The Port Authority of New York and New Jersey
Committee on Finance Meeting Transcripts
October 21, 2010

[Chair. H. Silverman] So, we'll start. Today's meeting of the Committee on Finance is being held in public session in its entirety. In addition, the meeting is being broadcast live on the Port Authority's website for those interested in viewing today's proceedings via the internet. We have one action item, which is the purchase of public liability insurance, which our Treasurer, Anne Marie Mulligan, will walk through.

[A. Mulligan] Today's meeting, I'm seeking the committee's authorization to renew the Port Authority's public liability insurance program, effective October 27, for a one-year period. This program protects the Port Authority against losses from bodily injury and property damage claims brought by third parties against the Port Authority. Coverage for losses arising from terrorism are also included in the program. This slide provides a summary of the expiring program and the anticipated coverage at renewal. Marsh, who is our broker for this program, will continue to work with the various carriers on the program structure and pricing up through the renewal date of October 27. The program includes coverage for both aviation and non-aviation programs, including terrorism coverage for all Port Authority facilities. The current limits of coverage on the Aviation Program are $1.25 billion per occurrence and in the aggregate for both Aviation Liability and Aviation War Risk or the terrorism coverage. For the renewal, capacity and retention levels are expected to remain as expirings. Current limits on the non-aviation portion of the program are $1 billion per occurrence and in the aggregate in excess of a $5 million per occurrence deductible. The Port Authority also retains 30 percent, or $7.5 million of the primary $25 million in purchase coverage. The current Non-Aviation Terrorism Program provides for $300 million dollars of federally-backed coverage under the Terrorism Risk Insurance Program Reauthorization Act of 2007, which is purchased through the Port Authority's Captive Insurance Entity. For the renewal, the coverage is expected to remain as expiring. Marsh continues to market the program to the widest array of insurers in order to maintain capacity and deductible levels, and they are also working vigorously to negotiate a reduction in premium costs. Recently, staff was asked to provide some benchmarking information for comparable entities. Due to the nature of the Port Authority's diverse operations included in the Non-Aviation Program, tunnels, bridges, bus terminals, rail, ports waterfront, and industrial development operations, no other peer entity provides a true benchmark. To conduct a peer analysis, the staff compared the Port Authority to similar entities based on a homogeneous exposure type--tunnels, bridges and rail, ports, and airports. Initially, it's important to note that other entities have been reluctant in sharing their premium costs for their programs, so the analysis is limited. Overall, the results show that the Port Authority purchases higher limits than the entities surveyed. The limits are appropriate given the catastrophic loss potential presented and the multiple lines of business covered by the insurance programs. Total program limits purchased by the Port Authority's Public Liability Program cover all facilities. Limits purchased by the peer entities surveyed only represent the total limit purchased for a single-exposure type and, in some cases, for a single location. Differences in premium levels take into account individual underwriting experiences, retention levels, and claims experience. When accounting for the differences in the program types, premiums paid by the Port Authority for comparable exposures are as lower or similar to peers. For the airport, this slide highlights the results of the Port Authorities program as compared to the Chicago Department of Aviation, which operates O'Hare and Midway International Airports. The coverage limits for the Port Authority's Aviation Program exceed the limits purchased by Chicago and the premiums are comparable. For the Port Authority's Non-Aviation Program, the coverage is $1 billion dollars for all Port Authority operations excluding airports. Premium allocations are generated for each line of business noted based on the revenue and activity levels within each area. Given that the tunnel, bridge, rail, and port operations comprise the majority of the risk exposures under the Non-Aviation Coverage, those lines of business are allocated the largest percentage of the premium. For a tunnel, bridge, and rail comparison, above you will see the that the results for the Port Authority's program are compared to the MTA. For the Port Authority's program, the allocated portion of the annual program amounts to approximately $11 million dollars. And what we did was take the non-aviation premium of $16 million and allocated about 70 percent to the tunnels, bridges, and rail. Individual coverage parameters between the MTA and the Port Authority are highlighted on the screen. For the port operations, we received information from the Port of Los Angeles. As noted, the Port Authority's program covers all non-airport-related operations, while the Port of Los Angeles represents a single exposure at a single location. As we said, overall, when accounting for the differences between the operations, the program's cost, and the premiums paid by the Port Authority for comparable exposures, are lower or similar to our peers.

[Comm. D. Steiner] Point of information.

[A. Mulligan] Mmm hmm.

[Comm. D. Steiner] I thought the annual premium appears to be more than ten times the Port of Los Angeles, not comparable.

[A. Mulligan] Well, what our problem is, we took the total premium and allocated 70 percent of it to the tunnels and bridges, which leaves the remaining amount to go against the ports. And we have six port facilities, we've added the express rail to the different facilities, we've added--

[Comm. D.Steiner] I'm not arguing with that. So if you adjusted this, if you made this last week, we'd be paying more on the--?

[A. Mulligan] On the tunnels and bridges.

[Comm. D.Steiner] So what's the basis of this comparison? It's meaningless.

[A. Mulligan] Well, all we could get from 3 or 4 different ports that we contacted was this information. We couldn't get it from anybody else.

[A.P. Blanco] This also has six ports compared to one and ours includes a much higher liability in terms of what the coverage is.

[A. Mulligan] It has workman's comp. It's all in there.

[A.P. Blanco] There's much greater coverage and many more ports.

[D. Buchbinder] It's a bit apples and oranges.

[Chairman A. Coscia] Yeah, it looks very apples and oranges.

[A. Mulligan] It really is.

[D. Buchbinder] It allows you to see what's out and about and comparable operations.

[Chairman A. Coscia] But the Port of Los Angeles, from a volume standpoint, is comparable to our ports, isn't it? (inaudible; everyone speaking at same time)

[A. Mulligan] Volume, but it's just one facility.

[Chairman A.Coscia] I don't know. I'm not sure. I'm sure those numbers don't give me more reason for concern. I don't know.

[A. Mulligan] Well, prior--

[Chairman A.Coscia] It seems like there's a real sort of lack of organization to the market as it relates to insuring these kinds of assets. I'm just basing it on what little we've seen here.

[D. Buchbinder] It's also the philosophy of insurance, if you look at the limits of coverage, would you be satisfied with $150 million for the Port? Authority.

[Chairman A. Coscia] Yeah, it's very low. No.

[V. Biddle] And all facilities.

[A. Mulligan] And prior to--and it's all facilities. Prior to 9/11, the Port Authority bought the market capacity of $650 million for all non-aviation facilities. In 2002, a study was done by Deloitte Consulting, and Port Authority purchases catastrophic loss coverage. They identified about 6-8 different potential catastrophes, and the potential loss, your claims on them, in 2002 dollars, were billions of dollars. So their recommendation was that the Port Authority should pursue the maximum capacity the market will provide at reasonable cost. The top portion of your Liability Program, for the top $500 million of coverage, you're paying about $2-$2.5 million for $500 million of excess coverage, which provides great protection if there is a catastrophic loss. The top $300 million is about $1 million for that level of coverage, so that's why the Port Authority has always pursued the maximum level to protect our exposure given any instance that could happen.

[Chairman A.Coscia] It seems obvious that, for whatever reason, the Port of Los Angeles decided to only buy insurance for smaller claims.

[A. Mulligan] A lot of the entities are also supported by the local government or a city or state so that they can raise taxes if they have a catastrophic loss or very, very large claims. We don't have the ability to do that, so the Port Authority would be bearing the full brunt of any exposure if we're not covered.

[Comm. H.S. Holmes] Yeah, that's the difference there, because the Port of Los Angeles is a city agency.

[A. Mulligan] Right.

[D. Buchbinder] It's also a question of market, because the NY market, regardless, is still very hard to get coverage in and the premiums, just by region, tend to be higher.

[A. Mulligan] It's--the insurance markets look at New York as the highest risk area and highest cost when it comes to claims, jury verdicts, and the litigious nature of the New York region.

[V. Biddle] Also, over the course of the past few years on this program, we've rolled in facilities--Stewart Airport, Battery Park City Ferry Terminal, additional port facilities-- and we haven't had an increase in premium each time we've added a very large facility, so we've assumed these new facilities, or expanded facilities, without additional premium cost and over the course of the time since 9/11, we've seen obviously there's a big spike in premiums post 9/11, but then subsequently we've seen premium reductions all along.

[A. Mulligan] And we also have sought the greatest limits we could. We have the World Trade Center Site that will become operational. When it does, that will then also be rolling under this program. So to absorb all of the Port Authority's facilities and the liability attendant to it, the limits seem appropriate.

[Chairman A.Coscia] I think I'm the one who asked to try to find comparable information. And candidly, simply because we pay a huge number, and I was looking for some kind of an anchor to feel comfortable that that number represented the right number. And I'm not sure we can get that from this, and it's probably because either there aren't comparables, or the comparables that exist, we don't have adequate or full disclosure. So how can we kind of--can we get comfortable the other way around? Is there enough competition in the marketplace that will drive to a correct pricing because of that? Or can we not really rely on that either because everyone buys into this?

[V. Biddle] We do rely on it.

[Chairman A. Coscia] You see what my problem is? I have no clue whether or not--(speaking at same time)--$22 billion dollars is the right number.

[V. Biddle] We do rely on market competition, and this year, in fact, we've changed some of the carriers providing coverage on the program, notably in the lower primary layer, to obtain cost savings from the prior carrier we had. So we absolutely go to the market each time we have new markets on the program, as they come along every year that are interested in writing our business, new markets definitely put pressure on existing markets. Existing markets, because of the state of the liability insurance market right now, are somewhat soft to begin with. The pressure of the new markets that we have in changing the allocation of line size of coverage to each individual market, we do all that every year too to ensure we are getting the most competitive pricing we can that's out there.

[Comm. D.Steiner] Mr. Chairman, I've always felt that the more people you have the bidding open to, the better chance you have of getting a good rate, and the more segments, smaller issues, smaller pieces of the pie that we insure, the wider the marketplace. And I was never in favor of having just one guy like Marsh do that. I don't know why we don't take-- I don't have the list. Up there you had all the other workman's comp--why these things aren't broken down and bid out separately to open it to companies that are competitive in that area? And if the terrorism is more, bite the bullet on terrorism. Could we back up one slide?

[V. Biddle] We do buy different types of coverage. Workman's comp is separate. This program offers excess worker's comp above the Port Authority's self-insured worker's comp.

[Comm. D. Steiner] So it's not our workman's comp? It's just the excess workman's comp.

[V. Biddle] It's the excess worker's comp above the Port Authority's $5 million self-insured program.

[Comm. D.Steiner] Do we know what these various segments cost us or is it all lumped together?

[V. Biddle] You get economies of scale with the Port Authority by going out as one group.

[Comm. D. Steiner] That isn't what I was asking you.

[V. Biddle] This is all lumped together as one premium.

[Comm. D.Steiner] So we have no way of identifying what each of these cost?

[V. Biddle] We allocate premiums based on--

[Comm. D.Steiner] I understand what you do, but you have no way of knowing what the people are really charging for each segment?

[V. Biddle] No, because we are such a diverse and large organization that we go out as one non-aviation piece. We break it down between aviation and non-aviation--

[Comm. D.Steiner] What I was saying is maybe there's another way of breaking it down further to get more competition, that's all.

[D. Buchbinder] It's something to consider--one of the other things to consider is the fact that you buy pretty much of the available capacity of the market.

[Comm. D. Steiner] But if you broke it down--

[V. Biddle] But you're going to be paying more broker fees if you break it down.

[A. Mulligan] You would likely be buying less limits for each individual segment, where here you have the ability to go up to a billion dollars if you have a large loss at a tunnel facility and a large loss at a PATH facility.

[Comm. D.Steiner] Yeah, but we all know they don't like to pay anyway. Insurance policies are license to sue; that's all it is. It's like a bond; you always have to sue the bonding company. That's the trouble you have collecting from insurance companies. I think that's specious argument, but I'm in the minority.

[Chairman A. Coscia] Well, here's where I think we are at the end of the day is that we're paying a lot of money for insurance. I'm confident that we've done as much homework as you can do when you try to sort of hammer that number into a number that we are comfortable with. We may be in the sort of position of being a unique insured, and as a result of a unique insured, the pricing on that is one we're never going to be 100 percent comfortable with. I'm okay with this, and I'll sign off on it. I just have to say that this is going to be a tough pill to swallow every year. And we're going to keep churning this thing around in circles, so if there is any way for us to find a way of either improving what we do based on the assumption it can be improved, or at least getting comfortable that there isn't an ability to take advantage of our unique position in the marketplace that results in us paying higher premiums for the coverage that we're getting. It doesn't do us any good to have one of these meetings every couple of months where we try to sort of kick the crap out of you guys to do something that you're not doing, and then you go back and do it and we're still uncomfortable. Because we're kind of going around in circles here a little bit, and, I admit, I'm causing a lot of it myself. It's just that there's a sort of a basic uncomfortableness with the number, but we may just have to live with it.

[Comm. H.S.Holmes] I'm not uncomfortable with the number. I think the number is okay for all the insurance that we're getting and all the facilities that are subject to catastrophes.

[Comm. D.Steiner] How do you know that's so? Because it looks good? But it's not based on any comparable experience.

[Comm. H.S. Holmes] No, because one of the most comparables was MTA, anif you extrapolate that one particular one to the other and it comes out to be pretty much the same.

[C. Ward] Obviously, there's a certain unknowable --for the Port Authority because we're clearly unique in the market. There's three data points that I sort of focus on. The size of what was bought, the inherent competitiveness of the subsets that we are out pricing within how this gets packaged, and then, as Veronica said, the most relevant one, is that we've added 5-6 major facilities. Two of them I would consider to be significantly high risk. One of them an airport, Stewart, and the other one the risk associated with the Military Ocean Terminal. that, and our premiums haven't increased, so we have three data points there that give you some sense that we're bringing it down while we're adding, we do competitively bid throughout the season the subsets, and we bought a lot of insurance because we can the way it gets structured, buying the big one for a certain amount and then the increments to go to the full disaster insurance is money well spent, because, God forbid, as we have experienced, that when things do go wrong around here, they go wrong in a big way. That's how I got comfortable with it.

[Chairman A. Coscia] I think that all makes sense, Chris.

[Chair H. Silverman] Okay, we need a motion to take this to the board.

[A.Mulligan] Right.We're seeking the authority to renew the program at the existing coverage limits and parameters, and we're estimating that this year's premium will be the same as last year's premium, $21.5 million. Given that Marsh is still working with the market, we will get back to the board, to the committee, with a final premium amount after the effective date of October 27.

[K. Eastman] And we'll vote on it in Committee

[Chair H. Silverman] Any other comments or questions? Let's hear a motion, please.

[Comm. H.S. Holmes] So moved.

[Chair H. Silverman] Second?

[Chairman A.Coscia] Second.

[Chair. H. Silverman] Any other comments or questions? All in favor?

[Chairman A. Coscia & Comm. H.S. Holmes] Aye.

[Chair. H. Silverman] So moved. We are adjourned. Thank you.