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Harry M. Boertzel, Esq.
Administrative Law Judge
The Commonwealth Public Utilities Commission

Re: Evaluation of the CUC Filed Interim Financial Plan (IFP) & Implementation of Water & Wastewater Rates for CUC– Docket 09-02

Dear Judge Boertzel:

In a transmittal dated October 15, 2009, you directed Georgetown (GCG) to file not later than October 22, 2009 an executive summary, which states its position regarding water and wastewater rate relief. This filing is necessary to enable the Commonwealth Public Utilities Commission [CPUC] to issue the public notices required by 4 CMC § 8418. GCG's supporting testimony will be filed with CPUC on or before November 4, 2009. We responded to that letter on October 21, 2009. In the October 15, 2009 transmittal you also indicated that on or before November 4, 2009 Georgetown should file its testimony in support of its October 22, 2009 summary. This letter serves as our response to your directive.

In filing our initial report on October 21, 2009 we indicated that our analysis and recommendations were based on data we had received to undertake our March 2009 initial testimony in this docket as well as a very limited amount of additional data for subsequent months provided by CUC. We requested a limited amount of additional focused data from CUC and requested that it be provided on an expedited basis. We believe that the data that we requested would be produced in the normal course of operations and would be essential to run utility operations. Unfortunately we received essentially no new information. In addition to this situation we were informed by CUC when we were preparing our October 21, 2009 report that CUC had not implemented the rate increases for the waste water customers stipulated to by CPUC and approved by CPUC Order to be implemented on July 1, 2009 and September 4, 2009. CUC has informed us that it plans to file for reconsideration of its action in signing on to a stipulation agreeing to implement the agreed to rates and the CPUC Order approving the

Stipulation and the implementation of the rates.¹ This situation has led us to reconsider what our recommendations should be in this docket for the November regulatory session.

In our initial letter of October 21, 2009 we noted that 4 CMC § 8122[b] 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. Further, 4 CMC § 8411[c] mandates that CUC water and wastewater rates must be set at levels that are at least adequate to cover its full cost of service, including its financial obligations, operating expenses, debt service, capital improvement needs of these divisions. In light of this we made the following recommendation with regard to rates:

GCG recommends that during its November 2009 regulatory session, CPUC consider the implementation of water and wastewater rate relief recommended herein as an interim measure which will be supported by supporting testimony that will be filed November 4, 2009. In preparing our November 4, 2009 testimony we will attempt to incorporate any additional data that we receive from CUC prior to our submission and as a consequence the final rate recommendations in our testimony may differ from our estimates contained herein. We recommend that further review and deliberation on water and wastewater rate relief matters occur during the March 2010 regulatory session, when CPUC will be able to consider an EPA approved IFP and its impact on CUC's FY10 revenue requirements.

Given the current situation that CUC has not implemented the rate increases for waste water that it stipulated to and that were approved by the CPUC for implementation on July 1, 2009 and September 4, 2009 we reach the conclusion that recommending any further rate increases before this issue is settled does not make sense. In addition, CUC points out that it has not been charging a customer charge for some period of time which is contrary to the customer charge required by the CNMI Administrative Code². The pattern of CUC ignoring and violating agreements that it has stipulated to and further violating orders of the CPUC is disturbing. In addition in the June 3, 2009 stipulation between CUC and GCG, CUC agreed that its abilities to meet its duties under the Federal Stipulated Order would be materially impaired by CUC's inability to implement the proposed waste water increase on or before July 1, 2009. Not implementing the agreed to rate increase schedules will have deprived CUC of approximately \$400,000 of badly

¹ CUC indicates that it intends to ask for reconsideration to remove the customer charge for residential waste water customers. A petition for rehearing is governed by Commission Rule 37 and must be filed within 10 days of the CPUC Decision. Accordingly, as a first step, CUC would need to obtain a waiver of the 10 day requirement. The customer charge is part of the waste water tariff as contained in the CNMI Administrative Code and CUC, for reasons that have not yet been explained to GCG, was not charging customers in accordance with the CNMI Administrative code. The customer charge was waived and is still not being charged in apparent violation of the CNMI code. While we have not received an explanation for the reasons behind the CUC action, it is clear that CUC does not have any authority to waive a charge contained in the CNMI Administrative Code or to make any rate adjustment without the specific approval of CPUC. This raises the broad question as to what remedy should apply for CUC unilaterally reducing the waste water bills of customers. We recommend that this item be brought in to the deliberations when CUC files for reconsideration

² The impact of CUC failing to charge its customers the authorized customer charge set for in the CNMI Administrative Code costs CUC approximately \$120,000 during 2009.

needed revenues through the end of November 2009.

To the extent that CPUC accepts our current recommendation that no further rate increases be implemented until those rate increases initially stipulated to by CUC and approved by the CPUC are resolved and implemented, the next logical time to adjust rates further will be during the March regulatory session. The time period between now and then should be used to accomplish several important tasks, many of which are in progress:

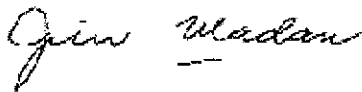
1. Resolve the implementation of the July 1, 2009 and September 4, 2009 approved rate increases.
2. Obtain meaningful accounting and financial data that has been requested of CUC:
 - a. FY 2008 audited statements as well as monthly financial statements.
 - b. FY 2009 monthly and YTD annual financial statements with individual statements for each of the electric, water and waste water departments. The procedure for allocation of administrative and general expenses was collaboratively established between CUC (with the assistance of Deloitte) in the March rate proceeding but has not been applied since then.
 - c. Updates of billing determinants for 2009 such as number of customers and usage by class of customers for each department.
 - d. Operating and capital budgets for 2010.
 - e. Updates of the financial statements for the approved implementation of the CDA agreement for the conversion of the original loan to preferred stock.
 - f. Updates of arrangement between CUC and CPA regarding a debt obligation of CUC to CPA that has not to date been recorded on CUC's accounting records. The terms for repayment of the loan should also be reviewed and approved by the CPUC.
 - g. Updates of the arrangement for payments for the settlement relates to the Agingan outfall should also be presented to the CPUC for review and approval.
3. Operations review of the waste water system to determine whether customers are connected to the waste water system where it exists and is required by statute and CUC rules and regulations. There are approximately 2000 customers currently connected to the waste water system. Such an operations review also has the potential to discover unknown connections to the wastewater system. We recommend that consideration be given to the implementation of an amnesty program for these connections to become regular customers of CUC without penalty if the conversion takes place in a period of say 60 days.
4. Current regulations for customers with meters that do not have a visible reading but that can nonetheless be read correctly and accurately by meter readers categorize these customers as non metered customers and they are therefore billed based on a usage of 6000 gallons for residential customers and

18,000 gallons for commercial customers. This situation could result in a significant loss of revenues for CUC since these figures are less than the average usage in each of the categories. We recommend that alternate solutions for this issue be studied and presented to the CPUC in the March regulatory session.

5. A review of the current rules and regulations for other than the issues listed above should also be undertaken to modernize the regulations and make the regulations more efficient and equitable. This should be provided to the CPUC during the March 2010 regulatory session for review and approval.
6. CUC efforts to ensure accurate billing for customers should continue unabated. As part of the revenue cycle audit previously stipulated to consideration should be given to outsource this effort to a specialty firm having the appropriate expertise.
7. A detailed review of the revenue cycle has been stipulated to and should be implemented as soon as possible based on the scope and principles contained in the stipulation. Efforts that were initiated to obtain partial funding from EPA, OIA, or others should be pursued. A key portion of this exercise should be an evaluation of the accounts receivable and the implementation of a program to collect and reduce the balance. Connection and disconnection policies should be reviewed and appropriate recommendations be made during the March 2010 regulatory session.
8. Identification of the requirements associated with the Federal Stipulated Order and cost of such requirements.
9. Development of an appropriate Interim Financial Plan as required by the Stipulated Order.

If you wish to discuss the report, please do not hesitate to call us.

Cordially,



Jamshed K. Madan

Cc: Anthony Muna, Exec. Director, CUC
Alan Barak, Esq, Counsel CUC
Robert Torres, Esq. Counsel GCG
Larry Gawlik