

1 Alan J. Barak, Attorney for CUC # F0350  
2  
3 PMB 649 PPP, Box 10000  
4 Saipan, MP 96950 barakalanj@gmail.com  
5 tel: 240.888.5735  
6

7 Attorney for Petitioner CUC  
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10 **IN THE PUBLIC UTILITIES COMMISSION**  
11 **FOR THE**  
12 **COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

13  
14 **PETITION OF THE** )  
15 **COMMONWEALTH UTILITIES** )  
16 **CORPORATION for: ELECTRIC** )  
17 **WATER, and WASTEWATER** )  
18 **RATE-RELIEF AND** )  
19 **RELATED MATTERS** )

Docket No. 10-01

20 ) CUC's Supplemental Petition for  
21 ) Rate Relief  
22 )

23 )  
24 ) **Subject: CUC 2010 Combined**  
25 ) **Services**  
26 ) **Rate Case - Supplemental Filing**  
27 )

28 ) Filing date: April 1, 2010  
29 )

30 **CUC's Supplemental Petition for Rate Relief**  
31  
32

33 The Commonwealth Utilities Corporation ("CUC"), a publicly-owned corporation  
34 within the Commonwealth of the Northern Mariana Islands, through its attorneys,  
35 hereby petitions the Commission to approve and order changes in its base rates.  
36

37 Summary: CUC supplements its request that the Commission order a change in  
38 wastewater and water rates based on the AWWA-acceptable Cash Basis  
39 approach, order no change in electric base rates, and provide for stepped  
40 increases in certain fees and charges. A regulatory asset will be set up to insure  
41 that all unrecovered electricity expenses are phased back into the rates at an  
42 appropriate rate of return to benefit the electric customers.  
43

44 CUC believes that, by taking a measured approach and implementing rate

1 adjustments in stages over this year and the upcoming years, the Commission  
2 can realize for CUC and its customers CUC's achieving its operating and  
3 financial goals with reasonable, sustainable rates.

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27 **Interim Ruling of the Hearing Examiner on the Cross Subsidy Issue**

28  
29 36. The Hearing Examiner, by his Memorandum Order #5, ruled that CUC's  
30 proposed ratemaking approach was prohibited, as a matter of law. CUC  
31 respectfully disagrees with that ruling. CUC's position, as stated in the  
32 Petition, had been that such an approach was within the Commission's  
33 discretion, as a matter of law.

34  
35 37. However, subsequent events have made any further CUC action, as by way  
36 of appeal to the Commission, unnecessary. After discussions between  
37 CUC's consultants, Economists.com, and the Commission's consulting Staff,  
38 Georgetown Consulting Group, CUC has developed and filed a supplemental  
39 case that addresses electricity expense in a manner that CUC believes  
40 follows the dictates of the Hearing Examiner's ruling, eliminating the  
41 suggestion of cross-subsidy for the electric expenses of the water and  
42 wastewater divisions.

43  
44 **CUC's intended action, to raise rates, fees and charges**

45  
46 38. CUC still seeks to establish, abandon, modify, depart from, and change rates,

1 charges, tariffs, and assessments for its customers, (hereinafter referred to as  
2 a "rate change", as defined the CPUC's Rules of Practice and Procedure,  
3 ("RPP") 1(h)).

4  
5 39. CUC continues to find, and anticipates, that its current rates are and will be  
6 insufficient to provide the cash for its operations and other obligations.

7  
8 40. In support of CUC's position, it offers the prefiled supplemental testimony and  
9 exhibits of:

- 10  
11 a. Consultant rate expert Dan V. Jackson;  
12 b. Executive Director Antonio S. Muna;  
13 c. Assistant Executive Director Utu Abe Malae; and  
14 d. CUC's CFO Charles H. Warren.

15  
16 41. In brief, CUC requests increases in its water and wastewater rates under  
17 what Mr. Jackson terms Scenario 4, applying the AWWA-approved Cash  
18 Basis for ratemaking. CUC proposes that the Commission adopt two  
19 wastewater rate adjustments, one to be effective in June 2010 and a second  
20 to be effective in October 2010. It also proposes a modest increase in water  
21 rates, effective October 2010.

22  
23 a. Charging for electricity in the wastewater system produces, for example, a  
24 combined first year increase in water/wastewater average residential bills  
25 (10,000 gallons) from \$60 to \$84 by year-end 2010.

26  
27 b. Further, a "regulatory asset" should be set up, and later fed back into the  
28 rates to insure that there is no cross-subsidy for electricity expenses  
29 running from the Power Division to either Water or Wastewater Divisions.  
30 Other, modest adjustments in fees and charges should be authorized.

31  
32 c. The rates and the proposal for phase-in reflects the relatively small  
33 number of wastewater customers over which to spread \$5 million in  
34 electricity expense and CUC's ability to achieve acceptable debt coverage  
35 ratios through the use of the Cash Basis ratemaking method, which  
36 substitutes a debt-service ratio test for an alternative depreciation expense  
37 method.

38  
39 42. The testimony and exhibits speak for themselves; this Petition will not try to  
40 restate them. Rather, they are incorporated by reference herein.

41  
42 43. CUC urges that the Commission recognize the advantages of implementing  
43 this rate proposal:

- 1
- 2 a. It produces rates that are significantly lower than the original Scenario 1  
3 Full Cost Recovery alternative presented in the initial filing, and for which  
4 CUC feared rated shock and a “death spiral” of every-decreasing  
5 customers, ever-increasing rates, and substantial environmental and  
6 economic difficulty for the CNMI;
- 7
- 8 b. CUC begins to fulfill its statutory mandate for full cost recovery, including  
9 having each division pay its own power costs;
- 10
- 11 c. CUC is set on a path toward financial recovery;
- 12
- 13 d. Soon CUC will be able to finance capital needs, as a prudently-run utility  
14 business.

15  
16 **Additional facts supporting this petition**  
17

18 44. The supplemental testimony and exhibits provide additional facts supporting  
19 CUC’s rate request. In particular, witness Jackson’s financial model, with  
20 reasonable inputs, demonstrates that the requested rate relief will produce  
21 just and reasonable rates which will allow CUC to provide reasonable service  
22 at reasonable prices, provide for the replacement of capital goods, and pay its  
23 obligations, including dividends on preferred stock and the service on debt.

24

25 45. After substantial capital investment, key additions to staff and consulting  
26 resources, and after substantial investment in repair and operations  
27 improvements, CUC is providing reasonable and reasonably cost-effective  
28 service to its customers. But it is not recovering its full costs of service, either  
29 on a total company basis or on a line of business basis.

30

31 46. In order to recover its full costs of service, CUC requires rate relief. In order  
32 to balance CUC’s financial needs with the ability of its customers to pay, CUC  
33 recommends that its base electric rates not be increased at this time. The  
34 water rates, after recent Commission orders, require only a modest increase  
35 to go into effect in October 2010.

36

37 47. CUC gives notice to the Commission of its intention to file in August 2010 a  
38 full cost of service rate case for its electric business.

39

40 48. However, CUC’s wastewater rates must be increased.

41

42 49. The material and relevant facts are presented through the expert testimony  
43 and exhibits filed with the Commission, including the following witnesses and

CUC petition for rate relief  
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1 their exhibits:

2  
3 Dan V. Jackson, direct and supplemental testimony

4  
5 DVJ Sum-01 through -06  
6 DVJ-01 through -38  
7 DVJ-S1 through S11

8  
9  
10 Arlene L. Lizama

11 ALL-01: Resume

12  
13  
14 Robert J. Lorenz

15  
16 RJL-01: Resume/cv  
17 RJL-02: Stipulated Order No. 1 Item 18 Engineering Section  
18 (Development) submittal to EPA  
19 RJL-03: Stipulated Order No. 1 Item 25 NPDES Permit Effluent and  
20 Receiving Wastewater Monitoring Report submittal to EPA  
21 RJL-04: Stipulated Order No. 1 Item 50 - 66 Drinking Water and  
22 Wastewater Master Plan Scope of Work submittal to EPA  
23 RJL-05: Lower Base Project

24  
25  
26 Antonio S. Muna direct and supplemental testimony

27  
28 ASM-01: Agingan Point GPPC Settlement  
29 ASM-02: IFP of March 26, 2010

30  
31  
32 Utu Abe Malae direct and supplemental testimony

33  
34 AUM-01: Resume  
35 AUM-02: Federal grants and capital works

36  
37 Charles H. Warren, CFO, supplemental testimony

38  
39 CHW-01: Resume

40  
41 Robert E. Young

42  
43 REY-01 through -09

1 Wallon Young Fong

2  
3 WFY-01: Resume

4 WFY-02: CUC Plant Capacity - Jan. 2009 versus Dec. 2009

5 WYF-03: Fuel Efficiency – Jan 2009 versus Dec. 2009

6 WYF-04: Generation O & M Cost

7  
8  
9  
10 **Special issues – new**

11  
12 **50. The following special issues are newly presented or updated:**

- 13  
14 a. Per the Hearing Examiner’s interim order this method seeks to include  
15 electricity costs in the water and wastewater rates through a phase-in.  
16 Costs not captured in a given year will be capitalized in a revenue asset,  
17 and backloaded into the rates with proper returns for the electric  
18 customers. A complimentary regulatory asset will be set up for electric  
19 rates, and addressed in the summer’s electric case.
- 20  
21 b. The principal inputs to Dan Jackson’s rate model for this supplemental  
22 testimony appear in the testimony and exhibits. These include:
- 23  
24 i. changes to CUC’s account and volume forecast based on new  
25 information compiled by CUC in the February and March 2010  
26 timeframe;
- 27  
28 ii. changes to CUC’s revenue requirement based on an updated Interim  
29 Financial Plan and revised debt service assumptions;
- 30  
31 iii. the treatment of electricity expenses in CUC’s revenue requirement per  
32 the Hearing Examiner’s recent Memorandum Order #5;
- 33  
34 iv. recognizing obligations for CDA preferred stock, a CPA debt, the  
35 Agingan Point GPPC settlement; and future financing requirements  
36 and coverage ratios; and
- 37  
38 v. new grant funding provided to CUC in February and March 2010.

39  
40  
41 **51. Relief requested from the requirement to get CDA to file something.** The  
42 Commission approved the critically important CUC-CDA Preferred Stock  
43 Agreement – but subject to CDA’s filing a satisfaction of judgment.

- 1
- 2 a. This requirement has, in essence, frozen the deal. Paragraph 10 of the  
3 PSA requires Commission approval. But for this condition, CDA declines  
4 to file.
- 5
- 6 b. CUC does not know why CDA will not file; they have not told us. But, it is  
7 obvious that there is no deal unless we can get CDA to do this.
- 8
- 9 c. One inference to draw is that CDA may see the filing requirement for  
10 approval as its opportunity to reopen negotiations.
- 11
- 12 d. We do not believe it was the Commission's intention to give CDA – over  
13 whom neither CUC nor the Commission have control – such power. If the  
14 Commission wants the benefit of the filing of a satisfaction of judgment,  
15 such a filing is much more likely after the deal is done and the debt clearly  
16 extinguished in favor of the swap to equity.
- 17
- 18 e. CUC Executive Director Muna urges the Commission to review the deal,  
19 particularly paragraph 5, which he quotes, and which very firmly wipes out  
20 the debt forever. He asks, on behalf of CUC, that the Commission  
21 explicitly remove the condition for a filing, and unconditionally approve the  
22 deal.
- 23
- 24 f. Upon the Commission's unconditional approval, CUC will be able to  
25 finalize its FY 09 audited statements to eliminate the debt in favor of the  
26 preferred equity.

27

28 **52. Potential Contract Protocol approval – Agingan Point Outfall settlement**  
29 **with GPPC.** The negotiations for the Agingan Outflow litigation have  
30 concluded. A final settlement agreement for the EPA-required project is  
31 provided as Exhibit ASM-01. CUC seeks to finalize the deal, and thereafter,  
32 seek a lower cost method to pay it off. But, first, CUC seeks a predictable  
33 revenue stream, and requests that the Commission indicate that CUC will be  
34 able to recover the costs as prudently incurred.

35

36 **53. Potential refund from *Torres and Angello v. CUC and CNMI*.** This  
37 potential liability is still troubling. CUC will be briefing a motion to dismiss the  
38 case shortly. Oral argument is scheduled for June 30 before PJ Naraja of the  
39 Superior Court.

40

41 **54. Recovering fees incurred from credit card payments.** CUC seeks  
42 Commission approval to pass credit card fees through to those customers  
43 who choose to pay monthly bills with credit cards. But this must be

1 accomplished consistently with existing worldwide credit card service  
2 contracts, and, therefore, may require CUC to secure the services of an  
3 independent service firm, as do many utilities.

4  
5 **55. The IFP's filing and use in this case.** CUC filed the IFP on March 26, 2010,  
6 with a copy to the Commission. Mr. Jackson uses the figures from the new  
7 IFP for this case. Because the document is so important, CUC is submitting it  
8 as an exhibit.

9  
10  
11 **Conclusion and relief requested**  
12

13 **56.** The above requirements and facts support and mandate rates that, on a total  
14 company basis, are fair, just and reasonable to CUC and its mission, its  
15 obligations to its owners, the citizens of the CNMI, to the US Federal District  
16 Court, and to its customers. The law and the facts require that CUC's rates  
17 be increased, specifically the wastewater rates.

18  
19 **57.** Avoiding rate shock and avoiding the "death spiral" of increasing rates and  
20 increasing customer and load losses are important factors in determining the  
21 specific nature and timing of rate relief.

22  
23  
24 **58.** *For the above-stated reasons, CUC again requests that:*

25  
26 **a. The Commission:**

- 27  
28 i. Continue this docket to resolve the matters presented in it;  
29 ii. Accept parties to the docket;  
30 iii. Entertain the parties' legal and factual arguments;  
31 iv. Hold hearings and/or take written evidence and/or comments on the  
32 matter;

- 1 v. Admit into evidence the attached testimony and exhibits;  
2 vi. Set increased rates that will provide CUC with a reasonable;  
3 opportunity to meet the requirements of its current operations and  
4 other obligations, as more fully set out in the accompanying testimony  
5 and exhibits; and  
6 vii. Provide the requested approvals;
- 7
- 8 b. Public notice be given of this petition and this docket; and that  
9 c. CUC be awarded such further relief as the facts and the law merit.

10 Respectfully submitted,  
11

12  
13 /s  
14  
15  
16

17 Alan J. Barak,  
18 Attorney for Commonwealth Utilities Corporation  
19 Dated: April 1, 2010  
20  
21  
22

23 **CERTIFICATE OF SERVICE**  
24  
25

26 The undersigned, attorney Alan J. Barak, being a member of the CNMI Bar, hereby certifies that  
27 he served the following person(s) with the following paper(s) by the following method(s) (CPUC  
28 prov. RPP 4; Com. R. Civ. Pro. 5(d)):  
29

30 Document served: The foregoing: CUC's Supplemental Petition for Rate Relief  
31  
32

33 Persons served:  
34

35 Staff: J. K. Madan ([jkmadan@gmail.com](mailto:jkmadan@gmail.com)), Larry Gawlik ([Lrgawlik@aol.com](mailto:Lrgawlik@aol.com))  
36 Counsel for Staff: Lillian A. Tenorio (F#0234), [latenoriolaw@gmail.com](mailto:latenoriolaw@gmail.com)  
37 Administrative Law Judge, Harry Boertzel ([hboertzel@hotmail.com](mailto:hboertzel@hotmail.com))  
38

39 Method and date: by causing electronic service of a copy to the above counsel through their  
40 indicated email addresses on April 1, 2010.  
41  
42

43 /s/  
44

45 Alan J. Barak, Attorney for CUC (# F0350)  
46  
47