

BEFORE THE COMMONWEALTH PUBLIC UTILITIES COMMISSION

COMMONWEALTH UTILITIES
CORPORATION – ELECTRIC DIVISION

DOCKET 09-1

DECISION AND ORDER

Background

By this decision and order, the Commonwealth Public Utilities Commission [*Commission*] considers and acts on the May 21, 2010 stipulation between the Commonwealth Utilities Corporation [*CUC*] and the Commission's independent regulatory consultant [*Georgetown*] regarding the establishment of a LEAC rate for the period June 1, 2010 through September 30, 2010; the reconciliation of the LEAC recovery for prior periods and the diversification of CUC's power production and fuel supply resources. The stipulation is supported by the LEAC Rate Report, which was jointly prepared by CUC and Georgetown and filed with the Commission on May 5, 2010.

On May 21, 2010, pursuant to due and lawful notice in accordance with 4 CMC § 8418¹, the Commission conducted a public hearing at the Saipan Chamber of Commerce office in Garapan to consider the evidentiary record on each of the above regulatory matters 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, determinations and declarations.

1. CUC was given timely notice of the Commission's May 21, 2010 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.
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. In accordance with its authority under 4 CMC § 8431, the Commission finds that the procedural requirements of that section should not apply to uncontested rate proceedings in which no person petitions to participate under 4 CMC § 8409[j]. In lieu thereof, the process established in the Commission's Rules of Procedure and the notice requirements of 4 CMC § 8417 and 8418 shall apply to such proceedings.

¹ Statutory citations in this Decision refer to sections contained in Public Law 15-35.

4. The findings, determinations and declarations made herein are supported by a preponderance of evidence in the record.
5. The hearing examiner's April 5, 2010 memorandum order, which rules that - consistent with the meaning and intent of ordering provision #6 of the Commission's December 19, 2008 Order - LEAC rates once established shall remain in full force and effect until changed by subsequent order, is adopted and confirmed. While it is the Commission's expectation that LEAC rates will be established for a six month term, when circumstances delay the Commission's consideration and establishment of a new rate until after the expiration of this technical term, it has been and will continue to be the Commission's intent that the existing rate shall continue to have full force and effect in the interim.
6. The current LEAC rate of \$0.20147 per kWh should be increased effective June 1, 2010 to \$0.24446 per kWh and should remain in place until changed by Commission order. The new rate should be composed of the following elements:

• Fuel and lube oil rate element	\$0.21615
• Under recovery element	\$0.00644
• Volatility element	\$0.01621
• Regulatory/technical support element	\$0.00565
• Total LEAC [per kWh]	\$0.24446
7. The record supports a finding that the proposed LEAC rate is just and reasonable and that the under recovery element of \$0.00644 per kWh is necessary to reconcile all LEAC [including its predecessor fuel charge mechanism] revenues and related expenses for the period FY07 through May 31, 2010 *[with April and May 2010 being estimates]*.
8. The Commission supports CUC's intention to review whether the 5.25% gross receipts tax on its fuel oil purchases, which is a substantial direct pass-through expense to CUC electric customers, should be identified in customer electric bills for transparency purposes. CUC should also review whether public utilities in other jurisdictions are exempt from this tax.
9. Commencing with the next LEAC filing for the period October 1, 2010 through March 31, 2011, CUC shall be responsible for its preparation. This filing should be made on or before August 16, 2010 for Georgetown's review and for the Commission's consideration at the September 2010 regulatory session. The filing should be in conformance with the LEAC minimum filing requirements, as approved by the Commission at its March 24, 2010 special business meeting.

10. In its August 2010 LEAC report, CUC should inform the Commission of:
- a. Its progress in minimizing excessive unaccounted for energy. Unaccounted for energy in the range of 7% is considered an acceptable industry standard. The direct assignment of power costs to CUC's water and wastewater divisions in Docket 10-01 will reduce unaccounted for energy, effective June 21, 2010, from 20.06% to 12.5%, representing a \$4.4 million dollar annual savings to electric division customers.
 - b. CNMI activities [ongoing, planned or proposed] to diversify CUC's power production and fuel supply resources.
 - c. CUC's progress in developing a net metering contract or tariff pursuant to 4 CMC § 8634.
11. The Commission confirms hearing examiner's May 18, 2010 ruling that the stipulation for dismissal in Civil Case No. 01-0248D between CUC and CDA, as filed with the Superior Court on April 22, 2010, meets the "satisfaction of judgment" requirement in the Commission's September 3, 2009 order, which approved the CDA preferred stock agreement.
12. On November 20, 2009, Georgetown was directed by the Commission, under hearing examiner's oversight, to undertake the renewable portfolio standards study, which is mandated by Public Law 15-87, subject to the condition that it first submit a proposed scope and budget for Commission review and approval. The Commission directed that the study be completed and submitted for regulatory consideration during the May 2010 regulatory session. Georgetown has failed to submit this budget and scope for review, which is a prerequisite to commencing work on the project. Georgetown should promptly attend to this directive.

Order

After careful review and consideration of the above findings, determinations and declarations, 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. An aggregate LEAC rate of \$0.24446 per kWh is hereby established effective June 1, 2010 for the period continuing until changed by subsequent Commission order, which shall be comprised of the following elements. Rate element revenues shall be used solely for the specific purposes authorized therein.
 - A \$0.21615 per kWh element for fuel oil costs, generation lubricant costs, transportation and handling costs, taxes and other associated costs as billed by the fuel supplier.
 - A \$0.01621 per kWh element to fund variations from projected fuel prices that result in unrecovered costs.
 - A \$0.00644 per kWh element to fund CUC's under-recovery of expenses for the period FY07 through May 31, 2010.
 - A \$0.00565 per kWh element to fund Commission invoices for regulatory fees and expenses and for the procurement or employment of financial and technical expertise and other related expenses.
2. All rulings and orders of the hearing examiner during the course of this proceeding are ratified and confirmed. All motions not heretofore granted or denied are denied. No other matters require consideration in order to adopt this decision and order.
3. 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.
4. The hearing examiner is authorized to interpret the meaning of this decision and order in furtherance of its reasonable and effective implementation.

May 28, 2010


Viola Alepuyo, Chairperson


Kyle Calabrese, Commissioner