

BEFORE THE COMMONWEALTH PUBLIC UTILITIES COMMISSION

**COMMONWEALTH UTILITIES CORPORATION
ELECTRIC DIVISION**

DOCKET 09-1

ORDER
[CUC Emergency LEAC Petition]

Background

On December 30, 2010 the Commonwealth Utilities Corporation [CUC] filed an emergency petition for an interim and immediate increase of its current \$0.24446 per kWh LEAC rate to \$0.26688 per kWh. In its petition, CUC asserts that: a] the current LEAC rate, were it to remain in place until April, 2011, would create a fuel revenue shortfall of about \$ 2.5 million dollars, due to actual and projected increased fuel expenses; b] it does not have access to credit or other sources of cash to cover this shortfall; and c] without immediate relief, it will be at substantial risk of defaulting under its fuel supply contract with Mobil and its ability to finance its daily operations would be materially compromised. In its January 6, 2011 report, Georgetown agrees with CUC's petition and recommends that it be granted. However, Georgetown has determined that a rate of \$0.28125 per kWh would be required to enable CUC to recover the current LEAC cycle shortfall within the cycle term. In contrast, a rate of \$0.26285 per kWh would enable CUC to recover the shortfall within six months.

On January 12, 2011, pursuant to due and lawful notice, the Commission conducted a special business meeting to consider CUC's emergency petition. By due public notice, the public was invited to attend and participate in the meeting. After carefully considering the record herein, including the comments made during the meeting, for good cause shown and in the exercise of its discretion, the Commission makes the following findings, determinations and declarations.

Findings and Determinations

1. Due and timely notice was published of the Commission's January 12, 2011 special business meeting. The public was invited in the notice to attend and to participate in the meeting. Public comments were provided by Representative Frank Dela Cruz.
2. The findings, determinations and declarations made herein are supported by a preponderance of the evidence in the record. The record is comprised of: a] CUC's December 30, 2010 petition with supporting testimony by Charles Warren; b] supplemental testimony from Charles Warren dated January 7, 2011; c] Georgetown's report dated January 6, 2011; d] the parties' legal memoranda dated January 5, 2011; e] CUC's interim financial plan; f] CUC's January 7, 2011 Reply to Georgetown's report; and g] hearing examiner's report dated January 8, 2011.
3. The LEAC tariff, as established by Commission order dated December 18, 2008 provides that CUC may petition for expedited relief in the event it will incur a cumulative [actual and/or projected] under recovery in excess of \$350,000 during any six month LEAC cycle.

4. The Commission’s authority to provide expedited interim relief under the LEAC tariff is grounded in its discretionary authority under 4 CMC §§ 8410(e) and 8430(f)¹ to award partial and immediate relief for good cause shown and pursuant to 4 CMC § 8431(f) upon a finding that there has been a substantial increase in expenses not attributable to circumstances within CUC’s reasonable control.
5. The LEAC tariff establishes that “good cause”, within the context of interim rate relief, is an actual or projected \$350,000 under recovery during a LEAC cycle.
6. 4 CMC §8409(e) provides that a request for rate change must be supported by preponderant evidence that it is necessary.
7. The record contains preponderant evidence that: a] during the current LEAC cycle [October 1, 2010 through March 31, 2011] CUC will incur an actual/projected under recovery of about \$2.5 million dollars, which constitutes good cause and need for awarding interim rate relief; and b] there has been and is projected to be a substantial increase in CUC fuel expenses, which are not attributable to circumstances within its control.
8. The LEAC tariff, which requires a semi-annual accounting and true-up process to assure that collections under the tariff are revenue neutral, satisfies the requirement in §8430(f) that interim rate awards be subject to refund with appropriate interest and security as the Commission may require.
9. Unless otherwise determined by the Commission in its discretion for good cause shown, a Commission proceeding to consider a petition for partial and immediate rate relief is not subject to the public hearing requirements of 4 CMC §8431. A public hearing is not necessary in this proceeding.
10. For good cause shown, the current LEAC rate of \$0.24446 per kWh should be increased effective January 13, 2011 to \$0.28125 per kWh and should remain in place until changed by subsequent Commission order. The new rate should be composed of the following elements:

Fuel and lube oil element	\$0.23033 per kWh
Current true-up element	\$0.00423 per kWh
Price volatility element	\$0.00646 per kWh
Technical/regulatory support	\$0.00343 per kWh
Under-recovery [10 – 12/2010]	\$0.00683 per kWh

¹ Statutory citations in this report refer to those established in the public laws which enacted them.

Projected under-recovery [1-3/2011]	\$0.02997 per kWh
Total	\$0.28125 per kWh

Ordering Provisions

After careful review and consideration of the above findings, determinations and declaration, 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 amended LEAC rate of \$0.28125 per kWh is hereby established effective January 13, 2011 for a 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, as further discussed in prior LEAC orders:

Fuel and lube oil element	\$0.23033 per kWh
Current true-up element	\$0.00423 per kWh
Price volatility element	\$0.00646 per kWh
Technical/regulatory support	\$0.00343 per kWh
Under-recovery [10 – 12/2010]	\$0.00683 per kWh
Projected under-recovery [1-3/2011]	\$0.02997 per kWh
Total	\$0.28125 per kWh

2. This interim and immediate rate relief shall be subject to the accounting, true-up and refund requirements of the LEAC tariff as part of the adoption of the next LEAC rate for the period April 1, 2011 through September 30, 2011, within the public hearing process at the March 2011 regulatory session.
3. Georgetown shall monitor CUC's actual fuel expenses during January, February and March 2011 and shall inform the Commission of any material change [up or down] in the actual cost of fuel vs. those forecasted in its report.
4. All rulings and orders of the hearing examiner during the course of this expedited 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.
5. CUC shall pay for the Commission's expenses, including without limitation, consulting and hearing examiner expenses and fees and all further regulatory expenses, which are incurred pursuant to this order.
6. Hearing examiner is authorized to interpret the meaning of this order in furtherance of its reasonable and effective implementation.

January 12, 2011


Viola Alepuyo, Chairperson


Kyle Calabrese, Commissioner