



**PORT OF GUAM**  
*A TURIDATI I PUEITTON GUAHAN*  
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Eddie Baza Calvo  
Governor of Guam  
Ray Tenorio  
Lieutenant Governor

April 28, 2017

**MEMORANDUM**

**TO:** All Shipping Agents and Port Users  
**FROM:** General Manager  
**SUBJECT:** PAG Docket 17-01 5-Year Tariff Increase

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On April 27, 2017, the Guam Public Utilities Commission (PUC) approved the Port Authority's 5-Year Tariff request.

In consideration of the Port Users Group, all increases in tariffs, rate charges, and fees as set forth herein, shall not take effect until June 1, 2017. All Tariff rates increased by 7% to exclude Cranc Recovery Charge (CRC), Fuel Storage, Throughput and bunkering Fees.

The second year rates will be implemented on January 1, 2018 and years 3-5 will be implemented October 1<sup>st</sup>, thereafter.

Attached is a copy of the approved Tariff Rates for your reference.

The PUC Order on Port Docket 17-01 regarding the PAG request for PUC Investigation of rates & Tariff will be posted on the Port's Website at [www.portguam.com](http://www.portguam.com).

Should you have any questions regarding this matter, please feel free to contact our office at 477-5931/5 ext. 302/303.

  
JOANNE M.S. BROWN

**Cc:** Deputy General Manager, *Operations*  
Deputy General Manager, *Admin. & Finance*  
Acting Financial Affairs Controller

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION



PAG DOCKET 17-01

PETITION OF )  
PORT AUTHORITY OF GUAM )  
FOR FIVE YEAR TARIFF INCREASE )  
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ORDER

**INTRODUCTION**

This matter comes before the Guam Public Utilities Commission (the “PUC”) pursuant to the “5 Year Tariff Petition” (hereinafter referred to as the “Rate Petition”), filed by the Jose D. Leon Guerrero Commercial Port (“PAG” or the “Port”) on November 16, 2016.

**DETERMINATIONS**

On September 12, 2016, PAG published its proposed rates reflecting increases to PAG’s Terminal Tariff.<sup>1</sup> On November 16, 2016, PAG filed its 2016 Rate Petition. Thereafter, the Administrative Law Judge of the PUC (the “ALJ”) transmitted a copy of the Rate Petition to the firm of Slater Nakamura, L.L.C. (“Slater Nakamura”), the PUC’s consultants for matters related to the port authority.

On March 7, 2017, Slater Nakamura provided the ALJ with its report on the rate investigation, which detailed its findings and recommendations. Pursuant to the Ratepayers’ Bill of Rights, duly-noticed public hearings were held in the villages of Hagåtña, Agat, and Dededo, on April 5, 6, and 7, 2017.

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<sup>1</sup> Report of the Tariff Investigation for the Port Authority of Guam (“Slater Nakamura Report”), submitted by Slater Nakamura, L.L.C., p. 1 (Mar. 7, 2017).

On April 26, 2017, the ALJ filed an ALJ Report regarding the instant rate case, which included his findings and recommendations based on the administrative record before the PUC. The ALJ found the following.

**A. PAG's Rate Petition**

The Rate Petition is based on the testimony submitted by PAG General Manager Joanne M.S. Brown, Felix R. Pangelinan, Felixberto A. Duenas, and Simeon S. Delos Santos; and is further based on Resolution No. 2016-05, issued by PAG's Board of Directors. The Rate Petition proposes a 7% general increase on PAG's Terminal Tariff rates, excluding its Crane Surcharge, for years 1 and 2, and a 1% increase for years 3 through 5.<sup>2</sup> 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."<sup>3</sup>

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."<sup>4</sup> 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."<sup>5</sup>

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

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

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

<sup>5</sup> Rate Petition, p. 1.

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

Joanne M.S. Brown, PAG's General Manager, 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 programs"; replace aging facilities; implement salary and wage increases; retain buying power; and address depreciation of existing assets.<sup>6</sup> Ms. Brown further testified that the tariff adjustment will allow the Port to be "able to keep up with near-term modernization goals" as well as "begin the process of addressing additional infrastructure maintenance and improvements."<sup>7</sup>

Ms. Brown added that PAG was awarded a \$10 million grant from the U.S. Department of Transportation, which PAG intends to utilize as funding for rehabilitation of its Hotel Wharf.<sup>8</sup> However, based on this testimony, PAG will need an additional \$10 million in funding, by way of bond issues, in order to fully fund such rehabilitation.<sup>9</sup>

Felix R. Pangelinan, PAG's Deputy General Manager of Operations, 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 H wharf [needing] to be upgraded to provide for operational efficiencies."<sup>10</sup> Mr. Pangelinan added that "[t]he revenue generated from this 5 year tariff increase will help fund the port's priority projects . . . and our debt service to the port's current loans and future bond financing . . ."<sup>11</sup>

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<sup>6</sup> Petition, Tab 2 ("Direct Testimony of Joanne M.S. Brown"), p. 3 (Nov. 16, 2016).

<sup>7</sup> Direct Testimony of Joanne M.S. Brown, p. 3.

<sup>8</sup> Direct Testimony of Joanne M.S. Brown, p. 3.

<sup>9</sup> Direct Testimony of Joanne M.S. Brown, p. 3.

<sup>10</sup> Petition, Tab 3 ("Direct Testimony of Felix R. Pangelinan"), p. 3 (Nov. 16, 2016).

<sup>11</sup> Direct Testimony of Felix R. Pangelinan, p. 3.

Felixberto Alfred Duenas, PAG's Deputy General Manager of Administration and Finance, testified that another goal of the rate plan "is to ensure that sufficient revenues are available to support a Bond indenture to include cash reserve requirements and debt service[ ] to sustain capital improvement[ ] projects[s] and salary structure."<sup>12</sup>

Simeon S. Delos Santos, PAG's Engineer Manager, testified that the "essential components" underlying the rate increases are the following: to finance the capital project outlined in PAG's 2013 Master Plan Update; to satisfy debt service requirements; and for the Port to be "financially self sufficient."<sup>13</sup>

**2. PAG's Board Resolution Approving Rate Petition**

Resolution No. 2016-05, issued by PAG's Board of Directors, found that, based on a financial analysis conducted by PAG's Owner's Agent/Engineer, "there should now be annual adjustments in the Port's Terminal Tariff over the next five years in the amount of 7% for years 1 and 2, and a 1% increase for the years 3 through 5."<sup>14</sup> The Board further authorized PAG to petition the PUC for approval of the multi-year rate plan, which is the subject of these proceedings.<sup>15</sup>

**B. Rate Investigation by Slater Nakamura**

**1. Just and Reasonable**

Based on its investigation, Slater Nakamura found that PAG's request is based on the need to "support operational costs, upgrade facilities and modernize its operating systems and

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<sup>12</sup> Petition, Tab 3 ("Direct Testimony of Felixberto Alfred Duenas"), p. 3 (Nov. 16, 2016).

<sup>13</sup> Petition, Tab 5 ("Direct Testimony of Simeon S. Delos Santos"), p. 2 (Nov. 16, 2016).

<sup>14</sup> Resolution No. 2016-05, p. 1 (Sept. 7, 2016).

<sup>15</sup> Resolution No. 2016-05, p. 1 (Sept. 7, 2016).

equipment in order to meet projected demand for cargo throughput.”<sup>16</sup> Slater Nakamura noted that “[t]he approval of the Legislature of the 2007 Port Master Plan ratified a \$261 million capital development plan needed to properly modernize and expand existing facilities to meet both near-term and long-term cargo demands.”<sup>17</sup>

The rate plan will support PAG’s continued payment on debt service on existing loans of about \$2.2 million per year, which include acquisition of cargo handling equipment, wharf repairs, acquisition of the Port of Los Angeles cranes, and top lifters.<sup>18</sup> From 2017 through 2021, PAG also plans to implement capital projects that total \$57.7 million, which include a gate operating system, replacement of PAG’s Administration Building, Hotel Wharf, and waterline.<sup>19</sup> PAG further intends on replacing Crane 3.<sup>20</sup>

For this investigation, Slater Nakamura examined the Rate Petition, PAG’s Master Plan Update 2013 Report, financial forecasts submitted by PAG, maintenance plans, along with other data.<sup>21</sup> Based on its review, Slater Nakamura determined that PAG’s request is “just and reasonable.”<sup>22</sup>

a. Consumer Price Index

Based on its analysis, Slater Nakamura determined that the proposed tariff increases were consistent with the Consumer Price Index, finding that the increases in the tariff

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<sup>16</sup> Slater Nakamura Report, p. 8.

<sup>17</sup> Slater Nakamura Report, p. 8.

<sup>18</sup> Slater Nakamura Report, p. 5.

<sup>19</sup> Slater Nakamura Report, p. 5.

<sup>20</sup> Slater Nakamura Report, p. 5.

<sup>21</sup> Slater Nakamura Report, p. 5.

<sup>22</sup> Slater Nakamura Report, p. 2.

had a “marginal impact on consumer prices.”<sup>23</sup> In fact, based on PAG’s data, the rate increase would result in the following for the first year.

**Figure 2: 2015 PAG Analysis of Proposed Tariff Impact on Consumer Prices<sup>3</sup>**

<b>Item</b>	<b>Canned beverage</b>	<b>Canned Spam</b>	<b>Lettuce head</b>	<b>Rice – 20 lbs. bag</b>	<b>Lumber (2 x 4x 8)</b>
Increase in Cost of Container	\$29.19	\$29.19	\$37.69	\$29.19	\$29.19
Increase in unit cost	\$0.0006	\$0.0006	\$0.0016	\$0.0128	\$0.0082

**b. Comparable Port**

Slater Nakamura’s analysis also included a comparison of Hawaii’s rate increases against the Port’s increases. Slater Nakamura indicated that Hawaii has increased its rates by over 80% within 2010 and 2016, and will continue to increase its rates yearly by 3%. Slater Nakamura found that given the adjustments implemented by Hawaii “are significantly higher than those proposed by PAG,” they conclude that the proposed multi-year rate plan is “just and reasonable.”<sup>24</sup>

**c. Financial Need**

Slater Nakamura further examined whether the multi-year rate plan will be sufficient to cover PAG’s operating costs, capital investments, and debt service. Looking at revenue from cargo, Slater Nakamura determined that “[t]he projected growth rates and baseline

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<sup>23</sup> Slater Nakamura Report, p. 11.

<sup>24</sup> Slater Nakamura Report, p. 13.

volumes for cargo throughput are extremely conservative and therefore the revenue projections developed from those projections are also conservative and achievable.”<sup>25</sup>

Slater Nakamura’s analysis additionally examined whether the projected cash flow will be sufficient to support operating costs plus \$47 million in new bonded debt. Based on its examination, Slater Nakamura found that “there would be sufficient cash flow to support operating and non-operating (includes debt service on existing and new debt) expenses, and funding of the CIP.”<sup>26</sup> Slater Nakamura also found that PAG would have sufficient cash flow to replace Crane 3 in 2018, which replacement would be funded by the sinking fund, as well as revenues and proceeds from bonded debt.<sup>27</sup> The consultants, however, note that PAG should provide the PUC with a detailed timeline for any debt issuance, as well as provide the PUC with progress reports regarding the status and efforts for such issuance.<sup>28</sup>

## 2. Findings

Based on its investigation, Slater Nakamura made the following findings: that the requested tariff increases are “just and reasonable” inasmuch as they “have minimal impact on the market basket of the average Guam consumer”; and that the increases are significantly less than the increases approved for the benchmark port, namely Hawaii.<sup>29</sup> In addition, Slater Nakamura further found that the tariff increases will allow PAG “to operate in a manner where its current and future obligations can be met.”<sup>30</sup>

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<sup>25</sup> Slater Nakamura Report, p. 17.

<sup>26</sup> Slater Nakamura Report, p. 18.

<sup>27</sup> Slater Nakamura Report, p. 18.

<sup>28</sup> Slater Nakamura Report, p. 19.

<sup>29</sup> Slater Nakamura Report, p. 23.

<sup>30</sup> Slater Nakamura Report, p. 23.



The consultants also found that PAG continues to defer maintenance on critical equipment and infrastructure; and that Crane 3 must be replaced earlier than anticipated due to such deferred maintenance.<sup>31</sup> Lastly, while Slater Nakamura found that PAG will be able to sustain operations and service existing and planned debt, the following would impact cash flow: (1) the Guam CPI exceeds 4% per annum; (2) cargo throughput exceeds or falls short of the current projected growth rate with more than a 5% variance; (3) PAG loses its appeal of an arbitration \$15 million award; and (4) the cranes require replacement 2 or more years sooner than currently planned.<sup>32</sup>

### **3. Recommendations**

Based on its investigation, Slater Nakamura made the following recommendations: that the PUC approve the rate plan as petitioned by PAG; and that PAG provide the PUC with a detailed timeline for debt issuance, as well as provide the PUC with semi-annual reports to the Commission.<sup>33</sup> In addition, Slater Nakamura further recommended that the PUC reserve the right to request that PAG return to the Commission for possible revisions to the rate increases in the event of the following: Guam's CPI exceeds 4% per annum; the cargo throughput either exceeds or falls short of the projected growth rate by 5%; PAG loses an appeal against Guam YTK Corporation and is required to pay a \$15 million arbitration award; and any time the physical condition of PAG's cranes require replacement two (2) years sooner than presently planned.<sup>34</sup>

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<sup>31</sup> Slater Nakamura Report, p. 23.

<sup>32</sup> Slater Nakamura Report, p. 23.

<sup>33</sup> Slater Nakamura Report, p. 25.

<sup>34</sup> Slater Nakamura Report, p. 25.

C. Public Testimony

At the public hearing held in Hagåtña on April 5, 2017, several members of PAG management testified in support of the multi-year rate plan. In addition, Catherine Castro, President of the Guam Chamber of Commerce, testified in opposition to the tariff increases, stating that “the best way for our government to expand revenues is to live within its means and increase our tax base (grow our economy).” Ms. Castro testified that the private sector is faced with an increase in the minimum wage, increased fees due to the TESS law and utility costs, as well as the H2-B crisis that has impacted the cost of construction.

Ms. Castro further testified that for families “living from paycheck to paycheck, a \$400 monthly grocery budget could be impacted by \$28, which essentially could result in whether or not a family can afford to purchase baby formula or some other necessity.”

At the public hearing held in the village of Agat on April 6, 2017, Mr. Frank Lujan questioned what the rate increases would fund. Again, PAG management testified in support of the multi-year rate plan, as well as offered testimony indicating how the rate increases would be utilized.

At the public hearing held in the village of Dededo on April 7, 2017, again, PAG management testified in support of the multi-year rate plan, as well as offered testimony indicating how the rate increases would be utilized. Mr. Thomas Hertslet, Mr. Hermie Queja from Micronesian Brokers, and Mr. Noli Cadag from J&G, were present at the hearing and also offered testimony.

Mr. Queja stated that he strongly opposed the rate increases, and that he concurs with the testimony submitted by the Guam Chamber of Commerce. He indicated that PAG should reconsider its five year rate plan, consider looking at ways to reduce its expenses, and

“live within its means.” Mr. Cadag testified stated that “all these increases will drive prices up” and it will be the public who will have to bear these added costs. Mr. Hertslet testified that PAG could lease more of its property, that PAG should streamline its disposal methods, as land that can be used for other purposes are being used to house “rotting” equipment.

On April 19, 2017, Dan Del Priore, from GFT, submitted a letter inquiring as to the ownership, or future ownership of Hotel Wharf.

**D. ALJ’s Findings Regarding Operating Costs, Capital Investments, and Debt Service**

Based on the following record: the Rate Petition and supporting documents; Resolution No. 2016-05 issued by PAG’s Board of Directors approving the proposed terminal tariff rate increases; the written testimony from PAG management; the April 5, 2017, April 6, 2017, and April 7, 2017 public hearings; and the March 7, 2017 Report submitted by Slater Nakamura related to the instant rate investigation; the ALJ found that PAG’s request of a 7% general increase on PAG’s Terminal Tariff rates, excluding its Crane Surcharge, for years 1 and 2, and a 1% increase for years 3 through 5, was reasonable, prudent, and necessary in order to generate “sufficient revenues to cover operating costs of the Port Authority, debt services and capital programs for modernization and sustainability.”<sup>35</sup>

The ALJ additionally found that the rate plan will support PAG’s continued payment on debt service on existing loans of about \$2.2 million per year, which include acquisition of cargo handling equipment, wharf repairs, acquisition of the Port of Los Angeles cranes, and top lifters;<sup>36</sup> as well as allow PAG to implement capital projects that total \$57.7 million, which include a gate operating system, replacement of PAG’s Administration Building,

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<sup>35</sup> Rate Petition, p. 1.

<sup>36</sup> Slater Nakamura Report, p. 5.

Hotel Wharf, and waterline.<sup>37</sup> PAG further intends on replacing Crane 3.<sup>38</sup> The ALJ, therefore, found that the tariff increases will help PAG “move forward and focus on facility improvement and long term sustainability.”<sup>39</sup> The ALJ further adopted the findings contained in the March 7, 2017 Report submitted by Slater Nakamura.

**E. ALJ’s Determination of 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.”<sup>40</sup> 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.”<sup>41</sup>

Based on the standard articulated above, the ALJ found that PAG’s tariff rate increases 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,”<sup>42</sup> as well as for all the reasons stated in the Slater Nakamura Report.

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<sup>37</sup> Slater Nakamura Report, p. 5.

<sup>38</sup> Slater Nakamura Report, p. 5.

<sup>39</sup> Direct Testimony of Simeon S. Delos Santos, p. 2.

<sup>40</sup> 12 G.C.A. §12116(a).

<sup>41</sup> 12 G.C.A. §12118.

<sup>42</sup> 12 G.C.A. §12118.

Accordingly, based on this record, 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 April 26, 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:

1. PAG is authorized to implement the rate increases to its Terminal Tariff, excluding the crane surcharge, which are indicated in "Appendix B" of the Slater Nakamura Report, titled "Recommended PAG Tariff Rate Table."

2. Accordingly, PAG is authorized to implement a 7% general increase effective June 1, 2017, and shall implement a subsequent 7% increase on January 1, 2018; PAG is further authorized to implement the remaining proposed 1% increases effective each October 1<sup>st</sup> for Fiscal Years 2019, 2020, and 2021.

3. PAG is ordered to file with the Commission, by October 31, 2017, actual data for Fiscal Year 2017 concerning the following: (a) revenue and net income; (b) operating expenses; (c) debt service and capital costs; (d) any operating reserves; and (e) throughput cargo.

4. PAG is further ordered to file with the Commission, by August 1<sup>st</sup> prior to the start of Fiscal Years 2019, 2020, 2021, actual data concerning all the sub-items listed in Ordering Provision No. 3 above, these reports shall capture data since the most recent filing.

5. PAG is further ordered to return to the Commission for a rate investigation in the event of the following: (a) the Guam CPI exceeds 4% per annum; (b) cargo throughput exceeds or falls short of the current projected growth rate with more than a 5% variance; (c) PAG loses its appeal of a \$15 million arbitration award; and (d) the cranes require replacement 2 or more years sooner than currently planned.

6. PAG is further ordered to file with the PUC a detailed timeline related to its plans for debt issuance by July 1, 2017; PAG shall also provide the PUC with semi-annual reports to the Commission detailing the status of PAG's efforts to secure such bonds, the first of which shall be filed on December 1, 2017, and the second of which shall be filed on June 1, 2018.

7. PAG shall seek PUC approval prior to any annual increases to its Direct Labor Charges.

8. 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 rate investigation. 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 27<sup>th</sup> day of April, 2017.

  
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**JEFFREY C. JOHNSON**  
Chairman

  
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**ROWENA E. PEREZ**  
Commissioner

  
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**JOSEPH M. MCDONALD**  
Commissioner

  
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**FILOMENA M. CANTORIA**  
Commissioner

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**MICHAEL A. PANGELINAN**  
Commissioner

  
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**PETER MONTINOLA**  
Commissioner

  
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**ANDREW L. NIVEN**  
Commissioner

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