

BEFORE THE COMMONWEALTH PUBLIC UTILITIES COMMISSION

COMMONWEALTH UTILITIES  
CORPORATION RATE PETITION  
AS AMENDED

DOCKET 13-01

**Decision**

*Background*

By this decision the Commonwealth Public Utilities Commission [*Commission*] considers, determines and makes rulings on the Commonwealth Utilities Corporation's [*CUC*] July 5, 2013 petition for rate relief, as amended on November 8, 2013. Hearing examiner's report [*Report*] dated December 24, 2013 recounts: a) prehearing activities, which resulted a December 6, 2013 stipulation [*Stipulation*] between CUC and Georgetown Consulting Group [*GCG*] - the Commission's independent regulatory consultant and a party herein - that presents joint recommendations for disposition of the amended petition; and b) the Commission December 9, 10 and 11 2013 public hearings on the amended petition. Notice of the Report and of the public's right to examine and study it was published in accordance with law. By the Report addendum, supplemental comments by the parties and other documents were included in the record.

At a duly noticed business meeting on January 27, 2014, the Commission carefully considered the record, including without limitation, public comments at the public hearings and the parties' comments in response to commissioner questions. After due consideration and discussion, for good cause shown, in the reasonable exercise of its discretion and by the unanimous affirmative vote of the undersigned commissioners, the following findings and determinations were adopted:

*Findings and Determinations*

*Administrative*

1. CUC provided timely notice of the Commission's December 9, 2013 Saipan public hearing, the December 11, 2013 Tinian public hearing and the December 12, 2013 Rota public hearing in accordance with § 8418(c) and § 8431(a)<sup>1</sup>. The

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<sup>1</sup> Statutory citations herein refer to those established in the Commission's enabling legislation - Public Law 15-35.

Commission duly noticed the public hearings pursuant to the requirements of § 8418(b).

2. No one applied for the privilege to participate in the public hearings pursuant § 8409(j). The public was given the opportunity to comment at the three public hearings, which comments have been duly considered during these deliberations.
3. The Commission should reserve its continuing jurisdiction in this docket.
4. CUC should be ordered, pursuant to § 8421(d), to pay for the Commission's expenses, including without limitation, consulting expenses and fees and hearing examiner expenses and the expenses of conducting the hearing process and all further regulatory expenses, which are incurred in this docket.
5. All rulings and orders of the hearing examiner during the course of this proceeding should be ratified and confirmed. All motions not heretofore granted or denied should be denied.
6. Hearing examiner should be authorized to interpret the meaning of this decision in furtherance of its reasonable and effective implementation, including, without limitation, the resolution of clerical errors in the Stipulation schedules.
7. The proposed trifurcated agenda set forth in Stipulation Attachment A should be approved. Hearing examiner should be authorized: a) to oversee the development of these matters and those additional matters, which are addressed herein with GCG's assistance; and b) to bring them to the Commission for consideration.
8. The record in this docket is set forth in footnote one of hearing examiner's December 24, 2013 report as supplemented by his January 20, 2014 addendum thereto and the record of the deliberations conducted at the Commission's January 27, 2014 business meeting.
9. CUC should provide special public notice, which explains the rate adjustments addressed in determinations 11, 12(b), 13, 16 and 18 below and their rate impact on customers, in form approved by the hearing examiner.



*Substantive*

10. A preponderance of evidence supports a finding that the rate and tariff adjustments referenced in determinations 11, 12(b), 13, 16 and 18 are necessary, just and reasonable. These adjustments should be made effective on the day after Hearing Examiner's certification of CUC tariff sheets, which are consistent with this Decision.
  
11. CUC should be authorized to increase its electric base rates to produce an additional \$2.8 million dollars on an annualized basis. This increase should be accomplished by the establishment of the PMIC surcharge discussed in determination 12(b) and by a reduction in base rates in a manner to achieve a net \$2.8 million dollar increase.<sup>2</sup>
  
12. a. On or about June 4, 2012, CUC and Pacific Marine and Industrial Corporation [PMIC] entered into an agreement [Agreement] to buy out contract and release claims. CUC did not submit the contract to the Commission for review and approval. The Agreement has since undergone review by GCG in this rate proceeding, who has concluded that: i] it is prudent and cost beneficial to ratepayers; and ii] it will result in ratepayer savings in the range of \$5 to 8 million dollars – a conclusion confirmed in CUC's FY12 independent audit report. There has been substantial performance under the Agreement by PMIC's transfer of assets and by CUC's 18 installment payments. As a prudent measure and for good cause shown, the Commission should ratify and approve the Agreement.  
  
b. A PMIC surcharge of \$0.021 per kWh for all customers should be approved and established to fund CUC's remaining obligations under the Agreement. The surcharge should expire on January 1, 2015.
  
13. Public Law 16-7 mandates that CUC shall provide residential electric ratepayers with a \$3.4 million dollar refund. CUC should be authorized to institute a 36 month residential refund of \$0.023 kWh, which should be funded by a reciprocal increase in commercial rates. After review and consideration of legal briefs from CUC and GCG, the Commission finds that charging the commercial customer class for this refund expense does not violate the proscription in §8429(c).<sup>3</sup>

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<sup>2</sup> No adjustment should be made to base rates at the present time to compensate for the suspension of the standby charge, as further discussed in determination 17.

<sup>3</sup> At the January 27, 2014 business meeting, GCG noted that among the factors, which it considered in recommending that the government customer class not be assessed for the refund were: a) the

Under hearing examiner's oversight, the parties should propose how and by what amount the commercial rate will be reduced at the conclusion of the 36 month period. CUC should certify to the Commission on or before March 1, 2017 that the refund and reciprocal commercial rate increase have been terminated.

14. Further consideration of the funding of Telesource Change Order # 5<sup>4</sup> [Change Order] should be tabled until the next regulatory session. In the interim, hearing examiner should be authorized to conduct further proceedings: a) to examine whether Telesource's stock divestiture to Marianas Energy Technology, Inc. required prior Commission approval pursuant to §8439; b) to examine whether the Commission has the authority to reconsider its November 29, 2011 Order, which provisionally approved the Change Order; c) to facilitate discussions between Telesource, CUC and GCG to determine whether Change Order revisions could be agreed upon, which would cause a joint recommendation that it be approved and funded through base rates; c] to examine why Telesource has not transferred title to the Tinian plant and related assets to CUC pursuant to contract section 24.3; and d] to examine such other related issues as are appropriate and necessary for review.
15. Under hearing examiner's oversight, CUC should undertake a study of its electric distribution infrastructure, including estimates for required additional capital investment. CUC should use reasonable efforts to secure grant funding for this study, which should be completed by September 2014. CUC should be authorized to petition in this docket for the establishment of a surcharge to fund capital distribution projects recommended in the study.
16. The electric residential customer block revisions presented in Stipulation Attachment E should be approved.
17. The proposed large customer standby charge in form set forth in Stipulation Attachment F should be suspended pursuant to §8432(a) pending further review. Hearing examiner should oversee the preparation of pre-filed testimony for consideration at the next regulatory session regarding: a) a cost analysis of the proposed \$20 per kW standby charge; b] the revenue, which would be produced

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uncertainty in government payment - given the \$20 million dollar delinquency and the October 10, 2013 Executive Directive; and b] the fact that the commercial electric rate is lower than the government rate.

<sup>4</sup> The Change Order was the subject of Commission review in Docket 009-1 and is addressed in its Order dated November 29, 2011 and in its January 27, 2012 Decision. The Decision declined to fund the Change Order for the reasons stated therein.

by the charge; c) comparable charges in similar jurisdictions; d) the impact, which the proposed charge would have on each large commercial customer; e) CUC plans and efforts to encourage large commercial customers to return to the grid and f) the loss of revenue, which would be caused by the suspension and the base rate adjustment, which would be necessary to award the rate relief consistent with determination 11. Commercial customers, who would be impacted by the standby charge, should receive special notice of the proposed charge and of their right to comment at the hearing.

18. The following non-rate fees, as set forth in Stipulation Attachment G, should be approved, subject to their terms and conditions being reviewed and approved by hearing examiner: a] *electric*: i] non-sufficient funds; ii] new service - meter change out; iii] inspection; iv] meter test - single and three phase; v] disconnection notice; vi] disconnection at meter; and vii] reconnect at meter - non residential customers; and b] *water/wastewater*: i] WW tipping fees; ii] balckflow device inspection fee; iii] fat, oil and grease [FOG] installation inspection fee; iv] FOG biannual inspection fee; and v] FOG remediation fee. Hearing examiner should prepare the remaining non-rate fees set forth in Stipulation Attachment G for regulatory consideration at the next regulatory session.

19. Hearing examiner should oversee the following GCG activities in preparation for the next regulatory session:

- a. An examination of CUC's estimated and back billing practices, including recommendations for appropriate regulatory action and remedial legislation based upon a review of comparable jurisdictions;
- b. A review of CUC's net metering standards, with special notice to each of the 61 CUC net metering customers;
- c. An examination of CUC's "convenience fee";
- d. An examination of the need for CUC regulations regarding prepaid meter service and for a CUC customer education campaign.
- e. A review of CUC's liquidity crisis, including, without limitation: i] whether residential and commercial customers are subsidizing the revenue shortfall caused by the Government delinquency; ii] whether any such subsidy violates the P.L. 15-40 8429(c) prohibition against undue



preference and discrimination; iii] what, if any, impact the delinquency had upon the need for the \$2.8 million dollar base rate increase requested in this proceeding; iv] the impact of the liquidity crisis on CUC's ability to access the financial market place; v] the likely impact of P.L. 18-18 and the October 10, 2013 Executive Directive on the liquidity crisis; vi] an examination of the impact, which CUC's failure to comply with the mandate in P.L. 16-17 § 8141(g) has had on electric base rates; and vii] recommendations for appropriate regulatory action.

20. In light of its liquidity crisis and the need to fund Stipulated Order capital projects, CUC should not be required to reimburse to ratepayers for any portion of the revenue stream established by the Commission's June 7, 2011 Decision in Docket 09-1 to fund obligations under the Independence Bank loan, which never closed.

#### *Ordering Provisions*

After careful review and consideration of the above findings, determinations and declarations and the record herein and for good cause shown, the undersigned commissioners **HEREBY ORDER THAT:**

1. Subject to ordering provision 2, CUC is authorized to increase its electric base rates to produce an additional \$2.8 million dollars on an annualized basis. This increase shall be accomplished by the establishment of the infrastructure surcharge discussed in ordering provision 3 and by a reciprocal reduction in base rates.
2. The rate and tariff adjustments authorized in this Decision shall become effective on the day after hearing examiner's certification that CUC's tariff sheets are consistent with this Decision.
3. The June 4, 2012 agreement between CUC and PMIC is ratified and approved. Subject to ordering provision 2, a PMIC surcharge of \$0.021 per kWh for all customers is approved and established to fund CUC's remaining obligations under the Agreement. The surcharge shall expire on January 1, 2015.
4. Subject to ordering provision 2, CUC is authorized to institute a 36 month residential refund of \$0.023 kWh, which shall be funded by a reciprocal increase in commercial rates. Under hearing examiner's oversight, the parties shall propose how and by what amount the commercial rate should be reduced at the conclusion of the 36 month period. CUC shall certify to the Commission on or



before March 1, 2017 that the refund and reciprocal commercial rate increase have been terminated.

5. Further consideration of the funding of Telesource Change Order # 5 shall be tabled until the next regulatory session. In the interim, hearing examiner is authorized and directed to conduct further proceedings: a) to examine whether Telesource's stock divestiture to Marianas Energy Technology, Inc. required prior Commission approval pursuant to §8439; b) to examine whether the Commission has the authority to reconsider its November 29, 2011 Order, which provisionally approved the Change Order; c) to facilitate discussions between Telesource, CUC and GCG to determine whether Change Order revisions could be agreed upon, which would cause a joint recommendation that it be approved and funded through base rates; c] to examine why Telesource has not transferred title to the Tinian plant and related assets to CUC pursuant to contract section 24.3; and d] to examine such other related issues as are appropriate and necessary for review.
6. Under hearing examiner's oversight, CUC shall undertake a study of its electric distribution infrastructure, including estimates for required additional capital investment. CUC shall use reasonable efforts to secure grant funding for this study, which should be completed by September 2014. CUC should be authorized to petition in this docket for the establishment of a surcharge to fund capital distribution projects recommended in the study.
7. The electric residential customer block revisions presented in Stipulation Attachment E are approved, subject to ordering provision 2.
8. The proposed large customer standby charge in form set forth in Stipulation Attachment F is suspended pursuant to §8432(a) pending further review. Hearing examiner shall oversee the preparation of further pre-filed testimony for consideration at the next regulatory session regarding: a) a cost analysis of the proposed \$20 per kW standby charge; b] the revenue, which would be produced by the charge; c) comparable charges in similar jurisdictions; d) the impact, which the proposed charge would have on each large commercial customer; e) CUC plans and efforts to encourage large commercial customers to return to the grid and f) the loss of revenue, which has been caused by the suspension and the base rate adjustments, which would be necessary to award rate relief pursuant to ordering provision 1. CUC shall provide commercial customers, who would be



impacted by the standby charge, with special notice of the proposed charge and of their right to comment at the public hearing at which it will be considered.

9. Subject to ordering provision 2, the following non-rate fees, as set forth in Stipulation Attachment G, are approved: a] *electric*: i] non-sufficient funds; ii] new service – meter change out; iii] inspection; iv] meter test – single and three phase; v] disconnection notice; vi] disconnection at meter; and vii] reconnect at meter – non-residential customers; and b] *water/wastewater*: i] WW tipping fees; ii] balckflow device inspection fee; iii] FOG installation inspection fee; iv] FOG biannual inspection fee; and v] FOG remediation fee.
10. Hearing examiner is authorized and directed to oversee the regulatory activities discussed in determination 19.
11. The Commission reserves its continuing jurisdiction in this docket.
12. CUC shall pay for the Commission's expenses, including without limitation, consulting expenses and fees and hearing examiner expenses and the expenses of conducting the hearing process and all further regulatory expenses, which are incurred in this docket.
13. 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.
14. Hearing examiner is authorized to interpret the meaning of this decision herein in furtherance of its reasonable and effective implementation, including, without limitation, the resolution of clerical errors in the Stipulation schedules.
15. The proposed trifurcated agenda set forth in Stipulation Attachment A is approved. Hearing examiner is authorized and directed: a) to oversee the development of these matters and those additional matters, which are addressed herein with GCG's assistance; and b) to propose additional regulatory sessions, if considered convenient and necessary.
16. CUC shall provide special public notice, which explains the need for the rate and tariff adjustments addressed in ordering provisions 1, 3, 4, 7, and 9 and their rate impact on customers, in form approved by the hearing examiner.

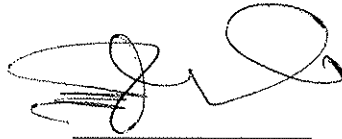




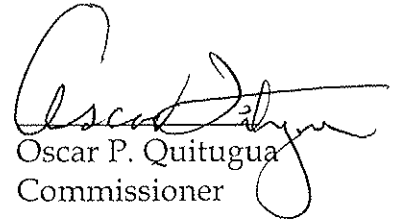
February 5, 2014



Joseph C Guerrero  
Chairman



Dave Guerrero  
Commissioner



Oscar P. Quitugua  
Commissioner