Núm. 5937
Fecha: 12 marzo 1999 1:30 PM
Aprobado: Norma Burgos
Secretaria de Estado
Por: [signature]
Secretario Auxiliar de Servicios

AUTORIDAD DE LOS PUERTOS
JUNTA DE DIRECTORES

RESOLUCION NUM. 99-03

POR CUANTO, la Tarifa Núm. A-3-3 adoptada mediante la Resolución 97-54, establece las tarifas, derechos, cánones de arrendamiento, y otros cargos por el uso de las facilidades de aviación pública y los terminales de pasajeros y carga en el Aeropuerto Internacional Luis Muñoz Marín para el periodo hasta el 31 de diciembre de 1998,

POR CUANTO, la Autoridad de los Puertos de Puerto Rico ha revisado todas las tarifas, derechos cánones de arrendamiento en el Aeropuerto Internacional Luis Muñoz Marín para determinar si cumple con los requisitos de la Ley Núm. 125 del 7 de mayo de 1942, según enmendada y para determinar la necesidad de enmendar o extender la misma,

POR CUANTO, de acuerdo a dicha revisión, la Autoridad de los Puertos se propone cambiar las tarifas, derechos y cánones de arrendamiento en el Aeropuerto Internacional Luis Muñoz Marín,

POR CUANTO, la Autoridad de los Puertos publicó Avisos Públicos notificando la intención de la Autoridad de los Puertos de enmendar la Resolución Núm. 97-54 y la Tarifa A-3-3 y las tarifas allí establecidas para el periodo del 1ero de enero de 1998 hasta el 31 de diciembre de 1998. La tarifa revisada estuvo disponible al público en general para su revisión y se invitó al público a someter comentarios por escrito o solicitar vistas públicas sobre los cambios propuestos,

POR CUANTO, el periodo para someter comentarios por escrito o solicitudes para vistas públicas ha expirado y no se recibieron solicitudes adicionales para vistas públicas,

POR LO TANTO, RESUELVASE,

1. La Junta determina que los cambios propuestos a la Tarifa A-3-3 están en los mejores intereses de la Autoridad de los Puertos y el Estado Libre Asociado de Puerto Rico.

2. Por lo tanto, la Junta aprueba la Tarifa Núm. A-3-4 y el Informe del Oficial Examinador, Lic. Alberto Ferrer que acompaña esta Resolución, estableciendo la estructura general de tarifas, derechos y otros cargos para el periodo desde el 1ero de enero de 1999 hasta el 31 de diciembre de 1999.

3. En la fecha de efectividad de esta Resolución, todas las resoluciones estableciendo tarifas, derechos, cánones de arrendamientos y otros cargos por el uso de las facilidades y servicios en el Aeropuerto Internacional Luis Muñoz Marín cesaran de ser efectivas. Nada en esta resolución afectará, de manera alguna, la efectividad de tarifas, derechos, cánones de arrendamiento, y otros cargos para periodos antes del 1ero de enero de 1999.

4. La Autoridad de los Puertos se reserva el derecho de enmendar las tarifas, derechos, cánones de arrendamiento y otros cargos aquí establecidos, si durante el periodo de efectividad de esta resolución ocurrieran cambios significativos que ameriten enmiendas a dichas tarifas, derechos, cánones de arrendamiento y otros cargos.

5. Esta Resolución será vigente treinta (30) días después de haberse radicado en el Departamento de Estado.

En San Juan, Puerto Rico, hoy día 26 de febrero de 1999.

Dr. Carlos I. Pesquera
Presidente
Junta de Directores

Roberto Biaggi
Secretario
Junta de Directores

REPORT AND RECOMMENDATIONS

In the matter of rates, fees, rentals and other charges applicable to the use of public aircraft facilities and passenger and freight terminal premises at the Luis Muñoz Marín International Airport during the period beginning January 1, 1999 through December 31, 1999.

submitted to

The Hon. Board of Directors of the Puerto Rico Ports Authority

and

The Hon. Executive Director of the Puerto Rico Ports Authority

by

Alberto Ferrer - Hearing Officer

February 18,1999

REPORT AND RECOMMENDATIONS

In the matter of rates, fees, rentals and other charges applicable to the use of public aircraft facilities and passenger and freight terminal premises at the Luis Muñoz Marín International Airport during the period beginning January 1, 1999 through December 31, 1999.

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Alberto Ferrer - Hearing Officer

February , 1999

CHAPTER I

Introductory Information

On October 7, 1998 the Board of Directors of the Puerto Rico Ports Authority (hereinafter sometimes 'the Authority') approved Resolution # 98-42 (Exhibit 1, infra), which in its Preamble declared as follows:

"POR CUANTO: el 2 de octubre de 1996, la Junta de Directores de la Autoridad de los Puertos aprobó la Resolución Número 96-53, para adoptar la Tarifa Número A-3-2 la cual establece la estructura general de tarifas, derechos, canones de arrendamiento y otros cargos por el uso de las instalaciones y por el trasborde de pasageros, según fue enmendada por la Resolución 97-54 para adoptar la Tarifa A-3-3, aprobada el 5 de diciembre de 1997, para establecer la estructura general de dicha tarifa desde el 1ro. de enereo de 1998 hasta el 31 de diciembre de 1998.

"POR CUANTO: la ley Número 125 del 7 de mayo de 1942, le confiere a la Autoridad de los Puertos todos los derechos y poderes necesarios o convenientes para en la forma más económica, amplia y variada posible, fomentar el uso de sus facilidades y servicios.

"POR CUANTO: la Autoridad de los Puertos de Puerto Rico realizó un estudio económico para la estructura general de tarifas, derechos y canones de arrendamiento y otros cargos por el uso de instalaciones y servicios en el Aeropuerto Internacional Luis Muñoz Marín, correspondiente al periodo del 1ro. de enero de 1999 hasta el 31 de diciembre de 1999. (Anejo I).

POR CUANTO: cónsono con los mejores intereses de la Autoridad de los Puertos de Puerto Rico, debemos contemplar el revisar la estructura tarifaria establecida mediante la Tarifa Número A-3-3, adoptada por Resolución Número 97-54, aprobada el 5 de diciembre de 1997, la cual tiene vigencia durante el periodo correspondiente al 1ro. de enero de 1998 hasta el 31 de diciembre de 1998."

The operative part of Resolution Number 98-42 reads as follows:

" POR TANTO: RESUELVASE POR LA JUNTA DE DIRECTORES DE LA AUTORIDAD DE LOS PUERTOS DE PUERTO RICO lo siguiente:

1. Cónsono con el Informe del Estudio Económico para establecer ls estructura de tarifa indicado como anejo I y el cual se hace formar parte de esta Resolución, el Director Ejecutivo deberá iniciar los procedimientos administrativos conforme al Artículo 6, inciso 1, Ley Número 125 del 7 de mayo de 1942, para fijar las tarifas, derechos, rentas y otros cargos por el uso de las facilidades o servicios en el Aeropuerto Internacional Luis

Muñoz Marín, que sean justos y razonables a ser efectivas durante el periodo correspondiente al 1ro. de enero de 1999 hasta el 31 de diciembre de 1999.

Dada en San Juan, Puerto Rico, hoy día 7 de octubre de 1998.

Fdo. Dr. Carlos I. Pesquera	fdo. Roberto Biaggi
Presidente	Secretario
Junta de Directores	Junta de Directores"

In the October 15, 1998 edition of the San Juan Star, a newspaper of general circulation in Puerto Rico, the Ports Authority published a public notice (Exhibit 2, infra) whereby it announced the following:

"PUBLIC NOTICE: Resolution 97-54 adopted Tariff A-3-3 which establishes the rates, fees, rental and other charges for the use of public aircraft facilities and passenger freight terminal premises at the Luis Muñoz Marín International Airport for the period beginning January 1, 1998, through December 31, 1998.

The Puerto Rico Ports Authority contemplates to revise the tariffs, rates, fees, rental and other charges for the use of public aircraft facilities and passenger freight terminal premises at the Luis Muñoz Marín International Airport to be applicable for the period commencing January 1, 1999 through December 31, 1999, pursuant to the powers vested in the Authority by Section 6 of the Ports Authority's Enabling Act, Law Number 125, enacted on May 7, 1942, as amended.

The new tariff will be available to the general public during the next 30 calendar days after the publication of this announcement, from Monday to Friday from 7:30 AM to 11:30 AM and from 12:30 PM to 4:00 PM, during working days, in the office of Mr. Miguel Maldonado, located on the second floor of the Ports Authority building next to the Isla Grande Airport, San Juan, Puerto Rico.

"Any written comment or request for oral hearing shall be addressed to Mr. Miguel Maldonado, Puerto Rico Ports Authority, PO Box 362629, San Juan, Puerto Rico 00936-2829 and delivered so as to reach Mr. Maldonado no later than 30 calendar days after the publication of this notice.

"All related procedures will be in accordance with Law No. 170 of August 12, 1988, as amended, known as the Uniform Administrative Procedure Act."

Subsequently, in the October 23, 1998 edition of the San Juan Star, the Ports Authority posted a public notice (Exhibit 3, infra) which read as follows:

"PUBLIC HEARING: By means of a Notice published on October 15, 1998, in a newspaper of general circulation in Puerto Rico, the general public was informed that the Puerto Rico Ports Authority was proposing to revise the tariffs, rates, fees, and other charges for the use of public aircraft facilities and passenger and freight terminal premises at the Luis Muñoz Marín International Airport to be applicable for the period commencing January 1, 1999 through December 31, 1999, pursuant to the powers vested in the Authority by Section 6 of the Ports Authority's Enabling Act, Law Number 125, enacted May 7, 1942.

"The general public was also informed that the revised tariffs and rates would be available for comment during the following 30 days at the office of Mr. Miguel Maldonado, located at the Ports Authority Building at the Isla Grande Airport, San Juan, Puerto Rico.

"The general public is now further informed that a public hearing of an informative, quasi-legislative nature aimed at receiving testimonies and comments concerning the new tariff A-3-4 will be held commencing at 10:00 AM on November 24, 1998, at the Salón Puertos, located at Luis Muñoz Marín International Airport. This public hearing will be conducted by Alberto Ferrer, Esq. acting as Hearing Officer, appointed by the Board of Directors of the Authority. Attorney Ferrer's postal address is P.O. Box 8513, San Juan, Puerto Rico, 00910, and interested parties who so wish may appear at the Hearing to give oral testimony, or may submit written comments in lieu thereof, to the Hearing Officer at the aforementioned postal address, during a period of 30 days from the date of publication of this Notice.

"All related procedures will be in accordance with Law 170 of August 12, 1988, as amended, known as the Uniform Administrative Procedure Act."

Subsequently, by means of a Public Notice (Exhibit 4, infra) published in El Vocero, a newspaper of general circulation in Puerto Rico, on October 30, 1998, the general public was further informed by the Ports Authority as follows:

"AVISO PUBLICO: De acuerdo con las disposiciones de la Ley Núm. 170 del 12 de agosto de 1988, según enmendada, y del Artículo 6 de la Ley Núm. 125 del 7 de mayo de 1942, según enmendada, la Autoridad se propone enmendar la Resolución Núm. 98-42 para extender la efectividad de la Tarifa A-3-3 que establece la estructura general de tarifas, derechos, cánones de arrendamiento y otros cargos por el uso de instalaciones y servicios en el Aeropuerto Internacional Luis Muñoz Marín, hasta tanto se enmienden dichas tarifas.

"Copia de esta resolución estará disponible al público durante los próximos 30 días a partir de la publicación de este Aviso en la Oficina de Asuntos Tarifarios en el edificio de la Autoridad en Isla Grande, San Juan, Puerto Rico.

"La propuesta Resolución podrá ser revisada de lunes a viernes de 7:30 a.m. a 11:30 a.m. y de 12:30 p.m. a 4:00 p.m. en días laborables.

"Cualquier comentario por escrito o solicitud de vista oral deberá ser dirigido al señor Miguel Maldonado, Jefe de la Oficina de Asuntos Tarifarios, PO Box 362829, San Juan, Puerto Rico, 00936-2829."

The proposed Resolution to which the foregoing public notice made reference was eventually approved by the Board of Directors of the Ports Authority on December 17, 1998, and it was catalogued as Resolution Number 98-46. The text thereof (Exhibit 5, _infra_) reads as follows:

"POR CUANTO: la Junta de Directores de la Autoridad de los Puertos aprobó la Resolución 97-54 del 5 de diciembre de 1997, para adoptar la Tarifa A-3-3, la cual establece la estructura general de tarifas, derechos, cánones de arrendamiento y otros cargos por el uso de las instalaciones y servicios en el Aeropuerto Internacional Luis Muñoz Marín, por el periodo comprendido entre el 1ro. de enero de 1998 al 31 de diciembre de 1998.

"POR CUANTO: la Ley Núm. 125 de 7 mayo de 1942, le confiere a la Autoridad de los Puertos de Puerto Rico todos los derechos necesarios o convenientes para, en la forma más económica, amplia y variada posible, fomentar el uso de sus facilidades y servicios;

"POR CUANTO: de acuerdo con los poderes que le confiere la Ley, la Autoridad de los Puertos de Puerto Rico estima conveniente la extensión del periodo tarifario presente, a los fines de proveer más tiempo para la determinación de las tarifas más apropiadas aplicables:

"POR TANTO,RESUELVASE

1. Se enmiende la Resolución Núm. 98-42 para extender la

efectividad de la Tarifa A-3-3 que establece la estructura general de tarifas, derechos, cãnones de arrendamiento y otros cargos por el uso de instalaciones y servicios en el Aeropuerto Internacional Luis Muñoz Marín hasta tanto se enmienden dichas tarifas.

2. Las disposiciones de esta Resolución entrarán en vigor a los treinta días despues que la misma haya sido radicada en el Departamento de Estado de Puerto Rico."

CHAPTER II

The November 24, 1998 Public Hearing

The announced Public Hearing was held on Novembetr 24, 1998, on schedule. The Ports Authority was represented by Mr. Miguel Maldonado, Chief of the Office of Tariff Affairs, and by Francisco Fernãndez, Esq., Legal Counsel. The list of carriers, users, tenants and other interested parties who attended (Exhibit 6) is as follows:

1.	Miguel Maldonado	Ports Authority
2.	Francisco Fernãndez	Ports Authority
3.	Simõn Castillo	COPA
4.	Antonio Jarreño	Delta Airlines
5.	Victor Leõn	Ports Authority
6.	Carlos A. Torres	Airport 615
7.	Benito Acevedo	Corp. Equipaje
8.	Jim Small	U.S. Airways
9.	Carlos J. Rodrĩguez	Quest DMC, Inc.
10.	Josẽ L. Gutierrez	COPA
11.	Evelyn Ramos	Leather Ranch
12.	Maricel Mayol	Secure Seal of P.R.
13.	Francisco Rivera	Ports Authority, Operaciones

14. Victor Martínez — Int'l Telecard
15. Roberto Carreras — USPS
16. D. Garcia — United Airlines
17. José Feliciano — TRANSAD

After calling the Hearing to order, the Hearing Officer, Alberto Ferrer, identified himself, and for the sake of the record of the proceedings stated that the Hearing was being held on 24th of November 1998, at the Salón Puertos of the Luis Muñoz Marín International Airport, in compliance with a public notice published in a newspaper of general circulation in Puerto Rico, in the October 15, October 21, and October 30 editions of the San Juan Star. As informed in the referred public notice, the purpose of the Hearing is to consider proposed Tariff A-3-4, dealing with the rates, fees, and charges for use of the facilities and services owned or provided by the Ports Authority at Luis Muñoz Marín International Airport.

Attorney Francisco Fernández, representing the Ports Authority, was the first witness recognized by the Chair for the purpose of giving oral testimony. He introduced in evidence Resolution 98-42, and it was marked Exhibit 1. He then yielded to Mr. Miguel Maldonado, Chief of the Office of Tariff Affairs of the Ports Authority, who proceeded to state the position of the agency vis-a-vis Tariff A-3-4. He handed in a Position Paper which was marked Exhibit 1A. Mr. Maldonado then gave a verbal summary, in the Spanish language, as follows: "Siguiendo la prãctica establecida y los requerimientos de la Ley de la Autoridad de los Puertos se realizõ un estudio econõmico, el cual revisa las tarifas para el Aeropuerto Internacional. Esto estã basado en la Secciõn 6 1. A la vez queremos enfatizar en que el estudio sigue los parãmetros establecidos en la pasada negociaciõn en la cual solamente estamos recobrando los gastos incurridos en la conservaciõn, el desarrollo, preparaciõn y mantenimiento y operaciõn de las facilidades y sus propiedades y el pago del principal mãs los bonos. Al hacer estas tarifas la Autoridad estuvo en posiciõn de seguir los parãmetros establecidos en 'docket' 20458 del Departamento de Transportaciõn, el cual fue aprobado en las pasadas negociaciones. En esta oportunidad la Junta de Directores el estudio realizado por mi persona, el cual ha estado a disposiciõn de todas las lĩneas aẽreas, y de todo el personal que estuviera interesado en tener una copia. Esperamos que continuemos con un buen objetivo, el de establecer las nuevas tarifas, y a la vez nos prestamos para cualquier pregunta que tengan relacionado con la misma. Esa es la posiciõn de la Autoridad en este momento."

After having thus summarized the Authority's Statement of Position, Mr. Maldonado presented in evidence a copy of the study he had authored, which, as he stated, contains the entire text of the tariff, and the entire methodology used in order to arrive at the increase in the tariff for rent, following the previous parameter of four percent, in accordance with the rise in the cost of living index, and of six percent in the landing fee."

The Hearing Officer then asked Mr. Maldonado if there was anything else he wanted to testify to, and Mr. Maldonado said that there was nothing else. Whereupon the Hearing Officer invited the representatives of the air carriers to take the stand. The first witness recognized was Mr. Antonio Jarreño, on behalf of Delta Airlines. Mr. Jarreño said that he wanted to make a request: that the aircarriers present be identified, because, as he expressed it, not everyone had read the public notices published by the Authority, which was made evident by the lack of attendance at the Hearing. He then requested that Mr. Maldonado provide to him a written copy of the study that had given rise to the increase in the rates.

In response to Mr. Jarreño's request the Hearing Officer called upon other aircarriers to speak out. Mr. Simõn Castillo representing COPA, and Mr. Jim Small, representing U.S. Airways, made their presence known

The next witness recognized was Mr. Josê Feliciano, President of the Asociaciõn de Concesionarios del Aeropuerto Luis Muñoz Marîn. He stated that he represented TRANSAD, an airport concessionaire, and that he was present at the Hearing by accident, so to speak, because he had not had the opportunity to read the information in the newspapers. He heard there was going to be a meeting today and that is why he was here.

The Hearing Officer then pointed out that Mr. D. García, representing United Airlines, was also present.

The next witness recognized was Mr. José Luis Gutierrez, who stated that he was the manager for COPA, "Compañía Panameña de Aviación". He remarked that it was a pity that there were not in attendance representatives of the international airlines, because it says here in the program that the international airlines will have to pay an FIS to American Airlines. For over a year we have been trying to meet with the Executive Director of the Ports Authority; we did meet with Mr. Maldonado. Our position, the position of the international airlines, but I now speak for COPA, is that we are clients of the Ports Authority. We do not wish to do business with American Airlines. We were moved from Terminal B to Terminal C, not at our request, but for the Authority's convenience, and we have agreed completely. What we can not agree to is to pay another aircarrier for a service, since we are tenants of the Ports Authority. And that is the position of all the international airlines, but at this moment I speak on behalf of COPA, since at the previous Hearing no one attended because they were not notified, but for this Hearing notice was given, and that is why I say that it is a pity that there is no one here representing the international airlines. I ask Mr. Maldonado to meet with us in order to clear up this matter.

Mr. Maldonado was then recognized and he stated that when they met with him in connection with the FIS, he later spoke to the Executive Director, and a meeting was held with American, and they are still negotiating in order to solve the problem. What I do wish to say to you is that this problem is being resolved administratively, that is to say, that this matter is not a part of today's agenda, which covers rates for the terminal and the landing fee. I understand your problem, but we are working on it. Another meeting will be held. I pledge to you that the meeting will indeed be held in order to see if we can solve this problem.

The Hearing Officer then remarked: If I understand you correctly, and if I am wrong please tell me so, what they are protesting is not the amount being charged, but rather who receives payment. Both Mr. Maldonado and Mr. Gutierrez stated that the Hearing Officer's understanding was correct.

The Hearing Officer then inquired if any other airline wished to be heard. Not hearing any request, he invited the concessionaires to give testimonies.

The first concessionaire recognized was Mr. Carlos Rodríguez, Secretary of the Board of Directors of the "Asociación de Concesionarios del Aeropuerto Luis Muñoz Marín, who also testified on behalf of Quest, DMC, Inc. He stated that this is the first Hearting he has attended, where the issue of the rates is being formally discussed. He has not had a chance to see the report dealing with the tariff, nor has he seen the notices that were published in the newspapers. Right now the Asociaciōn consists of over one hundred and fifty concessionaires. I would like to ask of you that another meeting be held to discuss this matter once again, in which at least fifty or seventy percent of the concessionaires are in attendance, since I do not know how many were notified. Missing here today are American Airlines, TWA, LACSA, Continental, Quest, American Transair. I venture to say that from sixty to seventy percent of the aircarriers are absent. Only Delta, COPA and U.S. Airways are present, and not even one fourth of the concessionaires are here.

The Hearing Officer then asked Mr. Rodriguez whether the meeting he was seeking would be held to consider the rates as such, the amounts of the rates. Mr Rodrīguez answered in the affirmative. The members of the Asociaciōn meet annualy and monthly, and other matters not dealing with the tariff would be taken up at those meetings.

The persons in attendance today are not representative of the membership of the stores at the Airport. They are not present, but eventually they are going to ask:

When was the meeting held ?; who notified it ?; and I think these questions bring up points that should be considered.

The Hearing Officer then remarked that he wished to make clear that the Hearing had to do with rates exclusively. If there are other subjects that the persons in attendance wish to discuss with the Ports Authority, that would a matter wholly apart, and any meeting thus held would not held to discuss rates. Mr. Rodríguez stated that he did not know if interested parties had been notified, therefore you can not assume that they are not interested in discussing the tariff

At this point Attorney Francisco Fernández, representing the Ports Authority said that there was one point that he wanted to make clear, namely that there had been notification by means of Public Notices published in a newspaper of general circulation. While it is true that such notices are not read sometimes, the Authority is always willingly ready to receive petitions. Someone said that he wanted to obtain a copy of the rates - the notices inform that these rates have been available at the office of Mr. Miguel Maldonado. This is the way it has been done for a long time - it is traditional. We are not trying to pull a fast one on you. It's just that this is the way that public hearings are notified.

Antonio Jarreño was recognized once again. Addressing attorney Fernández he stated that he was sorry to have to disagree, but that was not the way it was done in the past. In the past, yes, public notices were published in the newspapers, we agree on that, but early last month we learned by means of the press that a raise in rates was forthcoming. When I learned about that I got in touch with management at this Airport, and I suggested that it would be a good idea to circulate a notice among all the concessionaries and all the airlines, and it is my understanding that this was not done.

Mr. José Feliciano was recognized next. He stated that he wanted to make a petition in connection with the tariff: that concessionaires be provided due "advise" (asesoramiento), because of the fact that the greater part of the concessionaires that belong to our Asociación were not given notice of this hearing. I again repeat what I said previously, that I am here by accident, and so are others, who were made aware by the news published in the newspapers, not by the public notices. What we are asking for is that the Ports Authority provide advise in connection with the documents under discussion, before taking final action thereon.

The Hearing Officer asked the witness to clarify what he meant by 'advise' (asesoramiento).

He answered that at the Meeting of the Asociación, which represents the concessionaires, discussion be had, and that the proper questions be made ready, and that thereby everyone have a clear understanding.

The Hearing Officer then said: "Let me see if I understand what you are saying. Would it be that you wish that at a meeting, the concessionaires will receive an explanation of the tariff, of the reaches of the tariff?

Mr. Feliciano answered, "That is what we are seeking, that is, that at the meeting an explanation is given to us with regard to the document. Thereby we would all benefit. It is not that we are opposed to an increase in rates, since the cost of living index continues to rise. And we agree, but we are also in agreement in that - since we are two parties - we should be in agreement as to this particular."

Mr. Miguel Naldonado was recognized once again. He stated that he wanted Mr. Feliciano to know that he was perfectly willing to meet with them to explain the tariff. The procedure has always been that if there are doubts we will hold a meeting for the purpose of explaining the rates. I am ready to meet with you whenever you so wish. What needs to be done is for us to agree on a date, and I will provide an explanation without any problem, and I will clarify any doubt that you may have.

Mr. Feliciano then stated that what had been said was precisely what they were at this moment requesting. That is that we meet, whether with the Board of Directors or with the entire roster of shareholders, and that any questions that we may have, whether or not concerning the aircarriers or any other concessionaire, be answered, because you have seen that the airlines have a series of doubts. What is important is that harmonious relations between the parties be maintained, which is what we are seeking.

The Hearing Officer remarked that Mr. Maldonado's attitude was commendable, and that he was encouraging the parties to hold the meeting as soon as possible.

The Hearing Officer then asked if anyone else present wished to be heard. Because no one else requested the opportunity to give oral testimony the Hearing Officer thanked the persons present for having attended and thereupon declared he meeting recessed sine die.

CHAPTER III

Analysis of the Methodology Used

A. In General:

The adoption by the Ports Authority of the revised tariffs, rates, fees and rentals embodied in Tariff A-3-4, as approved by the Board of Directors by means of Resolution 98-42 (Exhibits 1 and 5), is contingent upon the application of a rate-setting methodology consonant with three basic premises:

(a) compliance wit the requirements of Article 6 (1) of the Authority's Enabling Act, Act # 125, approved May 7, 1942, as amended;

(b) compliance with the Federal Policy Regarding Airport Rates and Charges, 61 Fed. Reg. 31, 994 (June 21, 1996). While this Policy was vacated by an appellate court in August 1997 on certain grounds, the Ports Authority believes that it remains appropriate to base its rate-making calculations in consideration of noncontroversial Policy principles previously applied by the agency;

(c) compliance with the contractual obligations and principles assumed by the Authority, as per the April 24, 1995 Agreement, entered into by the Authority and the air carriers, and submitted to the U.S. Department of Transportation in connection with American Airlines Inc. v. Puerto Rico Ports Authority (Docket 50178).

On the other hand, when setting rates, the Ports Authority is bound to observe the following general norms, as spelled out in Paragraph 1 of Subsection 1 of Article 6 of the Authority's Enabling Act (Act Number 125, enacted May 7, 1942, as amended, 23 LPRA sec. 336 (1) (1), to wit:

(a) the rates, fees, rents and other charges shall be fair and reasonable, and shall be sufficient, at least, to:

- (A) cover the expenses incurred by the Authority for the preservation, development, improvement, extension, repair, conservation and operation of its installations, facilities, properties and services;
- (B) Pay principal and interest on any of the Authority's bonds and to comply with the terms and provisions of the agreements made with, or for the benefit of the purchasers or holders of said bonds; and
- (C) Encourage the use of the Authority's facilities and services in the most ample and varied manner that is financially feasible.

The following analysis is based on the assumption that the methodology applied by the Ports Authority, and by its Office of Tariff Affairs, is in accord with the foregoing rate-setting premises and norms. However, the Hearing Officer by reason of his appointment is called upon to make an independent general assessment of the economic soundness and legal validity of the new rates. Historically, the Ports Authority has applied the 'annual break-even need' method for the development of tariffs. It is within the context of this historical background that the methodology employed for the setting of the 1999 rates has to be tested.

As a starting point, it needs to be observed that the 1999 tariff makes use of three main cost centers as a vehicle to recover costs from aeronautical users at the Luis Muñoz Marín International Airport, namely: (a) Passenger Terminal; (b) Landing Areas; (c) Cargo Terminal. It also needs to be noted that the legal obligation to recover costs imposed on the Authority by Article 6 of its Enabling Act has been interpreted to include an allocation of the expenses corresponding to the Central Office, the Aviation Department, the Aviation Administration, and charges for nondepreciable specific use and general purpose facilities.

B. Cost Recovery from Passenger Terminal Cost Center

In order to arrive at the specific rates, fees and charges embodied in Tariff A-3-4, the Authority calculates to recover the costs associated with the passenger terminal at the Luis Muñoz Marín International Airport by exacting two types of fees, Namely: Space Rental Fee, and Passenger Fee.

1. Space Rental - The rental fee for space (determined per square foot per year) is levied on "rentable space and public circulation and waiting space". When in 1968 the Puerto Rico Legislative Assembly amended Article 6 (1) of the Authority's Enabling Act, and the-eby added ten guidelines "which may discretionally be used to determine the reasonability of such rates, fees, rentals and other charges", the guideline listed under subsection (2) (E) added the following criteria:

> "E. upon fixing rates and other charges at passenger terminals, the costs of the waiting and public circulation space shall be distributed among the lessees who occupy the rentable area."

Therefore, the right to recover the costs of waiting and public circulation space in connection with space rental is clearly established by the above cited Guideline E.

2. Passenger Fees. Tariff A-3-4 contemplates that a per passenger fee based on the number of passengers enplaned and deplaned by air carriers will be assessed against the air carriers in security cleared areas (such as the baggage makeup

area, the baggage claim area, internal tug drives, gate lobbies, corridors to customs and immigration facilities). Again, the right to recover the costs of this common space through passenger fees is based on guideline F, contained in Article 6 of the Authority's Enabling Act, which provides as follows:

> "F. upon fixing rentals and other charges in the passenger terminals the costs of the baggage claim area and the adjacent areas for baggage cars shall be distributed exclusively among the airlines using said areas."

C. Determination of Historical and Projected Costs as a Basis For Cost Recovery in Connection With Passenger Terminal

Tariff A-3-4 includes the following Passenger Terminal Cost Forecast:

	1999	2000	2001
Direct Cost (1)	7,989,967	8,309,567	8,641,949
Allocated Overhead (2)	8,971,192	9,330,039	9,703,242
Depreciation & Bond Interest (3)	11,034,499	11,477,951	11,938,620
Cost Associated with Non-Depreciable Facilities (4)	38,817	38,817	38,817
TOTAL	28,034,575	29,156,374	30,322,628

NOTES:

(1) Includes salaries & benefits, professional services, material & suplies, utilities, insurance & indemnity, other expenses and provision for doubtful accounts less revenues for utilities billed monthly to concessionaries.

(2) Includes costs for general Overhead and Aviation Overhead.

(3) Depreciation expense excludes depreciation for federally-funded assets and interest expense.

(4) Costs for these facilities were imputed by multiplying the book value of terminal area land by 6% (the estimated cost of funds to PRPA).

In the above cost forecast the stated costs are projected on a fiscal year basis, whereas rates are set on a calendar year basis. Therefore, to estimate 1999 calendar year costs, fiscal years 1999 and 2000 projections are averaged. Once this is done you arrive at a gross figure of $29,739,501.00, representing the Total Passenger Terminal Costs to be Recovered between January 1, 1999 and December 31, 1999. However, from this gross figure one must deduct estimated costs associated with Non-Authority space for Crash and Rescue Personnel, and Depreciation for Authority funded roadways, amounting to $165,019.00. Therefore the Net Passenger Terminal Costs to be recovered are shown to be $29,574.482.00.

It must be remembered that in the operative part of the Agreement entered into by the Ports Authority and the Airlines on April 14, 1995, in connection with the Luis Muñoz Marín International Airport rate proceedings, it was stipulated that "Unless otherwise expressly required or permitted by federal law, federal regulation, or federal policy, the Port Authority's future rate-making methodology will comply with and include, but not limited to, the following requirements:

"a............

....

g. Allocation of no more than forty percent of the depreciation value of the LMM roadways to the LMM landing area cost center, <u>forty percent to</u>

<u>the LMM passenger terminal cost center</u>, and twenty percent to the other LMM cost centers."

It thus appears that this binding commitment on the part of the Ports Authority has been complied with, as pertains to all the cost centers shown in the calculations made for the new Tariff A-3-4, in view of the fact that the airlines have raised no objection on this score in connection with the methodology employed.

B. **Cost Recovery by Means of Space Rental and Passenger Fees.**

As has been previously noted, in order to determine how the amount of $29,574,482.00 is to be recovered, two types of fees have to be calculated, namely: Space Rental and Passenger Fees. In the study conducted by the Authority's Office of Tariff Affairs, which served as a basis for Tariff A-3-4, the following terminal space measurements have been used:

(a) Total Rentable Space - 607, 580 weighted average sq.ft. - costs to be recovered from concessionaires via space rent;

(b) Total Public Circulation and Waiting Space - 270,763 weighted average sq. ft. - costs to be recovered from concessionaires via space rent;

(c) Total Common Space - 349,539 weighted average sq. ft. - costs to be recovered from airlines via passenger fee.

(a) Space Rental Rate Calculation

In the above cited rate study conducted by the Office of Tariff Affairs of the Authority, the rental rates are not differentiated based on location of space within the airport. However, since the construction and maintenance costs for various types of rental areas differ (for example, air conditioned areas vis-a-vis non air conditioned areas) weighing factors are established to adjust rates accordingly. This approach does not signify any departure from previous practice since the same weighing factors have been used in previous rate-making periods. On the other hand, the Calendar Year 1998 rental rates for the various types of space are increased by a growth rate of 4%, a percentage which is said to be based on the current and projected rate of inflation in Puerto Rico. The following chart shows the Rent Rate, proposed for CY 1999, for the Various Types of Space, adjusted as aforesaid:

	Base Rent Basic	Weighting Factor	Adjusted Rate	Common Charge	Total Rent
Air Conditioned Space	27.80	1.00	27.80	12.14	39.94
Non Air Conditioned Space	27.80	.85	23.63	12.14	35.77
Open Ramp	27.80	.45	12.51	12.14	24.65
Open Terrace	27.80	.30	8.34	12.14	20.48

(b) Passenger Fee Calculation

As previously stated, the net costs of the total Common Space in the terminal at Luis Muñoz Marín International Airport are to be recovered from the airlines via the Passenger Fee. The net costs for the entire passenger terminal have been stated to be $29,156,374.00, and the net passenger terminal costs to be recovered by means of Rental Rates have been stated to be $24,266,745.00. Therefore, the difference between the two figures, that is $4,889,629.00 is the sum to be recovered by means of the Passenger Fee.

However, because passengers going through Luis Muñoz Marín International Airport are classified according to types, apportioned passenger fees have to be developed, and this is done by allocating the common area costs based on the terminal space used by each type, namely, Domestic/Foreign, Foreign Only, and Local, and then dividing by the corresponding Non-American Airlines passenger volume. The following chart illustrates how common space costs are allocated to the three passenger types:

	Common Space Used by Passenger Type	Passenger Fee Related Costs by Passenger Type (1)
Domestic/Foreign Passengers	326,728 / 88.13%	$ 4,309,230
Foreign Passengers Only	43,584 / 11.76%	575,020
Local Passengers (2)	431 / .11%	5,379
TOTAL COMMON SPACE	370,743	$ 4,889,629

(1) Based on passenger terminal space study prepared by Manuel Goicoechea, Architect for CY 1998 LMM Rate Study.

(2) Costs to be recovered through the passenger fees multiplied by the distribution of space by passenger type.

The next step that must be taken is the estimation of passenger volume at Luis Muñoz Marín International Airport during Calendar Year 1999. This has to be done because passenger fees are determined by allocating the total projected costs of common space in security cleared areas, based on the estimated passenger volume.

The following chart presents a passenger volume analysis that shows actual volume from 1996 through projected 2000. As shown, passenger volume for CY 1998 has been estimated at 10,121,254.

Fiscal Year	Total Rate
1996	9,201,480
1997	9,826,461
1998	10,121,254
1999	10,424,810
2000	10,500,000

The full passenger fee is only charged to Non-American Airlines passengers. In the last three years nonAmerican passenger volume averaged 30% of total passenger volume.

The following chart shows non-American Airlines passenger volume when distributed by passenger types:

Chart 5:

Passenger Type	% of Volume	Estimated 1999
Domestic	86	2,611,218
Foreign	13	394,719
Local	1	30,363
Total		3,036,300

The final calculation that has to be made in order to arrive at a rate structure that shows the fees to be charged to Domestic & Foreign Passengers, to Foreign Passengers, and to Local Passengers, is made by dividing the passenger fee costs by passenger volume for each passenger type.

When this final calculation is made the resulting passenger fees for the Calendar Year 1999 are as follows:

Passengers on airlines other than American Airlines arriving from or departing to points in the U.S.A. other than the U.S. Virgin Islands and Puerto Rico.	$1.65
Passengers on airlines other than American Airlines arriving from and departing to points outside the United States of America	$1.46
Passengers on airlines other than American Airlines arriving from and departing to points in the U.S. Virgin Islands and P.R.	$ .18

The foregoing calculation is graphically illustrated by the following chart:

CY 1999 Passenger Fee Calculation

Passenger Type	Cost Allocation	Volume Passenger Type	Passenger Fees
Domestic Foreign	4,309,230	2,611,218	1.65
Foreign Passenger	575,020	394,719	1.46
Local Passenger	5,379	30,363	.18

Although not shown in the foregoing chart, but as explained to the Hearing Officer by legal counsel for the Ports Authority at a previous public Hearing held on December 19, 1997, the resulting fee assessed by the Ports Authority against airlines with respect to foreign passengers is $3.11 ($1.65 plus $1.46). Furthermore, American Airlines will charge an additional fee for passengers using its F.I.S. facility.

C. Cost Recovery By Means of a Landing Fee

(a) <u>In general</u>

Costs associated with the landing areas (public runways, taxiways, ramps, and apron areas) are recovered by means of a landing fee based on maximum allowable gross take-off weight (MAGTOW). The Ports Authority is legally authorized to charge a fee for the use of the landing areas at the Luis Muñoz Marín International Airport, on the basis of the guidelines listed under subsections G and H of Article 6 (1) of the Authority's Enabling Act. Subsections G and H provide as follows:

> **(G) upon fixing the rates and other charges for the use of landing strips there shall be used as a unit of measurement the maximum gross weight authorized to the airplane for the taking off, and there shall not be granted deduction for quantity;**
>
> **(H) upon fixing the rates and other charges for the use of landing strips as concerns air carriers operating in Puerto Rico or between Puerto Rico and the Virgin Islands showing higher operation costs or a capacity to pay less than those carriers operating between Puerto Rico and the Continental United States or between Puerto Rico and foreign countries, there shall be established a reasonable differential for the "local" flights, that is, flights to points located in Puerto Rico and in the Virgin Islands, so that for said flights the rates, fees and charges be proportionally lower than the rates, fees and charges applicable to flights to the Continental United States or foreign countries;**

In the Agreement entered into by the Ports Authority and the Air Carriers in connection with the rates to be charged for the use of the facilities and services at Luis Muñoz Marín International Airport, the parties thereto stipulated that "Unless otherwise expressly required or permitted by federal law, federal regulation, or federal policy, the Ports Authority's future rate-making methodology will comply with and include, but not limited to, the following requirements:

a...........

....

b. Calculation of military and other use of LMM on a landed weight basis and allocation of a pro rata share of landing area expenses to such users."

It therefore clearly appears that the aforesaid Agreement anticipated the use of aircraft weight for landing area calculations and the allocation of a pro rata share of expenses to users that are not charged the landing fee.

(b) **Landing Area Cost Forecast**

The historical and projected costs associated with the landing areas at Luis Muñoz Marín International Airport are best depicted by means of the following chart:

Chart 7: Landing Area Cost Forecast

	1999	2000	2001
Direct Costs (1)	15,733,984	16,520,683	17,346,717
Allocated Overhead (2)	1,185,589	1,246,530	1,351,239
Depreciation & Bond Interest (3)	4,393,327	4,653,714	4,886,399
Costs Associated with Non-Depreciable Facilities (4)	847,641	847,641	847,641
TOTAL	22,160,541	23,268,568	24,431,996

NOTES:

(1) Includes salaries and benefits, professional services, material & supplies, utilities, insurance & indemnity, other expenses and provision for doubtful accounts less revenues for utilities billed monthly to concessionaries.

(2) Includes costs for General Overhead and Aviation Overhead.

(3) Depreciation expense excludes depreciation for federally-funded assets and interest expense.

(4) Costs for these facilities were imputed by multiplying book value of landing area land by 8% (the estimated cost of funds to PRPA).

As the foregoing Chart 7 indicates, in order to forecast landing area costs at Luis Muñoz Marín International Airport several factors have to be taken into consideration, namely: Direct Costs, Allocated Overhead, Depreciation and Bond Interest, Costs Associated with non-depreciable Facilities. In turn, these four factors have to be converted into dollar amounts. In order to do so, the projected figures for Fiscal Years 1999, 2000, and 2001 are used.

The Direct Costs factor includes salaries and benefits, professional services, materials and supplies, utilities, insurance and indemnity, other expenses and provision for doubtful accounts less revenues for utilities billed monthly to concessionaires. In the December 1995 Agreement entered into by the Ports Authority and the Air Carriers it was stipulated that " imposition of a charge for prospective bad debts in the LMM landing area cost center shall not exceed one percent of the LMM landing area revenues." It appears that this condition has been complied with.

The Allocated Overhead factor includes costs for General Overhead and Aviation Overhead, as permitted by the Authority's Enabling Act. (see <u>supra</u> at page 22).

With reference to the Depreciation and Bond Interest factor, depreciation expense excludes depreciation for federally-funded assets, and interest expense excludes expenses related to Decree 38.

Costs for the facilities included in the Costs Associated with Non-Depreciable Facilities Factor are imputed by multiplying book value of landing area land by 8% (the estimated cost of funds to the Authority).

Inasmuch as the foregoing data has been stated in Fiscal Year terms, there is a need to convert the Landing Area costs to be recovered in Calendar Year 1999 into Calendar Year figures. This is done by averaging the projected Fiscal Year 1999 and 2000 amounts. On the other hand, from this resulting figure there has to be deducted the cost of the military use of the landing area , as we l as the estimated 1999 Calendar Year airplane parking revenues. The dollar figure that results from this subtraction is $21,788,731.00.

(c) Landing Weight Analysis

Since Landing Area costs at Luis Muñoz Marín International Airport are recovered by charging a rate that is developed by calculating the use of such land by aircraft, expressed in terms of maximum allowable gross take-off weight (MAGTOW), the following step that must be taken is to estimate the landing volume for Calendar Year 1999.

In order to do so, an analysis of actual/estimated landing weights for past calendar years, and a projection for calendar year 1999 is made. The projection made by the Ports Authority's Office of Tariff Affairs for 1999 Calendar Year landing volume is 11,725,125.

(d) Landing Fee Calculation

The final calculation that has to be made in order to determine a landing fee for the use of landing facilities at Luis Muñoz Marín International Airport involves dividing the total projected costs of the landing areas by the estimated MAGTOW volume. As shown, the total projected costs of the landing areas have been estimated to be $21,788,731.00. Since the estimated landing volume for Calendar Year 1999 is 11,725,125, the result of the foregoing division is a $1.86 landing fee.

Chart 8 inserted herein below shows the result of the foregoing division:

Chart 8: Landing Fee Calculation

	Cost Allocation	Landing Weight	Landing Fee
Landing Fee (per 1,000 lb. MAGTOW)	21,788,731	11,725,125	1.86

In addition, Tariff A-3-4 provides a minimum $11.00 fee for every aircraft take-off.

D. Cost Recovery by Means of Cargo Terminal Rental Rate

(a) In General

In order to derive a rental rate for the cargo terminal building at Luis Muñoz Marín International Airport, the orthodox procedure would be to allocate the total projected cost of the cargo terminal among the rentable space. If this procedure were followed, and based on a fully compensatory methodology, the rental rate for cargo space would have to be fixed at $34.07 per square foot per year. (see chart 10, infra). However, based on current market tendencies for cargo terminal space, the Authority determined that there should only be an inflationary increase of 4% over the 1998 Calendar Year cargo rental rate ($15.53), thereby raising the rate to $15.60.

Chart 10: Cargo Terminal Rental Rate Calculation

	Cost Allocation	Terminal Space (2)	Compensatory Rental Rate	CY 1998 Rental Rate (3)	1999 Rental Rate
Cargo Terminal	$2,640,844	65,780	34.07	15.53	15.60

D. Cost Recovery By Means of Parking Fees

Tariff A-3-4 provides for the payment of Parking Fees effective January 1, 1999 through December 31, 1999. The fee thus exacted is per calendar day or fraction thereof per 1,000 pounds MAGTOW:

Daily	$0.89
Daily Minimum	$5.81
Monthly Minimum	$76.00

The revenue to br derived from Parking Fees is not deemed an item sufficiently significant so as to require separate treatment within the bounds of the calculations included in the rate methodology. Rather, in its stead, Parking Fees revenue is treated and applied as a discount from Total Landing Area Costs.

CHAPTER IV

Summary of Rates

What follows is a comparison of the rates to be applied at Luis Muñoz Marín International Airport during Calendar Year 1999, with the rates for the same categories in effect during Calendar Year 1998. It will be seen that with the sole exception of the Local Passenger fee, all the other fees have been increased.

Rate Category	CY 1998 actual	CY 1999 proposed
Passenger Terminal Space Rental (per square foot per year)		
Air Conditioned Space	$38.40	$39.84
Non-air Conditioned Space	$34.39	$35.77
Open Ramp Space	$23.70	$24.65
Open Terrace Space	$19.69	$20.48
Passenger Fee (per arriving and departing passengers)		
Domestic and Foreign Passengers	$1.50	$1.65
Foreign Passengers Only	$1.28 ($2.78)	$1.46($3.11)
Local Passengers	$0.26	$0.18
Landing Fee (per 1000 lbs. MAGTOW)	$1.75	$1.80
Cargo Terminal Space Rental (per square foot)	$15.53	$15.60

The Local Passenger Fee did not suffer any increase from the 1998 rate, but rather a decrease from 26 cents to 18 cents, for a 30% decrease. This lowering of the Local Passenger Fee has been approved in line with the Authority's policy of showing support for the local aviation sector, and regard for the economic well being of the residents of Vieques and Culebra.

As previously shown (supra at page 31), and as explained to the Hearing Officer by legal counsel for the Ports Authority at a previous Public Hearing held on December 19, 1997, the resulting fee assessed by the Ports Authority against airlines with respect to foreign passengers is $3.11 ($1.65 plus $1.46). Furthermore, American Airlines will charge an additional fee for arriving passengers from foreign countries using its F.I.S. facility.

A closer look at the foregoing rate comparison table shows the following variances between the 1998 actual rates and the proposed CY 1999 tariff:

(a) the **Terminal Space Rental** is being increased by the **4%** estimated range of inflation;

(b) as pertains to the **Passenger Fee**, the fee for **Domestic and Foreign Passengers** is raised by **10%**, the fee for **Foreign Passengers Only** is raised by **14%**, and the fee for **Local Passengers** is lowered by **30%**;

(c) the **Landing Fee** is increased by **3%**;

(d) the **Cargo Terminal Space Rental** is increased by **4%**.

Tacit Acquiescence by the Air Carriers of the Increases Contained in the Final Rate Structure for FY 1999

The foregoing moderate increases in the rates, fees, charges and rentals to be exacted by the Ports Authority during CY 1999 with regard to the use of its facilities and services at Luis Muñoz Marín International Airport have been tacitly and quiescently accepted by a broad spectrum of the affected air carriers. This was made evident at the Public Hearing held on November 24, 1998. Although, as shown by the documentary evidence introduced at the Hearing (Exhibits 2, 3, and 4, <u>infra</u>), by means of Public Notices timely published in the daily newspapers, all sectors of the aviation industry and of the general public were sufficiently made aware of the fact that the Ports Authority intended to revise Tariff A-3-4, and that copies of the revised rates were being made available to all interested parties, the fact of the matter is that at the Public Hearing a significant number of relevant international carriers evidenced their tacit acceptance of the new rates by failing to appear, or by filing position papers with the Hearing Officer.

As pointed out at the Hearing by witness José Luis Gutierrez, COPA manager, only COPA, Delta Airlines, United Airlines, and U S Airways had appeared, and their representatives did not at any time contest or question the fairness of the announced increases. Other major Airlines, such a American Airlines and

TWA, by failing to appear, silently signified their tacit acceptance of the new rates.

CHAPTER V

Final Comments and Recommendations

Inasmuch as during Calendar Year 1999 and on the basis of Tariff A-3-4 the Ports Authority will be able to collect fees at Luis Muñoz Marín International Airport augmented by a percentage that aver ges above 4%, it is pertinent to note that Puerto Rico's average rate of inflation during 1998 has been reported to be 5.5%.

The foregoing observation is pertinent because the adoption by the Ports Authority of Tariff A-3-4 is contingent on the application of a rate-setting methodology that is in accord with three basic premises (supra at page 20), one of which is the need to comply with the requirements of Article 6 (1) of the Authority's Enabling Act. The Act in turn requires that the rates be fair and reasonable, and that they encourage the use of the Authority's facilities and services in the most ample and varied manner that is financially feasible. Thus, it becomes evident that the increase in revenues derived from the LMM new rates is basically consistent with the estimated rate of inflation, and thus falls clearly within the bounds of reason.

Furthermore, the Authority has been diligent in encouraging the use of the Luis Muñoz Marín International Airport's facilities in an ample and varied manner that is financially feasible. The Authority's persistent efforts in that direction are once again made evident, for example, by its purposeful 30% reduction in the fee for Local Passengers. This preferential treatment in favor of local air traffic responds to a legislative mandate expressed as early as the year 1968, when the Legislative Assembly approved the rate-setting guidelines included in Article 6(1) of the Authority's Enabling Act. Guideline H provides that "upon fixing the rates and other charges for the use of the landing strips as concerns air carriers operating in Puerto Rico or between Puerto Rico and the Virgin Islands showing higher operations costs or a capacity to pay less than those carriers operating between Puerto Rico and the Continental United States or between Puerto Rico and foreign countries, there shall be established a reasonable differential for 'local' flights, that is, flights to points located in Puerto Rico and in the Virgin Islands, so that for said flights the rates, fees and charges be proportionally lower than the rates, fees and charges applicable to flights to Continental United States or foreign countries."

The methodology employed by the Ports Authority for the structuring of the Calendar Year 1999 Tariff A-3-4 is essentially the same methodology developed during the CY 1997 and CY 1998 rate proceedings. This methodology has been tested by the Hearing Officer in previous rate-setting proceedings, for soundness and legality, and found to be within the bounds of the norms set by the Legislative Assembly in the Authority's Enabling Act. It has also withstood the test of time and consistent usage. By adhering to it for the structuring of Tariff A-3-4 the Ports Authority has been able to employ its rate-setting initiatives and prerogatives with deliberate speed and clear guidance. The Hearing Officer is thus in a position to once again commend the Authority for its efficient and realistic handling of a sensitive and complex task.

Finally, the policy that the Authority continues to adhere to, of consistently reviewing tariffs on a yearly basis, has proven itself to be wise, sound, and productive. It should not be waived or discarded in forthcoming years.

Respectfully submitted

A. Ferrer

Lcdo. Alberto Ferrer

Hearing Officer

Exhibit 1

JUNTA DE DIRECTORES
AUTORIDAD DE LOS PUERTOS DE PUERTO RICO
SAN JUAN, PUERTO RICO

Resolución Núm. 98-42

POR CUANTO: el 2 de octubre de 1996, la Junta de Directores de la Autoridad de los Puertos aprobó la Resolución Número 96-53, para adoptar la Tarifa Número A-3-2 la cual establece la estructura general de tarifas, derechos, cánones de arrendamiento y otros cargos por el uso de instalaciones y por el transborde de pasajeros, según fue enmendada por la Resolución 97-54 para adoptar la Tarifa A-3-3, aprobada el 5 de diciembre de 1997, para establecer la estructura general de dicha tarifa desde el 1ro. de enero de 1998 hasta el 31 de diciembre de 1998.

POR CUANTO: la Ley Número 125 del 7 de mayo de 1942, le confiere a la Autoridad de los Puertos todos los derechos y poderes necesarios o convenientes para en la forma más económica, amplia y variada posible, fomentar el uso de sus facilidades y servicios.

POR CUANTO: la Autoridad de los Puertos de Puerto Rico realizó un estudio económico para la estructura general de tarifas, derechos, cánones de arrendamiento y otros cargos por el uso de instalaciones y servicios en el Aeropuerto Internacional Luis Muñoz Marín, correspondiente al período del 1ro. de enero de 1999 hasta el 31 de diciembre de 1999. (Anejo I)

POR CUANTO: cónsono con los mejores intereses de la Autoridad de los Puertos de Puerto Rico, debemos contemplar el revisar la estructura tarifaria establecida mediante la Tarifa Número A-3-3, adoptada por Resolución Número 97-54, aprobada el 5 de diciembre de 1997, la cual tiene vigencia durante el período correspondiente al 1ro. de enero de 1998 hasta el 31 de diciembre de 1998.

POR TANTO: **RESUELVASE POR LA JUNTA DE DIRECTORES DE LA AUTORIDAD DE LOS PUERTOS DE PUERTO RICO** lo siguiente:

1. Cónsono con el Informe del Estudio Económico para establecer la estructura de tarifa indicado como Anejo I y el cual se hace formar parte de esta Resolución, el Director Ejecutivo deberá iniciar los procedimientos administrativos conforme al Artículo 6, Inciso 1, Ley Número 125 del 7 de mayo de 1942, para fijar las tarifas, derechos, rentas y otros cargos por el uso de las facilidades o servicios en el Aeropuerto Internacional Luis Muñoz Marín, que sean justos y razonables a ser efectivas durante el período correspondiente al 1ro. de enero de 1999 hasta el 31 de diciembre de 1999.

Dada en San Juan, Puerto Rico, hoy 7 de octubre de 1998.

Dr. Carlos I. Pesquera
Presidente Junta de Directores

Sr. Roberto Biaggi
Secretario Junta de Directores

Exhibit 1 A

IN RE
TARIFF RESOLUTION
NO. 98-42
OF NOVEMBER 18, 1998

:

STATEMENT OF POSITION IN PUBLIC HEARING, NOVEMBER 24, 1998 RELATIVE TO THE RATES, FEES, RENTALS AND OTHER CHARGES FOR THE USE OF PUBLIC AIRCRAFT FACILITIES AND PASSENGER AND FREIGHT TERMINAL PREMISES AT THE LUIS MUÑOZ MARIN

IT HAS BEEN THE ESTABLISHED PRACTICE AND A REQUIREMENT OF THE PUERTO RICO PORTS AUTHORITY ACT AND TO IT'S BOND TRUST AGREEMENT TO CONDUCT ECONOMIC COSTS STUDIES PERIODICALLY TO REVIEW THE RATES APPLICABLE AT THE DIFFERENT AIRPORTS OPERATING AREAS. IN THE PUERTO RICO PORTS AUTHORITY ACT THIS IS SPECIFICALLY PROVIDED IN SECTION 6 (1). IT IS WORTH MENTIONING THAT THIS SECTION OF LAW EMPHASIZES THAT THE RATES, FEES RENTALS AND CHARGES FOR THE USE OF FACILITIES SHALL BE FIXED, ALTERED AND COLLECTED TO BE REASONABLE AND TO BE SUFFICIENT FOR PAYMENT OF THE EXPENSES INCURRED BY THE AUTHORITY IN THE CONSERVATION, DEVELOPMENT, IMPROVEMENT, EXTENSION, REPAIR, MAINTENANCE AND OPERATION OF IT'S FACILITIES AND PROPERTIES AND FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST OF IT'S BONDS. ALSO IN FIXING SUCH RATES, FEES, RENTALS AND CHARGES THE AUTHORITY SHALL HAVE IN VIEW THE ENCOURAGEMENT OF THE WIDEST ECONOMICALLY POSSIBLE DIVERSIFIED USE OF IT'S FACILITIES. IN THIS REGARD THE PUERTO RICO PORTS AUTHORITY AIMS TOWARD ESTABLISHING IN THE CASE OF THE LUIS MUÑOZ MARIN INTERNATIONAL AIRPORT THOSE RATES IN WHICH THE AIRLINE USERS PAY ONLY FOR THE BREAKEVEN POINT OF THE SPECIFIC FACILITIES THEY ARE USING TO INCLUDE ALL SPECIFIC

ADMINISTRATIVE EXPENSES AND INTEREST (DEBT SERVICE) TO CONSTRUCT, DEVELOP, OPERATE AND MAINTAIN THE NECESSARY FACILITIES. IN THIS OPPORTUNITY FOLLOWING THE PREVIOUS ADOPTED PRACTICE THE PUERTO RICO PORTS AUTHORITY CONCLUDED THE PROJECTED ECONOMIC RATE STUDY HEREWITH PRESENTED AS EXHIBIT.

THE BOARD OF DIRECTORS APPROVED RESOLUTION NO. 98-42 WHERE THEY APPPROVED THE RATES RECOMMENDED BY THE CHIEF OF OUR TARIFF DEPARTMENT TO FOLLOW THE ESTABLISHED LAW PROCEDURES WHEREBY THESE PUBLIC HEARINGS ARE HELD.

WE TRUST THAT THIS STATEMENT SET FORTH THE POSITION AND OBJECTIVE OF THE PUERTO RICO PORTS AUTHORITY IN ESTABLISHING THE NEW RATES AND HELPS THE HEARING OFFICER AND OTHER PARTIES WHO MAY PARTICIPATE IN THESE HEARING.

THROUGHOUT THE HEARING WE EXPECT TO FOLLOW THE SAME PROCEDURE AND HAVE THE SAME KIND OF REASONABLE UNDERSTANDING THAT WE HAVE BEEN ABLE TO ATTAIN IN PREVIOUS RATE AND CHARGES ADJUSTMENTS PROCEDURE.

Francisco Fernandez
FRANCISCO FERNANDEZ, ESQ.

Miguel A. Maldonado
MIGUEL A. MALDONADO

Exhibit 2

Public Notice

PORTS AUTHORITY
PUERTO RICO

Resolution 97-54 adopted Tariff A-3-3 which establishes the rates, fees, rental and other charges for the use of public aircraft facilities and passenger freight terminal premises at the Luis Muñoz Marín International Airport for the period beginning January 1,1998, through December 31, 1998.

The Puerto Rico Ports Authority contemplates to revise the tariffs, rates, fees, rental and other charges for the use of public aircraft facilities and passenger freight terminal premises at the Luis Muñoz Marín International Airport to be applicable for the period commencing January 1, 1999 through December 31, 1999, pursuant to the powers vested in the Authority by Section 6 of the Ports Authority Enabling Act, Law Number 125, enacted on May 7, 1942, as amended.

The new tariff will be available to the general public during the next 30 calendar days after the publication of this a...nouncement, from Monday to Friday from 7:30 AM to 11:30 AM and from 12:30 PM to 4:00 PM, during working days, in the office of Mr. Miguel Maldonado, located on the second floor of the Ports Authority building next to the Isla Grande Airport, San Juan, Puerto Rico.

Any written comment or request for oral hearing shall be addressed to Mr. Miguel Maldonado, Puerto Rico Ports Authority, PO Box 362829, San Juan, Puerto Rico 00936-2829 and delivered so as to reach Mr. Maldonado no later than 30 calendar days after the publication of this notice.

All related procedures will be in accordance with Law No. 170 of August 12, 1988, as amended, known as the Uniform Administrative Procedure Act.

Héctor R. Rivera
Executive Director

Required by Law No. 170 of August 12, 1988
Regulation No. 3770 approved on February 7 1989

Exhibit 3

The San Juan Star - Friday, October 23, 1998

Public Hearing

PORTS AUTHORITY
PUERTO RICO

By means of a Notice published on October 15, 1998, in a newspaper of general circulation in Puerto Rico, the general public was informed that the Puerto Rico Ports Authority was proposing to revise the tariffs rates, fees rental and other charges for the use of public aircraft facilities and passenger and freight terminal promises at the Luis Muñoz Marin International Airport to be applicable for the period commencing January 1, 1999 through December 31, 1999, pursuant to powers vested in the Authority by Section 6, of the Puerto Rico Ports Authority, Enabling Act, Law Number 125, inacted May 7, 1942.

The general public was also informed that the revised tariffs and rates would be available for comment during the following 30 days at the Office of Mr. Miguel Maldonado, located at the Ports Authority Building at the Isla Grande Airport, San Juan, Puerto Rico.

The general public is now further informed that a public hearing of an informative, quasi-legislative nature aimed at receiving testimonies and comments concerning the new Tariff A-3-4 will be held commencing at 10:00 a.m. on November 24, 1998, at the Salón Puertos, located at Luis Muñoz Marin International Airport. This public hearing will be conducted by Alberto Ferrer, Esq. Acting as Hearing officer, appointed by the Board of Directors, of the Authority. Attorney Ferrer's postal address is P.O. Box 8513 San Juan, Puerto Rico 00910, and interested parties who so wish may appears at the Hearing to give oral testimony, or may submit written comments in lien thereof, to the Hearing Officer at the aforementioned postal address, during a period of 30 days from the date of publication of this Notice.

All related procedure will be in accordance with Law 170 of August 12, 1988, as amended, known as the Uniform Administrative Procedures Act.

Héctor R. Rivera
Executive Director

Required by Law No. 170 of August 12, 1988.
Regulation No. 98-28, Section 1

Exhibit 4

Aviso Público

PUERTO RICO

De acuerdo con las disposiciones de la Ley Núm. 170 del 12 de agosto de 1988, según enmendada y del Artículo 8 de la Ley Núm. 125 del 7 de mayo de 1942, según enmendada, la Autoridad de los Puertos se propone enmendar la Resolución Núm. 98-42 para extender la efectividad de la Tarifa A-3-3 que establece la estructura general de tarifas, derechos, cánones de arrendamiento y otros cargos por el uso de instalaciones y servicios en el Aeropuerto Internacional Luis Muñoz Marín, hasta tantó se enmienden dichas tarifas.

Copia de esta resolución estará disponible al público durante los próximos 30 días a partir de la publicación de este Aviso en la Oficina de Asuntos Tarifarios en el Edificio de la Autoridad en Isla Grande, San Juan, Puerto Rico.

La propuesta resolución podrá ser revisada de lunes a viernes de 7:30 a.m. a 11:30 a.m. y de 12:30 p.m. a 4:00 p.m. en días laborables.

Cualquier comentario por escrito o solicitud de vista oral deberá ser dirigido al señor Miguel Maldonado, Jefe de la Oficina de Asuntos Tarifarios, PO Box 362829, San Juan, Puerto Rico 00936-2829.

Héctor R. Rivera
Director Ejecutivo

Se requiere de acuerdo a la Ley Núm. 170 del 12 de agosto de 1988, Reglamento #2770, Sección 4.

Exhibit 5

AUTORIDAD DE LOS PUERTOS

JUNTA DE DIRECTORES

RESOLUCION NUMERO 98-46

POR CUANTO, la Junta de Directores de la Autoridad de los Puertos aprobó la Resolución 97-54 del 5 de diciembre de 1997, para adoptar la Tarifa Número A-3-3, la cual establece la estructura general de tarifas, derechos, cánones de arrendamiento y otros cargos por el uso de instalaciones y servicios en el Aeropuerto Internacional Luis Muñoz Marín, por el período comprendido entre el 1ro de enero de 1998 al 31 de diciembre de 1998.

POR CUANTO, la Ley Núm. 125 del 7 de mayo de 1942, le confiere a la Autoridad de los Puertos de Puerto Rico todos los derechos necesarios o convenientes para, en la forma más económica, amplia y variada posible, fomentar el uso de sus facilidades y servicios;

POR CUANTO, de acuerdo con los poderes que le confiere la Ley, la Autoridad de los Puertos de Puerto Rico estima conveniente la extensión del periodo tarifario presente, a los fines de proveer más tiempo para la determinación de las tarifas más apropiadas aplicables;

POR LO TANTO, RESUELVASE

1. **Se enmiende la Resolución Núm. 98-42 para extender la efectividad de la Tarifa A-3-3 que establece la estructura general de tarifas, derechos, cánones de arrendamiento y otros cargos por el uso de instalaciones y servicios en el Aeropuerto Internacional Luis Muñoz Marín hasta tanto se enmienden dichas tarifas.**

2. Las disposiciones de esta Resolución entrarán en vigor a los treinta días después que la misma haya sido radicada en el Departamento de Estado de Puerto Rico.

En San Juan, Puerto Rico a 17 de dic. de 1998.

Dr. Carlos I. Pesquera
Presidente
Junta de Directores

Roberto Biaggi
Secretario
Junta de Directores

Item	Rules and Regulations
1.0	DEFINITIONS
1.1	Aircraft shall mean any contrivance invented, used, or designed to navigate, or fly in the air (including, without limitation, airplanes, helicopters, ultralight aircraft, and lighter-air (than-air craft) whether owned by an individual, corporation, partnership, company, or otherwise, and whether operated commercially, for hire , for revenue or non-revenue purposes, in furtherance of a business, for pleasure, or otherwise.
1.2	Landing area shall mean the runways or taxiways which are made available by the Authority for public and common use by aircraft operators for the landing, taking-off of aircraft and for the ground movement of aircraft. The landing area also includes the ramp and apron areas made available by the Authority for the purpose of unloading and loading passegers, baggage, freight, mail, supplies, and other cargo from and to aircraft; and for the purpose of parking mobile equipment actively used in connection with such permitted uses.
1.3	Maximum Allowable Gross Take-Off Weight - The maximum gross weight at which an aircraft may take off from an airport as authorized by the Federal Aviation Administration.
1.4	Ramp Services to Aircraft - Services incidental to the immediate preparation of aircraft for scheduled departure, such services to include, among others, fueling, inspection and interior cleaning. Minor and emergency maintenance, exterior cleaning, and similar items will be deemed to be ramp service only when they can be performed within the time permitted by the rules and regulations of the Authority relating to the use of loading and unloading positions.
2.0	Landing Fees for the use of the Landing Area will be assessed to the operator of an aircraft for the each departure of that aircraft from LMM. Landing fees are calculated by multiplying the figure shown in item 11.1 by the quotient of the aircraft's MAGTOW divided by 1,000 pounds.
2.1	There shall be no charge for a departure of an aircraft in the case of a return landing or a landing not originally destined for the Luis Muñoz Marín International Airport and subsequent departure for mechanical, meteorological, bomb search or other emergency reasons. There shall be no charge for a departure of an aircraft if the arrival and departure is for the purpose of fueling, crew change, or cabin service without enplaning or deplaning of revenue passengers, or the loading or unloading of revenue items of any

Puerto Rico Ports Authority
Resolution No. 98-42
L.M.M. International Airport

Tariff No. A.3.4
Page Number 2

Item	**Rules and Regulations**
	kind, and no revenue is derived from the operation. In this case, the aircraft operator must submit a certified statement within the next five calendar days after the flight. Otherwise said flight will be subject to payment of charges as they apply to revenue flights.
2.2	Landing Fees include the right to use aircraft loading positions as provided in agreements between airport users and the Authority or, in the absence of such agreements, as provided in Airports rules and Regulations as amended, to provide for penalties and exemptions from penalties for unauthorized parking.
3.0	Aircraft Parking:
	An aircraft parked at the Luis Muñoz Marin International Airport on paved or unpaved ground not under lease, designated by the Authority for such use (on available bases), will be charged on the bases of per thousand pounds of maximum allowable gross weight of the aircraft at take-off, per each calendar day or fraction thereof.
3.1	The parking rate at the Luis Muñoz Marin International Airport shall commence four (4) hours after the arrival of the aircraft at the airport for pure jet aircraft and two (2) hours for propeller aircraft (including turbo prop engines).
3.2	An aircraft owner may elect to enter into monthly parking arrangements with the Authority at the rates precribed in this tariff.
3.3	No parking fee will be assessed in respect to an aircraft parked within an area leased by fixed base operators, aircraft owners, or operators and is receiving an authorized service of those included in the contract with the Ports Authority.
3.4	In order to get the benefit of the monthly reduced aircraft parking rate, the corresponding payment has to be made in advance at the Airport Manager's office before the first calendar day of the month for which the parking arrangement is made.
3.5	Aircraft operators who elect to enter into the monthly rates agreement, are entitled, with no additional charges, to use aircraft parking facilities at any Ports Authority Airport; but they have to provide evidence of the monthly agreement to other airports where not usually parked.

Puerto Rico Ports Authority
Resolution No. 98-42
LMM. International Airport

Tariff No. A.3.4
Page Number 3

Item	Rules and Regulations
4.0	Exemptions From Landing and Parking Fees. No fees or charges described in items 2.0, 2.1, 3.0 above shall be imposed on operations of the following aircraft:
4.1	U.S. "Government aircraft" as that term is used in 49 U.S.C. sec. 47107 (a) (11), to the extent required by that provision. Aircraft eligible for this exemption include, without limitation, military and naval aircraft of the United States Aircraft operated by the U.S. Coast Guard, and aircraft owned or on lease by the Federal Government, and carrying as a passenger or landing to embark as a passenger the President of the United States, the Vice-President of the United States, a member of the Congress of the United States, or any civilian officer of an executive department of the United States with the rank of, or equivalent to, Secretary Under-Secretary, or Assistant Secretary of such executive department.
4.2	Aircraft owned or operated under lease or contract by the Commonwealth of Puerto Rico and its municipalities except its public corporations.
4.3	Foreign military aircraft.
5.0	Rental For Terminal Space Rental for space other than space referred to in Item 6.0 will be charged at the passenger and freight terminals at the rates prescribed in this tariff.
6.0	Common Use Space is space used in common by air carriers using the Luis Muñoz Marín International Airport. It includes gate lobbies, loading bridges, sterile areas, baggage claim areas used mainly by passengers. Air Carriers are assessed a fee per passenger, according to flight origin and distination, as set forth in Items 15.0, 15.1, 15.2, 15.3 and 15.4.
6.1	Exclusive Use Gate Lobbies-Luis Muñoz Marín International Airport Airlines may enter into exclusive use arrangements for gate lobbies provided that the Authority is able to assign a gate lobby under the conditions established by experience or through special contracts.
7.0	Baggage Makeup Common Use The Authority due to lack of space may assign designated baggage makeup areas for common use by several carriers upon a determined charge to recover the space rental and

Puerto Rico Ports Authority Resolution No. 98-42 LMM. International Airport	Tariff No. A.3.4 Page Number 4

Item	Rules and Regulations
	investment of equipment installed in the area if not included in a specific per passenger charge.
8.0	<u>Ground Rental</u> Rental rates and other terms of lease agreements covering land on or adjacent to the airport properties or other land owned by the Ports Authority will be determined by the Authority from time to time in conformance with the Authority's actual regulation on Land Rental Policy as that Land Rental Policy, including amendments or revisions thereto, may exist from time to time.
9.0	<u>Penalty for Withholding Payment of Fees</u> The Puerto Rico Ports Authority shall assess a penalty of 15% annual interest to any person liable for any tariff established herein, withholding any amount of such payment.
10.0	<u>Illegality of Charging Rates</u> The collection by any operator or person of any different tariff to that herein established for the service rendered by the Ports Authority and/or the use of its facilities in the Luis Muñoz Marín International Airport is ilegal, unless a specific contract has been signed with the Ports Authority and /or prior written consent has been obtained from the Ports Authority.

Puerto Rico Ports Authority
Resolution No. 98-42
LMM. International Airport

Tariff No. A.3.4
Page Number 5

Item	1999 RATES AND FEES	
11.0	<u>Landing Fees Effective January 1, 1999, through December 31, 1999</u>	
11.1	Commercial or non-commercial aircraft per departure, per 1,000 pounds MAGTOW:	$ 1.80
12.1.1	Minimum for take-off	11.00
12.0	<u>Parking Fees Effective January 1, 1999 through December 31, 1999</u>	
12.1	Per calendar day or fraction thereof per 1,000 pounds MAGTOW:	$ 0.89
12.2	Daily	5.81
12.3	Daily Minimum	76.00
12.4	Monthly Minimum	
13.0	<u>Rental for Space in Passenger Terminal Effective January 1, 1999 through December 31, 1999</u>	Anual Rent Per Square Foot
13.1	Enclosed space - air conditioned	$ 39.84
13.2	Enclosed space - non-air conditioned	35.77
13.3	Open ramp space	24.65
13.4	Terrace space	20.48
14.0	<u>Rental for Space in Freight Terminals Effective January 1, 1999 through December 31, 1999</u>	
14.1	Annual rent per square foot	$15.60
15.0	<u>Passenger Terminal Fees Effective January 1, 1999 through December 31, 1999</u>	Per Passenger
15.1	Passengers on airlines other than American Airlines arriving from and departing to points in the United States other than the U.S. Virgin Islands and Puerto Rico.	$1.65
15.2	Passenger on airlines other than American Airlines arriving from and departing to points in the U.S. Virgin Islands and Puerto Rico.	$0.18
	Passengers on airlines other than American Airlines arriving from and departing to points outside the United States.	$1.46*
15.4	At American Airlines Terminal	$0.01 Per Pounds.
16.0	<u>Fees for Space Made Available to Federal Inspections Agencies in the Foreign Facilities Effective January 1, 1999 through December 31, 1999</u>	$0.92

*Plus an addtional fee charged by American Airlines for arriving pas[illegible] from foreign countries for use federal inspection facilities.

* Nota:
Cambio de número de los Items 15.4 y 16.0

Exhibit 6

Persons in attendance at the Public Hearing held on November 24, 1998 Ports Authority Tariff A-3-4

	Name	Company
1	Miguel A. Massanet	PRPA
2	Francisco Hernandez	PRPA
3	SIMON CASTILLO	COPA
4	ANTONIO JAREÑO JAREÑO	DELTA AIR LINES
5	VICTOR LEON	P.R.P.A
6	Carlos A. Torres	Airport Gift & S.S., Inc.
7	BENITO ACEVED. ACEVEDO	Coop. Equipaje
8	Jim Small	US Airways
9	Carlos J. Rodriguez	Quest DMC, Inc.
10	JOSE J. GUTIERREZ	COPA
11	Evelyn Ramos	Leather Ranch
12	Maricel Mayol	Secure Seal of P.R. Inc.
13	FRANCISCO RIVERA	P.R.P.A - OPERACIONES
14	Victor Martinez	Int'l Telecard
15	RIGOBERTO CONTRERAS	USPS
16	D. GARCIA	UNITED AIRLINES
17	JOSE G. FELICIANO	TRANSAD.
18		TRANSAD
19		
20		
21		
22		
23		

Exhibit 7

PUERTO RICO PORTS AUTHORITY

REPORT ON RATES, FEES, RENTALS AND OTHER CHARGES
FOR THE USE OF PUBLIC AIRCRAFT FACILITIES AND
PASSENGER AND FREIGHT TERMINAL PREMISES
AT THE LUIS MUÑOZ MARIN INTERNATIONAL AIRPORT

JANUARY 1, 1999 THROUGH DECEMBER 31, 1999

PREFACE

This Tariff Economic Study has been conducted by the chief of the Bureau of Tariff Affairs. Based in Passenger Terminal Space Study and Information Provided in the CY 1998 Rate Study.

I. Development of Rates, Fees, Rentals and Other Charges

Principles for determining rates, fees, rentals, and other charges for airports operated by the Authority's are codified in Article 6 (1) of Act No. 125 approved May 7, 1942, as amended. The Law establishes the Authority's obligation to recover through rates: (A) the cost to provide, operate and maintain the facilities in each cost area, including an allocation of the expenses corresponding to Central Office, the Aviation Department, Aviation Administration, charges for nondepreciable specific use and general purpose facilities; and (B) the expense related to payment of principal interest on its bonds and to the fulfillment of the terms and provisions of any related covenants. In prior ratemaking periods, the term "annual break-even need" was used to describe the aforementioned costs to be recovered through rates.

Federal laws administered by the U.S. Department of Transporation and Federal Aviation Administration place certain requirements on airport rates and charges. These agencies published a Policy Regarding Airport Rates and Charges, 61 Fed. Reg. 31, 1994 (June 21, 1996) that was vacated by an appellate court in August 1997 on certain grounds. The Authority believes it remains appropriate to base its ratemaking calculations in consideration of noncontroversial Policy principles it previously had applied. The Authority based its ratemaking calculations in consideration of principles contained in its August 1995 Agreement with certain airliness serving Luis Muñoz Marín International Airport (the "1995 Agreement").

II. Passenger Terminals

A. Guiding Principles:

Costs associated with the passenger terminals are recovered through two types of fees:

1. Space Rental

Rent (per square foot per year) will be assessed in respect of rentable space and public circulation and waiting space. The right to recover the costs of public circulation and waiting space from those who occupy rentable areas is established in Article 6(1) Subs. 2(E) of Act No. 125 approved May 7, 1942, as amended. Public circulation and waiting space is not security cleared and includes areas such as the ticket areas, lobbies and curbside.

2. Passenger Fees

A per passenger fee based on the number of passengers enplaned and deplaned by air carriers will be assessed against air carriers in respect of common space in security cleared areas (such as the baggage makeup area, the baggage claim area, internal tug drives, gate lobbies, corridors to customs and immigration facilities). The right to recover the costs of common space through passenger fees is established in Article 6(1) Subs. 2(F) of Act No. 125 approved May 7, 1942, as amended.

B. <u>Costs:</u>

The historical and projected costs associated with the passenger terminals area illustrated below:

Chart 1: Passenger Terminal Cost Forecast

	1999	2000	2001
Direct Cost (1)	7,989,967	8,309,567	8,641,949
Allocated Overhead (2)	8,971,192	9,330,039	9,703,242
Depreciation & Bond Interest(3)	11,034,499	11,477,951	11,938,620
Cost Associated with Non-Depreciable Facilities (4)	38,817	38,817	38,817
TOTAL	28,034,975	29,156,374	30,322,628

The above costs are projected on a fiscal year (FY)

Total Passenger Terminal Costs to be recovered	$29,739,501
Less Estimated Costs Associated with Non-PRPA space for Crash & Recue Personnel and Depreciation for PRPA-funded Roadways..............	165,019
NET PASSENGER TERMINAL COSTS TO BE RECOVERED............	$29,574,482

NOTES:

(1) Includes salaries & benefits, professional services, material & suplies, utilities, insurance & indemnity, other expenses and provision for doubtful accounts less revenues for utilities billed monthly to concessionaries.

(2) Includes costs for general Overhead and Aviation Overhead.

(3) Depreciation expense excludes depreciation for federally-funded assets and interest expense.

(4) Costs for these facilities were imputed by multiplying the book value of terminal area land by 8% (the estimated cost of funds to PRPA).

C. Rental Rate Calculation:

Rental rate are not differentiated based on location of space withing the airport. However, because construction and maintenance costs for various types of rental areas differ (for example, air conditioned areas vs. non-air conditioned areas), weighting factors are established to adjuts rates accordingly. These weighting factors were used in previous rate-making periods.

Rental rates for the various types of space are increased by a growth rate of 4%.

Chart 2: Rent Rate for Various Types of Space

	Base Rent Basic	Weighting Factor	Adjusted Rate	Common Charge	Total Rent
Air Conditioned Space	27.80	1.00	27.80	12.14	39.84
Non Air Conditioned Space	27.80	.85	23.63	12.14	35.77
Open Ramp	27.80	.45	12.51	12.14	24.65
Open Terrace	27.80	.30	8.34	12.14	20.48

NOTES:

(1) Weighting factors were used in previous rate studies.

(2) Based on a 4% inflationary growth rate.

E. <u>Passenger Fee Calculation:</u>

Passenger terminal costs are recovered through space rental rates and the remainder through passenger fees.

Chart 3:

Net Passenger Terminal Costs to be Recovered.......$29,156.374

Rental Rate (2)	Weighted Average Rentable Space (3)	Passenger Terminal Costs Recovered Through Rental Rates
39.94 x	607,580	$ 24,266,745

Passenger Terminal Costs
to be Recovered

Through Passenger Fees...................$ 4,889,629

Different passenger fees are developed by allocating the passenger fee related costs based on the terminal space used by each category of passengers (Domestic/Foreign Only and Local) and dividing by the corresponding Non-American Airlines passenger volume. The allocation of passenger costs to various passenger types is as follows:

Chart 4: Allocation of Passenger Fee Costs to Various Passenger Terminal

	Common Space Used by Passenger Type	Passenger Fee Related Costs by Passenger Type (1)
Domestic/Foreign Passengers	326,728 / 88.13%	$ 4,309,230
Foreign Passengers Only	43,584 / 11.76%	575,020
Local Passengers (2)	431 / .11%	5,379
TOTAL COMMON SPACE	370,743	$ 4,889,629

NOTES:

(1) Based on passenger terminal space study prepared by Manuel Goicoechea, Architect for CY 1998 LMM Rate Study.

(2) Costs to be recovered through the passenger fees multiplied by the distribution of space by passenger type.

Passenger Fees are derived by allocating the total projected cost of LMM space in security cleared areas based on the projected passenger volume. Estimated passenger volume for FY 1999 is presented with the historical base years.

Fiscal Year	Total Rate
1996	9,201,480
1997	9,826,461
1998	10,121,254
1999	10,424,810
2000	10,500,000

The full passenger fee is only charged to non-American Airlines Passengers. In the last 3 years, non-American passenger volume averaged 30% of total passenger volume.

1999 10,121,254 x 30% = 3,036,300

Non- American Airlines passenger volume is distributed by passenger type as follow:

Chart 5:

Passenger Type	% of Volume	Estimated 1999
Domestic	86	2,611,218
Foreign	13	394,719
Local	1	30,363
Total		3,036,300

Chart 6:

CY 1999 Passenger Fee Calculation

Passenger Type	Cost Allocation	Volume Passenger Type	Passenger Fees
Domestic Foreign	4,309,230	2,611,218	1.65
Foreign Passenger	575,020	394,719	1.46
Local Passenger	5,379	30,363	.18

The resulting fee assessed by the PRPA against airlines in respect to foreign passenger is 3.11 ($1.65 + 1.46). American Airlines will charge an additional fee for passengers using it's FIS facility.

III. Landing Area

A. Guiding Principles:

Costs associates with the landing areas (public runways, taxiways, ramps, and apron areas) are recovered through a landing fee based on maximum allowable gross take-off weight (MAGTOW). Puerto Rican law establishes the right to recover landing area costs from users of those areas. The 1995 Agreement anticipates the use of aircraft weight for landing area volume calculations and an allocation of a pro rata share of expenses to users that are not charged the landing fee.

B. Costs:

The historical and projected costs associated with the landing areas are illustrated below:

Chart 7: Landing Area Cost Forecast

	1999	2000	2001
Direct Costs (1)	15,733,984	16,520,683	17,346,717
Allocated Overhead (2)	1,185,589	1,246,530	1,351,239
Depreciation & Bond Interest (3)	4,393,327	4,653,714	4,886,399
Costs Associated with Non-Depreciable Facilities (4)	847,641	847,641	847,641
TOTAL	22,160,541	23,268,568	24,431,996

NOTES:

(1) Includes salaries and benefits, professional services, material & supplies, utilities, insurance & indemnity, other expenses and provision for doubtful accounts less revenues for utilities billed monthly to concessionaries.

(2) Includes costs for General Overhead and Aviation Overhead.

(3) Depreciation expense excludes depreciation for federally-funded assets and interest expense.

(4) Costs for these facilities were imputed by multiplying book value of landing area land by 8% (the estimated cost of funds to PRPA).

The landing fee is derived by dividing the total projected cost of landing areas by the maximum allowable gross take-off weight. The following fee results:

Chart 8: Landing Fee Calculation

	Cost Allocation	Landing Weight	Landing Fee
Landing Fee (per 1,000 lb. MAGTOW)	21,788,731	11,725,125	1.86

IV. Cargo Terminal Area

A. Guiding Principles:

Costs associates with the cargo terminal are recovered through a cargo terminal rental rate (per square foot per year).

B. <u>Costs:</u>

The historical and projected costs associated with the cargo terminal area illustrated below:

Chart 9: Cargo Terminal Cost Forecats

	1998	1999	2000
Direct Costs (1)	1,274,798	1,340,112	1,393,717
Allocated Overhead (2)	569,418	587,848	616,891
Depreciation & Bond Interest (3)	175,000	175,752	180,981
Costs Associated with Non-Depreciable Facilities (4)	93,193	93,193	93,193
Total	2,112,409	2,196,905	2,284,782

NOTES:

(1) Includes salaries & benefits, professional services, materials & supplies, utilities, insurance & indemnity, other expenses, and provision for doubtful accounts less revenues for utilities billed monthly to concessionaries.

(2) Includes costs for General Overhead and Aviation Overhead.

(3) Depreciation expense excludes depreciation for federally-funded assets and interest expense.

(4) Costs for these facilities were imputed by multiplying book value of cargo area land by 8% (the estimated cost of funds to PRPA).

C. Rental Rate Calculations:

Rental Rates are derived by allocating the total projected cost of the cargo terminal among the rentable cargo space. Based on a fully compensatory methodology, the rental rate for cargo space is $34.07.

Chart 10: Cargo Terminal Rental Rate Calculation

	Cost Allocation	Terminal Space (2)	Compensatory Rental Rate	CY 1998 Rental Rate(3)	1999 Rental Rate
Cargo Terminal	$2,640,844	65,780	34.07	15.53	15.60

NOTES:

(1) Square footage measurement of the PRPA cargo terminal building per Manuel Goicoechea, Architect for the 1997 LMM Rate Study.

(2) Based on recent market forces, the PRPA management proposes only an inflationary increase of 4 % from CY 1998 cargo rent levels.