

## BEFORE THE COMMONWEALTH PUBLIC UTILITIES COMMISSION

### ESTABLISHMENT OF POLICIES AND FINDINGS UNDER 4 CMC § 8409(m) FOR REGULATORY AND ADMINISTRATIVE EXPENSES

#### ADMINISTRATIVE ORDER

After consultation with its general counsel, hearing examiner and regulatory consultant, after discussion at a duly noticed and convened meeting and for good cause shown, the Commonwealth Public Utilities Commission [CPUC] hereby makes the following determinations and establishes the following policies regarding the funding of its administrative and regulatory expenses.

#### 1. Administrative Expenses.

- a. In the course of discharging its statutory responsibilities, CPUC will incur administrative expenses [rent, executive director salary, supplies, equipment, travel, commissioner stipends, general professional fees<sup>1</sup> and other costs].
- b. Under 4 CMC § 8421(b) CPUC is authorized to assess each regulated entity a reasonable charge to underwrite its operating expenses and to establish a reserve.
- c. Under P.L. 15-35:3(a)(4), CPUC is the recipient of funds from the Commonwealth Telecommunications Commission. CPUC's FY09 administrative and reserve funds requirements should be funded by these transferred funds. In future years, the regulated entities shall be assessed for CPUC's administrative expenses and reserve requirements through the Annual Charge process set forth in 4 CMC § 8421(c).

#### 2. Regulatory Expenses.

- a. CPUC shall discharge its regulatory duties through dockets, which shall be established and assigned to proceedings, which are related to specific regulated entities.

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<sup>1</sup> General professional fees include legal services provided by CPUC's general counsel on non-docket related matters, services provided by its hearing examiner on administrative matters and the fees of other professionals who may be retained by CPUC under its statutory authority.

- b. These regulatory proceedings will often be unforeseen as they will be commenced by a regulated entity through its filing of a petition for regulatory relief under CPUC Rules of Procedure.
- c. It is fair and reasonable that only the regulated entity, which is the subject of a particular regulatory docket, should incur the regulatory expenses, which are incurred in the docket. These expenses include expenses related to the services of CPUC's hearing examiner, regulatory consultant and court reporter and expenses related to the notice and conduct of public hearings in the docket.
- d. Expenses related to hearing examiner's and regulatory consultant's authorized travel and on-island expenses for regulatory proceedings shall be designated as regulatory expenses and allocated among the regulated entities, which are the subject of regulatory proceedings during their trips.
- e. CPUC, in the exercise of its discretion and authority under 4 CMC § 8421(d), establishes the policy that docket related regulatory expenses shall not be considered or contemplated in determining the annual budget and Annual Charge discussed in paragraph 1 above, but rather shall be invoiced by docket to regulated entities therein on a monthly basis pursuant to CPUC Procedure Rule 40. Accordingly, it is CPUC's understanding that regulatory fees, as they are not part of the annual budgeting process, shall not require legislative approval or appropriation.

### **3. Legislative Amendments.**

In the course of its initial review of its enabling legislation [P.L. 15-35], CPUC has determined that several statutory provisions deserve reconsideration:


- a. As a housekeeping matter, CPUC notes that § 8420(b) directs that fees collected under that section shall be deposited into the "Public Utilities, Telecommunications and Services Commission Revolving Fund". It would appear that instead, these fees should be deposited into the "Public Utilities Commission Revolving Fund", which is established in § 8421(a).
- b. CPUC respectfully expresses concern that it is not authorized by its enabling legislation to establish, maintain and use accounts in

private banking facilities for its transferred, administrative and regulatory funds. These accounts would, of course, remain under the reporting and audit review requirements of § 8422(d). CPUC respectfully submits that: i] given its predecessor Commonwealth Telecommunications Commission was given the statutory authority to establish and maintain its own accounts; and ii] given the legislative intent that CPUC should serve as an independent regulatory agency, therefore CPUC should be authorized to establish and maintain its own Revolving Fund in one or more checking and savings accounts.

**4. Transmittal.**

A copy of the administrative order shall be transmitted to the Legislature and to the Governor for their consideration of the statutory amendments discussed herein and for their approval and appropriation of CPUC's FY09 administrative budget.

December 19, 2008

  
Viola Alepuyo  
Chairperson

  
Kimberlyn King-Hinds  
Commissioner

  
Kyle Calabrese  
Commissioner