

**COMMONWEALTH PUBLIC UTILITIES COMMISSION
SPECIAL BUSINESS MEETING
JUNE 20, 2009**

The Commonwealth Public Utilities Commission [Commission] conducted a special business meeting at 10:30 a.m. on June 20, 2009 at the Saipan Chamber of Commerce's office, pursuant to due and lawful notice. The meeting was called to order by chairperson Viola Alepuyo, with Commissioner Kyle Calabrese in attendance, who together constituted a quorum. The following matters were considered at the meeting under the agenda, which is made *Attachment A*.

1. Approval of minutes.

After review of the minutes of the April 2, 2009 meeting and on motion duly made, seconded and unanimously carried, the commissioners resolved to approve the minutes.

2. Docket 09-2: CUC Wastewater rate increase.

By its April 2, 2009 decision and order in Docket 09-2, the Commission deferred its consideration of the parties' [*Georgetown and Commonwealth Utilities Commission (CUC)*] recommendation that CUC's wastewater rates be increased pending further review of record evidence that substantial CUC commercial wastewater customers were not being either metered or billed for their wastewater service, at a substantial loss of revenue. The Commission determined that it was not persuaded that the recommended increase of wastewater rates would be fair, just or reasonable to residential and other wastewater customers if substantial commercial wastewater customers were not being billed for service.

A collaborative review of commercial wastewater service, which was undertaken by CUC and Georgetown under hearing examiner's oversight, resulted in the parties' June 3, 2009 stipulation and hearing examiner's June 15, 2009 report. These filings document that: a] in fact, the ten commercial customers in question were being billed for wastewater service, however, not in accordance with CUC's service rules; b] the cost of these billing discrepancies are *de minimus* when measured against the \$3.86 million annual wastewater revenue shortfall, which must be resolved to empower CUC to comply with its requirements under the Federal Stipulated Order; and c] CUC has pledged to resolve the billing discrepancies not later than June 29, 2009. These filings confirmed the importance of the revenue cycle audit, which the Commission has ordered to review: a] CUC's billing, collection and metering process; b] its compliance with and the reasonableness of its service rules; and c] revenue enhancement opportunities, which could ameliorate the need for rate increases. The parties have also

recommended that during the August 2009 regulatory session, the Commission consider and act on their recommendation that interim lifeline rates be established for water and wastewater service to low income customers.

After review and careful consideration of the foregoing, for good cause shown, and on motion duly made, seconded and unanimously carried, the commissioners

RESOLVED to adopt the order attached to hearing examiner's report, subject to amendment, which authorizes and directs him to monitor CUC's fulfillment of its commitment to bring the ten commercial wastewater accounts into compliance with service rules not later than June 29, 2009. A copy of this order, as amended, shall be incorporated herein as *Attachment B*.

3. Docket 09-4 [Cable regulation].

The commissioners next examined hearing examiner's June 17, 2009 report and Georgetown's June 8, 2009 letter, which recommend that it would be prudent to abate further docket activities until the Commission's enabling legislation is amended. After careful review and discussion of these filings, for good cause shown and on motion duly made, seconded and unanimously carried, the commissioners:

RESOLVED, that further proceedings in Docket 09-4 shall be abated pending an amendment of its enabling legislation to authorize the Commission to establish a franchising process, consistent with the federal regulatory framework for cable regulation, including the authority to assess an annual franchise fee to defray regulatory expenses and to cover other appropriate revenue requirements.

RESOLVED, that the chairperson is authorized, with staff's assistance, to inform the Governor and the Legislature of this resolution and of the Commission's readiness to undertake the regulation of cable service upon the enactment of such remedial legislation.

RESOLVED, that regulatory expenses, which have been incurred to date in Docket 09-4, shall be paid from the Commission's administrative reserve funds, provided that if it is empowered to regulate cable companies under a franchising process, then the administrative reserve will be reimbursed from franchise fee revenues.

4. Administration.

- a. With regard to the Commission's duty, pursuant to 4 CMC § 8409[k], to adopt and submit an FY10 administrative budget to the Legislature for its consideration and approval, the Commission after discussion and on motion duly made, seconded and unanimously carried

RESOLVED that the chairperson be and is hereby authorized to craft and submit the budget. As part of this submission, the Commission shall recommend that it be relieved from the duty of seeking legislative approval of its administrative budget and further that it be authorized to have custody and control of its own funds, which are sourced from the regulated utilities and not from the General Fund.

- b. With regard to the Commission's duty under 4 CMC § 8408 to prepare and submit an annual [fiscal year] operations report and its duty under 4 CMC § 8422[d] to provide the Legislature with an annual accounting of its use of funds, the Commission

FINDS that as it first initiated regulatory activities during the October 2008 regulatory session [i.e. in FY09], its first reports under these requirements shall be for the fiscal year FY09.

- c. The commissioners inquired whether CUC was in compliance with its duty under the Commission's December 19, 2008 and April 2, 2009 orders in Docket 09-1 to account for and report on its use of funds produced by LEAC reserve elements 2[b], [c] and [d]¹. In its April order, the Commission expressed concern about CUC's earlier failure to have complied with reporting and accountability requirements regarding these elements and cautioned that further violations could have serious consequence. Hearing examiner reported that CUC had still not filed a report for the period January 1, 2009 through March 31, 2009, which was due on May 15, 2009 - notwithstanding his reminders to CUC on April 22, 2009 and May

¹ Reserve elements 2[b], [c] and [d] refer to those ordering sections of the Commission's December 19, 2008 Decision and Order in Docket 09-1, which first established the reserve elements, including restrictions on the use of funds produced by the elements and established a monthly reporting requirement. In its April 2, 2009 order in Docket 09-1, the Commission adjusted the reporting requirement from monthly to quarterly.

15, 2009.² After discussion and on motion duly made, seconded and unanimously carried, the commissioners

RESOLVED that CUC's ongoing failure to comply with this reporting requirement and further to account for its compliance with restrictions regarding the use and maintenance of millions of dollars of reserve element funds is unacceptable and is viewed as being of grave significance.

RESOLVED that hearing examiner, in consultation with Georgetown, is directed on or before July 17, 2009³ to propose a range of enforcement actions, which are available for Commission consideration in response to this unacceptable conduct.

There being no further business, the meeting was adjourned.


Viola Alepuy
Chairperson

² In Attachment A to the parties' December 16, 2008 *LEAC Implementation Stipulation*, it was estimated that the following revenue would be produced by the reserve elements during the period January 1, 2009 through March 31, 2009: element 2[b] *[inventory and price volatility]*: \$1.21 million; element 2[c] *[regulatory & accounting]*: \$415,000; and element 2[d] *[generation efficiency]*: \$2.08 million.

³Pursuant to hearing examiner's April 22, 2009 *Scheduling Memorandum* in Docket 09-1, July 15, 2009 is the deadline for CUC's report on the reserve elements for the quarter ending June 30, 2009.