

BEFORE THE COMMONWEALTH PUBLIC UTILITIES COMMISSION

INVESTIGATION OF COMMONWEALTH)
UTILITIES CORPORATION'S WATER) DOCKET 09-2
AND WASTEWATER RATES AND)
RELATED MATTERS)

Stipulation

Pursuant to the April 2, 2009, Decision and Order of the Commonwealth Public Utilities Commission, the Commonwealth Utilities Corporation [CUC], a public corporation within the Commonwealth of the Northern Mariana Islands [CNMI], and Georgetown Consulting Group [GCG], which serves as independent regulatory consultant to the Commonwealth Public Utilities Commission [CPUC], through their authorized representatives, [the Parties] hereby stipulate, agree and make the following recommendations to CPUC:

1. In its April 2, 2009 Decision and Order [Decision], CPUC determined that it was not persuaded that the increase in wastewater rates, as recommended by CUC and GCG in their March 27, 2009, stipulation [March Stipulation],¹ was either just, reasonable or fair given evidence in the record that significant commercial establishments were connected to CUC's wastewater system, but were neither metered nor appropriately billed for this service². CPUC directed its hearing examiner to investigate and report on this matter by June 1, 2009.

¹ In the March Stipulation, the Parties testified that CUC will incur a \$3.86 million wastewater revenue deficit in FY09, which is based on unaudited FY08 expenses plus projected FY09 expenses required by the Federal Stipulated Order in USA v. CUC and CNMI [Civil Case No. 08-0051]. This deficit does not include the expense of unmetered electric service.

² The media reported (see March 30, 2009 **Saipan Tribune** article--*EPA: Hopeful CUC can meet requirements*) that GCG valued these lost revenues in excess of several million dollars and were a consequence of a loophole in the law. However, GCG only provided the CPUC with an estimate of revenues that could be derived from CUC revenue enhancements (see footnote 6) and did not provide the CPUC with any estimate of lost revenues attributable to unmetered or inappropriately billed commercial wastewater customers.

2. 4 CMC § 8122[b]³ mandates that CUC shall establish rates, meter, bill and collect fees in a fair manner so that it will be financially independent by October 1, 2009, or as soon thereafter as reasonably possible.
3. The purpose of this stipulation is to correct, clarify, and supplement the evidentiary record regarding significant unmetered commercial wastewater service and to present to the CPUC the activities CUC has undertaken to resolve this problem.
4. As a result of an internal CUC investigation undertaken in response to the CPUC's Order, which is presented in CUC's June 3, 2009, report [Attachment A]⁴, CUC represents that:
 - a. there were approximately nine (9) significant commercial wastewater customers, which were neither metered nor billed for wastewater service based upon their actual wastewater system usage. A tenth customer's sewage has been metered by a state-of-the-art "mag meter" and its bills calculated thereon;
 - b. most, if not all, of these significant commercial wastewater customers have been making a modest monthly payment to CUC for wastewater service (in total approximately \$88,000/year); however, these payment amounts were not based upon their metered usage;
 - c. CUC's wastewater service rules provide an adequate process to bill for wastewater service to these commercial customers either based upon actual metered or estimated usage; and
 - d. CUC will no later than June 30, 2009 initiate billing these substantial commercial customers either based upon metered usage or estimated usage which reasonably reflects their actual usage in lieu of the fixed monthly payments now being paid by these customers for wastewater service.⁵

³ Statutory citations in this stipulation refer to sections contained in the public laws which promulgated them.

⁴The attached CUC report [Attachment A] identifies: a) the number of "substantial" wastewater customers who have unmetered service and the actions taken to meter or estimate their usage; b) a discussion about how these customers were identified and the estimate of their usage developed; and c) a discussion of applicable service rules and counsels' comfort that these rules are adequate to meter or estimate their usage and bill the substantial commercial customers.

⁵ The technical aspects to determining usage are complex. Thus, a task which CUC hoped would be accomplished in days requires more time. Effectively, CUC must work with each customer to inventory and meter appropriate equipment, take readings, review against the various water usages (e.g., domestic, water park, sales to another user/CUC customer), then reassess the recorded values. The 10 customers have been cooperative.

5. GCG supports the plan outlined in Attachment A as a prudent way to resolve the matter.
6. CUC's unmetered and unbilled service to substantial commercial wastewater customers, is but a part of a much broader concern about deficiencies in CUC's revenue cycle⁶, which CPUC has directed be examined as part of its review of how to fund the 40% revenue deficiency balance discussed in footnote 1. On or before August 7, 2009, GCG, in consultation with CUC, should propose a substantial scope of work with timeline under which revenue cycle deficiencies should be examined under the hearing examiner's oversight. CUC supports the development of a work plan by GCG and may comment on the work plan. CUC shall file its comments for CPUC consideration no later than August 19, 2009.
7. The Parties also recognize the need and importance for CPUC to establish a lifeline rate for water and wastewater service to assist low income customers. The Parties recommend that a lifeline tariff be prepared for CPUC consideration and implementation as a part of a full cost of service study which is expected to be completed once CUC's wastewater system attains financial independence. The parties, under the hearing examiner's oversight, agree to propose interim water and wastewater lifeline rates in preparation for CPUC consideration during the August 2009 regulatory session.
8. The Parties recommend, based upon the representations and commitments presented in this stipulation, that CPUC authorize the increases in CUC's wastewater rate rates shown below effective July 1, 2009, which would cover 30% of the anticipated wastewater revenue deficiency and the rates shown below effective September 4, 2009, offset by any substitute funds tendered by the CNMI Government and/or other entities, which would cover an additional 30% of the anticipated wastewater revenue deficiency.

⁶ Revenue cycle [enhancement] issues, which require careful review include, but are not limited to: a) unmetered service among all customer classes, including the right to back bill for unmetered service; b) defective meters and meter reading; c) billing irregularities; d) service rules enforcement; and e) accounts receivable. The parties agree that the collective value of these revenue enhancement opportunities could produce substantial annual revenues.

Wastewater Rates

Residential Customers - Monthly Service Charge

<u>Current Rates</u>	<u>5-Jun-09</u>	<u>4-Sep-09</u>
\$3.00	\$5.60	\$8.20

Residential Customers - Metered or Estimated

<u>Consumption</u>	<u>Current Rates</u>	<u>5-Jun-09</u>	<u>4-Sep-09</u>
<u>Gallons</u>	<u>\$/kGal.</u>	<u>\$/kGal.</u>	<u>\$/kGal.</u>
0 to 5,000	Included	Included	Included
Over 5,000	\$0.50	\$0.93	\$1.37

Non-Residential--Metered or Estimated

<u>Consumption</u>	<u>Current Rates</u>	<u>5-Jun-09</u>	<u>4-Sep-09</u>
<u>Gallons</u>	<u>\$/kGal.</u>	<u>\$/kGal.</u>	<u>\$/kGal.</u>
All	\$0.50	\$0.93	\$1.37

The remaining 40% of the revenue deficiency shall be examined by CPUC during the first quarter of FY10 to determine what combination of rate relief and revenue enhancement activities would be reasonable and necessary to fund the deficiency.

9. CUC's ability to meet its duties under the Federal Stipulated Order would be materially impaired by CUC's inability to implement the proposed wastewater rate increase on or before July 1, 2009. Failure to comply with the Stipulated Order could result in substantial additional costs to the customers. For instance, if the US District Court took control of CUC and its finances, putting in place an expensive receiver and technical advisors, payment of such additional costs would be required of the customers on top of required rate increases.

10. The Parties recommend that CPUC consider this stipulation, including *Attachment A* and the hearing examiner's report, at a special meeting called for this purpose.

June 3, 2009
Commonwealth Utilities Corporation
/s

By: Alan J. Barak, Attorney for CUC
Its Authorized Representative

Georgetown Consulting Group

By: _____
Its Authorized Representative