

BEFORE THE COMMONWEALTH PUBLIC UTILITIES COMMISSION

COMMONWEALTH UTILITIES  
CORPORATION – WATER AND  
WASTEWATER DIVISIONS

DOCKET 09-2

DECISION AND ORDER

*Background*

By this decision and order, the Commonwealth Public Utilities Commission [*Commission*] reviews and acts on regulatory matters concerning the water and wastewater divisions of the Commonwealth Utilities Corporation [*CUC*], which have been prepared for its consideration at the August 2009 regulatory session, including: a) a revised process by which the Commission will review CUC's interim financial plan<sup>1</sup>; b) an assessment of CUC's revenue cycle to identify revenue enhancement opportunities to minimize the need for rate increases in its three divisions; c) a November 2009 rate proceeding to fund the balance of CUC's water and wastewater divisions' FY10 revenue requirements, which are driven by the Federal Stipulated Order and d) the establishment of targeted lifeline rates for water and wastewater service.

On August 31, 2009, pursuant to due and lawful notice in accordance with 4 CMC § 8418<sup>2</sup>, the Commission conducted a public hearing and workshop at the Senate Chamber in the Jesus P. Mafnas Memorial Building on Capitol Hill to consider the evidentiary record on each of the above regulatory matters<sup>3</sup> and to receive a briefing from Georgetown and CUC regarding them.

*Findings and Determinations*

After careful review of the evidentiary record and deliberation, in consultation with its hearing examiner, for good cause shown and in the exercise of its statutory authority and discretion, the Commission makes the following findings and determinations.

1. CUC was given timely notice of the Commission's August 31, 2009 public hearing in this docket in accordance with 4 CMC § 8417. The Commission duly noticed the public hearing pursuant to the requirements of 4 CMC § 8418.

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<sup>1</sup> CUC is required to prepare and file an interim financial plan pursuant to section 48 of the *Stipulated Order Number One For Preliminary Injunctive Relief* in Civil Case No. CV08-0051 [United States of America v. Commonwealth Utilities Corporation and the Commonwealth of the Northern Mariana Islands.]

<sup>2</sup> Statutory citations in this Decision refer to sections contained in Public Law 15-35.

<sup>3</sup> The evidentiary record includes: a) the parties' August 31, 2009 Stipulation [*Stipulation*]; and b) Georgetown's August 8, 2009 report on lifeline rates.

2. No person applied for the privilege to participate in the hearing under 4 CMC § 8409[j]. The public was given the opportunity to present their views at the hearing.
3. The findings and determinations made herein are supported by a preponderance of evidence in the record.
4. The Commission supports CUC's intention, as set forth in the Stipulation, to request the U.S. Environmental Protection Agency to join in a recommendation to the Federal District Court that its interim and final financial plans, as required by the Federal Stipulated Order, be presented to the Commission for review and approval. The Commission agrees that such a review process would serve the useful purpose of synchronizing Stipulated Order requirements with the Commission's ratemaking process.
5. Pursuant to the Commission's April 2, 2009 Decision and Order in this docket: a] the preparation of the interim financial plan was to have been a collaborative effort between CUC and Georgetown, under hearing examiner's oversight; and b] the plan was to have been filed for Commission review and approval during the August regulatory session, given its relevance to the rate making process. CUC failed to engage in a collaborative effort, ignored filing deadlines established by hearing examiner and failed to finalize and file the interim plan for Commission review during the August session. This tracks a similar pattern of conduct in Docket 09-1, as described in the Commission's September 3, 2009 Decision and Order in that docket. It is clear to the Commission that CUC has lacked the expertise and resources to craft the interim plan in a timely manner and has failed to take advantage of Georgetown's availability as a resource in this effort. Under the Stipulated Order, CUC must file its interim financial plan with EPA on or about September 7, 2009.
6. CUC should be ordered to file its interim financial plan with the Commission, when it is finalized. Georgetown should be authorized and directed, under hearing examiner's oversight, to review the plan and related issues and to report to the Commission during the November 2009 regulatory session. This review should include an analysis of how the Commission's regulatory process should interface with the requirements of the Stipulated Order, in the event regulatory review is not required by the Federal court.
7. In its April 2, 2009 Decision and Order, the hearing examiner was authorized and directed to recommend a regulatory process by which the Commission could determine what combination of revenue enhancement activities and FY10 rate relief would be necessary to enable CUC to meet the requirements of the Federal Stipulated Order. In response to this directive, the parties recommend in the Stipulation that:

- a. A revenue cycle assessment be immediately commenced under the following protocol: a] it should use the work plan attached to the Stipulation; b] CUC should take the lead, in consultation with Georgetown, in managing the assessment; c] Georgetown should be authorized to provide CUC assistance on an as-needed basis; d] hearing examiner should be authorized and directed to resolve issues related to the assessment's progress; and e] the parties should present the Commission with a status report during the November regulatory session regarding progress made in: 1] the assessment work plan; 2] the development of key industry standards, which should be used in evaluating the reasonableness of CUC's revenue requirements; and 3] the development of a proposed timeline under which CUC should implement improvements toward achieving relevant standards.
- b. Georgetown should be authorized and directed, under hearing examiner's oversight and in consultation with CUC, to prepare a recommendation with supporting testimony regarding the need for additional rate relief in FY10 to comply with the requirements of the Stipulated Order. This review should be interfaced with Georgetown's review of the interim financial plan and with the revenue cycle assessment.
- c. The Commission should conduct a rate proceeding on its own initiative during the November regulatory session to consider these filings.

The Commission should support these recommendations.

8. The Commission should consider the establishment of targeted lifeline rates for water and wastewater service during its November rate proceeding in this docket.

#### *Order*

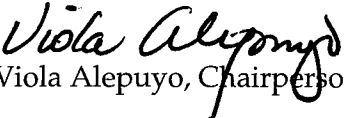
After careful review and consideration of the above determinations, the recommendations of its hearing examiner and the record herein, for good cause shown, on motion duly made, seconded and carried by the affirmative vote of the undersigned commissioners, the Commonwealth Public Utilities Commission **HEREBY ORDERS THAT:**

1. CUC shall promptly file its interim financial plan with the Commission. Georgetown is hereby authorized and directed under hearing examiner's oversight, to review the interim plan and to report to the Commission during the November 2009 regulatory session. This review should include an analysis of how the Commission's regulatory

process should interface with the requirements of the Stipulated Order in the event regulatory review is not required by that order.

2. CUC is ordered and directed to immediately commence an assessment of its revenue cycle under the following protocol: a] it will use the work plan attached to the Stipulation; b] CUC will take the lead, in consultation with Georgetown in managing the assessment; c] pursuant to CUC's request, Georgetown is authorized to provide CUC assistance on an as-needed basis; d] hearing examiner is authorized to resolve issues related to the assessment's progress; and e] the parties shall present the Commission with: 1. a status report during the November regulatory session regarding progress made in the assessment; 2. key industry standards, which should be used in evaluating the reasonableness of CUC's revenue requirements; and 3. a proposed timeline under which CUC should implement improvements toward relevant standards.
3. Georgetown is authorized and directed, under hearing examiner's oversight and in consultation with CUC, to review and prepare a recommendation with supporting testimony regarding: a] CUC's need for additional rate relief to comply with the requirements of the Stipulated Order in FY10; and b] the establishment of targeted lifeline rates for water and wastewater service. This report should be interfaced with Georgetown's review of the interim financial plan and with the revenue cycle assessment. Hearing examiner shall prepare and schedule the rate proceeding, the interim financial plan review, the revenue assessment status report for regulatory consideration at the November 2009 regulatory session.
4. The Commission reserves its continuing jurisdiction in this docket.
5. CUC shall pay for the Commission's expenses, including without limitation, consulting and hearing examiner expenses and fees and the expenses of conducting the hearing process and all further regulatory expenses, which are incurred pursuant to this order.
6. The hearing examiner is authorized to interpret the meaning of this decision and order in furtherance of its reasonable and effective implementation.

September 3, 2009

  
Viola Alepuyo, Chairperson

  
Kyle Calabrese, Commissioner