

BEFORE THE COMMONWEALTH PUBLIC UTILITIES COMMISSION

COMMONWEALTH UTILITIES
CORPORATION RATE PROCEEDING

DOCKET 10-01

DECISION AND ORDER
[CUC Water and Wastewater Divisions]

Background

By this decision and order *[Decision]*, the Commonwealth Public Utilities Commission *[Commission]* reviews and takes necessary and appropriate action on the Commonwealth Utilities Corporation's *[CUC]* January 31, 2010 petition for water and wastewater rate relief, as amended on April 1, 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 offices of the Saipan Chamber of Commerce in Garapan to consider the evidentiary record, including the May 21, 2010 Stipulation between the parties *[Stipulation]* and testimony from CUC and the Commission's regulatory consultant. Prehearing activities in this proceeding, including a summary of the positions of the parties, the evidentiary record, public comments and related matters is presented in the hearing examiner's May 26, 2010 Report, which is incorporated by reference.

On May 28, 2010, the Commission conducted a duly noticed and convened special business at the Chamber's office. This Decision has been adopted as a result of proceedings at this meeting.

Findings, Determinations & Declarations

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 on motion duly made, seconded and carried by the affirmative vote of the undersigned commissioners finds, determines and declares that:

Administrative

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. CUC has

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

certified that it complied with the customer and public notice requirements of 4 CMC § 8431(a).

2. No person applied for the privilege to participate in the hearings pursuant 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 by the Commission's Rules of Procedure and the notice requirements of 4 CMC §§ 8417, 8418 and 8431(a) should apply to such proceedings. The current proceeding falls within the finding.
4. The findings, determinations and declarations made herein and the implementing ordering provisions are supported by a preponderance of evidence in the evidentiary record, as summarized in the hearing examiner's May 26, 2010 report. The proposed rate modifications and relief, as discussed herein, are just, reasonable and necessary.
5. The Commission reserves its continuing jurisdiction in this docket.
6. CUC should be ordered, pursuant to 4 CMC § 8421[d], to 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.
7. All rulings and orders of the hearing examiner during the course of this proceeding are ratified and confirmed, including, without limitation, his provisional rulings on: a) the statutory prohibition against CUC interdivisional cross-subsidies; and b) the Agingan Settlement Agreement. All motions not heretofore granted or denied are denied. No other matters require consideration in order to adopt this decision and order.
8. The hearing examiner is authorized to interpret the meaning of this order in further of its reasonable and effective implementation, including, without limitation, the resolution of clerical errors in the Stipulation schedules.

9. The effectiveness of the rate relief ordering provisions of this Decision is contingent upon CUC filing its FY07 and FY08 audited financial statements with the Commission and its payment of all regulatory invoices due as of June 21, 2010 under Commission Rule 40.

Substantive

10. CUC's current rate structure for unmetered water service to residential and commercial customers is unduly discriminatory, unduly preferential and contrary to the requirements of law because it results in unmetered customers paying only about 30% of the rate paid by metered customers.
11. Temporary monthly flat charges for unmetered water service should be established at \$40 for residential customers and at \$204 for commercial customers. These rate modifications will bring metered and unmetered residential and commercial water rates into substantial parity.
12. A separate CNMI government water and wastewater customer class, hereinafter referred to as *Government*, should be established, which is comprised all components of the CNMI government, including the central government, line agencies, the college, the public schools and the autonomous agencies. This customer class should not include non-CNMI government agencies, which are included in the commercial class.
13. A metered Government water rate of \$54.30 per 1,000 gallons is recognized and confirmed.
14. Water and wastewater rates for unmetered CNMI non-autonomous government customers are prescribed in the July 2007 Settlement Agreement between the CNMI Government and CUC.
15. Metered water rates for the residential and commercial customer classes should remain unchanged.
16. The water rates, which are summarized in Attachment B to the Stipulation, should be implemented and effective for services rendered on and after June 21,

2010, subject to CUC's satisfaction of the conditions precedent set forth in Determination # 9 above.

17. CUC should be ordered to take all necessary steps to provide each water customer with an accurate, working meter and to establish such policies and practices as are necessary to read each such meter in the ordinary course of business under the following deadlines: a] all commercial and government water customers not later than September 15, 2010; and b] all residential water customers not later than December 31, 2010. CUC should provide a status report to the Commission at its September and November 2010 regulatory sessions on its progress in meeting these deadlines.
18. The water division should be authorized to make a funds transfer to the wastewater division in an amount not to exceed \$1.2 million dollars.
19. Wastewater rates should be increased across the board by 128% in the manner set forth in Attachment A to the Stipulation. These increases should be effective for services rendered on and after June 21, 2010, subject to CUC's satisfaction of the conditions precedent set forth in Determination # 9 above.
20. The parties' recommendation that metered residential and commercial wastewater rates should be redesigned in a revenue neutral manner by the creation of a distinct service charge, which is separate from the volumetric charge, as set forth in Attachment A to the Stipulation, should be approved.
21. The concept of a wastewater capacity connection fee and the revision of CUC's administrative regulations regarding water and wastewater should be prepared for Commission consideration as part of CUC's FY12 water/wastewater rate petition.
22. The concept of a groundwater protection fee should be prepared for Commission consideration as part of CUC's FY11 electric base rate petition.
23. No consideration should be given to the establishment of targeted water and wastewater lifeline rates in this proceeding.

24. The Commission's establishment of a new CNMI government customer class and of temporary flat unmetered monthly rates for residential and commercial water customers shall supersede any provision in CUC's administrative regulations to the contrary.
25. The Commission is puzzled why the parties have not proposed the establishment of temporary monthly charges for unmetered residential and commercial wastewater service. Hearing examiner should be authorized and directed to investigate the need for this charge and to make appropriate recommendations for remedial action at the September 2010 regulatory session.
26. The Commission determines, as a matter of regulatory principle, that a debt service coverage ratio in the range of 1.5 to 1.75 times will be used as the standard in determining the water and wastewater divisions' need for rate relief.
27. A cost of service and rate design study of the water and wastewater divisions should be undertaken under a timeline to be established in due course by the Commission.
28. A \$40 meter investigation fee should be established effective June 21, 2010 and administered under Administrative Regulation § 50-30-601. The establishment of this fee should be subject to the requirement that the fee shall not be charged to a customer in the event it is determined that the meter is malfunctioning. CUC should be authorized by the Commission, in its discretion, to waive the fee for indigent customers [*recipients of LIHEAP and or NMHC subsidy*].
29. CUC should be directed to use best efforts to refinance its obligations under the \$2.150 million Agingan Outfall Settlement and the \$3.66 million CDA sewer project settlement. The question of how these settlement obligations are funded through rates will be resolved in CUC's FY12 water/wastewater rate proceeding.
30. All other matters and issues, which are raised in the record but not addressed in the Stipulation, are deferred.
31. In preparation for the September 2010 regulatory session, hearing examiner should oversee: a] a review of the 21 task recommendations contained in Georgetown's May 5, 2010 testimony and all CUC regulatory reporting

requirements, now in place; and b] the development of recommendations for a sensible focused set of reporting requirements, which will enable the Commission to monitor CUC's financial health and its progress in enhancing revenues and minimizing unreasonable expenses.

Ordering Provisions

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

1. Effective for service rendered on and after June 21, 2010, temporary monthly charges for unmetered water service are established at \$40 for residential customers and at \$204 for commercial customers. The effectiveness of these rate modifications is subject to CUC's compliance with the conditions precedent set forth in Determination #9 above.
2. A separate CNMI government water and wastewater customer class, hereinafter referred to as *Government*, is hereby established, which shall be comprised all components of the CNMI government, including the central government, line agencies, the college, the public schools and the autonomous agencies. This customer class should not include non-CNMI government agencies, which are included in the commercial class.
3. A metered Government water rate of \$54.30 per 1,000 gallons is recognized and confirmed.
4. CUC is ordered and directed to take all necessary steps to provide each water customer with an accurate, working meter and to establish such policies and practices as are necessary to be able to read each such meter in the ordinary course of business under in accordance with the following schedule: a] all commercial and government water customers not later than September 15, 2010; and b] all residential water customers not later than December 31, 2010. CUC shall provide a status report to the Commission at its September and

November 2010 regulatory sessions on its progress in meeting these deadlines.

5. CUC's water division is authorized to make a fund transfer to the wastewater division in an amount not to exceed \$1.2 million dollars.
6. Metered wastewater rates are increased across the board by 128% in the manner set forth in Attachment A to the Stipulation. These increases are effective for services rendered on and after June 21, 2010, subject to CUC's satisfaction of the conditions precedent set forth in Determination # 9 above.
7. The parties' recommendation that metered residential and commercial wastewater rates should be redesigned in a revenue neutral manner by the creation of distinct service charges, which are separate from the volumetric charges is approved and shall be implemented in the manner set forth in Attachment A to the Stipulation. These service charges shall be effective for service rendered on and after June 21, 2010, subject to CUC's satisfaction of the conditions precedent set forth in Determination #9 above.
8. CUC shall prepare, under hearing examiner's oversight, and file for Commission consideration at the November 2010 regulatory session a proposed groundwater protection fee.
9. Hearing examiner is authorized and directed to investigate the need for temporary monthly charges for unmetered residential and commercial wastewater service and to make appropriate recommendations for remedial action to the Commission at the September 2010 regulatory session.
10. A \$40 meter investigation fee is established effective June 21, 2010, which shall be administered under Administrative Regulation § 50-30-601. The establishment of this fee is subject to the requirement that the fee shall not be charged to a customer in the event it is determined that the meter is malfunctioning. CUC is authorized in its discretion to waive the fee for indigent customers *[recipients of LIHEAP and or NMHC subsidy]*.

11. CUC is ordered and directed to use best efforts to promptly refinance its obligations under the \$2.150 million Agingan Outfall Settlement and the \$3.66 million CDA sewer project settlement.
12. In preparation for the September 2010 regulatory session, hearing examiner shall oversee: a] a review of the 21 task recommendations contained in Georgetown's May 5, 2010 testimony and all CUC regulatory reporting requirements, now in place; and b] the development of recommendations for a sensible focused set of reporting requirements, which will enable the Commission to monitor CUC's financial health and its progress in enhancing revenues and minimizing unreasonable expenses.
13. 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 Decision and Order.

Dated this 28th day of May 2010.


Viola Alepuyo, Chairperson


Kyle Calabrese, Commissioner