANCE COVERAGE FOR</b>	)	
	<b>THE PORT AUTHORITY OF</b>	)	<b>ALJ REPORT</b>
	<b>GUAM</b>	)	
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**INTRODUCTION**

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the November 14, 2023 Petition to Ratify 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”).

**BACKGROUND**

Back in August 2022, PAG issued an Invitation for Bid seeking a carrier for insurance coverage of its assets. On September 29, 2022, the PUC approved the contract award to AM for insurance coverage, and further approved an estimated premium cost of \$3,545,119.30 per year. The term of the contract for insurance is from October 1, 2022 through October 1, 2027. PAG is returning to the PUC for approval of the fiscal year 2024 renewal terms for continued insurance coverage with AM.

**DISCUSSION**

**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 . . . .”<sup>1</sup> Further, PAG must seek PUC approval in the event a multi-year contract exceeds 120% of the aggregate cost initially approved by the PUC.<sup>2</sup>

## **2. PAG’s Petition**

PAG requests that the PUC approve its renewal purchase of marine liability and property insurance, as well as other types of insurance, such as automobile and crime, and insurance for its directors and officers at a premium of \$4,936,673.38.<sup>3</sup>

## **3. Proposed Insurance Coverage**

This year’s insurance coverage provides: up to \$55 million in blanket coverage for physical loss and damage to all real and personal property, including earthquake, flood, typhoon, tsunami, loss of revenue, business interruption, and machinery breakdown (\$4,491,649.45), insuring about \$278 million in Port assets; and up to \$50 million in marine liability (\$325,705.00). The renewal terms also offer coverage for directors’ and officers’ liability of \$5 million (\$69,747.60); \$2 million in automobile coverage (\$36,084.33); and \$1 million crime coverage (\$13,487.00). As indicated by PAG, the total cost for insurance coverage this fiscal year increased by \$1,391,554.08.<sup>4</sup> The increase is reflected only in the rates for property and automobile insurance. The rates for the other lines of coverage remain the same.

## **4. Justification for the Increase**

According to AM Insurance (hereinafter “AM”), the increase in the property premium is primarily due to global catastrophic losses. AM submits that industry rate

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<sup>1</sup> Contract Review Protocol, PAG Docket 09-01, p. 1 (June 20, 2011).

<sup>2</sup> Contract Review Protocol, PAG Docket 09-01, p. 3.

<sup>3</sup> Petition, p. 2.

<sup>4</sup> Petition, p. 2.



hikes are expected between 35% and 50% for loss free policies. AM further submits that the increase in PAG's premium for property insurance is reasonable given an increase in PAG's property values and an outstanding claim due to the damage caused by Typhoon Mawar. In particular, AM indicates that the rise in the premium for property insurance is due in part to PAG's \$15 million claim relating to property damage and business interruption caused by Typhoon Mawar back in May. AM also indicates that the increase in the premium is due to a 13% increase in the Port's property values in fiscal year 2024, from a stated value of \$245,748,336 to \$277,803,815.

In addition, AM contends that "extreme weather events worldwide" appear to be increasing, resulting in carriers raising their rates, especially in areas exposed to catastrophic events, or pulling out of the market altogether. AM further contends that "inflation" is driving up prices for goods and services, which—according to AM—has a direct impact on insurance cost, such as property valuation, construction costs and labor. With regard to the increase in the automobile premium, AM submits that since PAG has added 4 more vehicles to its insured fleet, the premium for automobile insurance increased by 4%.

## **5. Board Approval**

In its approval of the Port's Fiscal Year Budget for 2024, PAG's Board of Directors authorized the General Manager of the Port to present any matter to the PUC without prior Board approval during instances where the Board lacks quorum due to pending legislative confirmations. Particularly, pursuant to a "Survivability Clause" made part of the Fiscal Year 2024 Budget, the General Manager is "henceforth authorized, without prior Board



approval, to present to the Guam Public Utilities Commission any matter so required for presentment and PUC approval . . . .”<sup>5</sup>

### **CONCLUSION AND RECOMMENDATION**

Based on the documentation provided, the ALJ finds that the purchase of insurance coverage certainly safeguards PAG’s assets from risks such as natural disasters or catastrophic events, as well as, coverage for 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 protection of assets by assisting with recovery efforts after natural disasters such as typhoons, earthquakes, or other calamities.

It is crucial to PAG and its operations to maintain insurance coverage. Without such coverage, for instance, the devastating effects of Typhoon Mawar on the Port’s assets would have to be completely absorbed by PAG. Since the Port maintains insurance on its assets, it has been able to file a \$15 million claim for property damage and business losses due to Typhoon Mawar.

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

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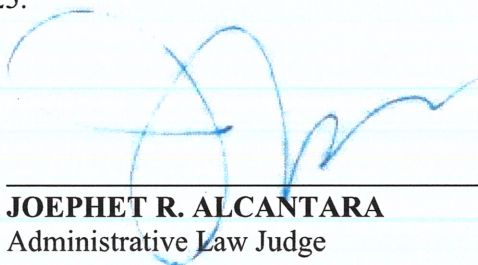
<sup>5</sup> PAG FY2024 Approved Budget, p. 33 (Aug. 31, 2023).



Bondowners so long as such insurance is available to the Authority on the open market from responsible insurers at reasonable cost.”<sup>6</sup> In particular, “[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.”<sup>7</sup>

Accordingly, PAG must purchase and maintain insurance that similarly situated and prudent port operators would maintain. If not, then PAG could potentially be in violation of the terms of its bond indenture. The ALJ therefore recommends that the PUC approve PAG’s renewal of its contract for insurance with AM for coverage indicated in the Petition and its attachments, and at a total premium cost of \$4,936,673.38 for fiscal year 2024. A proposed Order for the PUC is attached hereto for the PUC’s consideration.

Dated this 18<sup>th</sup> day of December, 2023.



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**JOEPHET R. ALCANTARA**  
Administrative Law Judge

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<sup>6</sup> Port Revenue Bond Indenture, p. D-23 (2018).

<sup>7</sup> Port Revenue Bond Indenture, p. D-23 (2018).